

Bulletin 89-3

Long-term care policies — cola endorsements

June, 1989

It has been brought to the Division's attention that some companies are having trouble complying with Section 14 of Senate Bill 43, also known as the Long Term Care Act. Since it is too late to change the bill at this time, this bulletin is being issued to clarify the intent of this bill, and set forth guidelines as to what the Division will find acceptable for Long Term Care Cost of Living Adjustment (COLA) endorsements.

The intent of Section 14 of the Long Term Care Act was to provide Long Term Care (LTC) insurance consumers with inflation protection on their daily benefit amount. The index referenced in the bill was meant to be specific to long term care costs in South Dakota. At the time the bill was being discussed in committee, no indications were given by either individual insurers or industry groups that this type of inflationary index would pose any problems to insurers. Only as the effective date of the legislation drew near did any objections arise. Based upon information recently received by the Division, in an effort to assure that Long Term Care coverage is made available to insurance consumers in South Dakota, the Division will interpret Section 14 of the LTC Act in the following manner:

The State-specific index references in Section 14 was projected to be approximately 4% for 1989 and 5% for 1990. A COLA endorsement which substantially complies with these percentages for these time periods will satisfy the requirements of Section 14 of the Long Term Care Act.

Additionally, due to the length of time involved in developing and pricing a COLA endorsement, and the impending implementation of the Long Term Care Act, companies which intend to comply with Section 14 will be allowed to solicit business after July 1, 1989. This applies to those policies which comply with the Long Term Care Act except for Section 14, and have received Division approval. These companies must receive Division approval of a COLA endorsement prior to October 1, 1989. Any consumers who purchase a LTC policy between July 1, 1989 and the date of approval of the COLA endorsement must be offered the opportunity to purchase the approved COLA endorsement which would offer coverage from the effective date of the policy.

Any companies that currently have a COLA endorsement which was approved prior to April 1, 1989 and that substantially complies with the Division's interpretation of Section 14 must submit a copy of this endorsement to the Division for affirmation of compliance. Companies may request in writing expedited review of their Long Term Care policies submitted before October 1, 1989.

Mary Jane Cleary
Director of Insurance

ATTACHMENT

In order to obtain substantial compliance for purposes of Bulletin 89-3 with section 14 of Long Term Care, the form must comply, where applicable, with all of the following:

- (1) Rider must adjust benefit by at least 5% per year, or by the increase in the Medical Care component of the CPI, whichever is less;
- (2) Adjustment must be made annually on or within 30 days of annual renewal date;
- (3) Annual and lifetime caps may be used, but the lowest allowable annual cap is 5%, and lowest allowable lifetime cap is 50%, or 10 years of adjustments;
- (4) A percentage adjustment based on the original benefit amount is acceptable;
- (5) A fixed dollar amount increase is acceptable as long as the percentage increase is at least 5%;
- (6) If the policy's maximum lifetime benefit is expressed as a dollar amount, this amount must be increased as the monthly benefit amount is increased;
- (7) If each annual increase is optional to the insured, and an additional premium is required for such increase, the rate charged for the adjustment may be based on the insureds' age at the time the policy was issued or at the time of the adjustment;
- (8) Adjustments must continue even if benefits are being paid under the base policy.