GROUP AND INDIVIDUAL LONG-TERM CARE INSURANCE FILING CHECKLIST

806 KAR 17:081 – EFFECTIVE 2/8/93
(X-ref. KRS 304.14-600 to 625 – Effective 7/14/92 and SB217 – Effective 7/14/92.)
Checklist revised 7-14-09

( ) Complies with the Basic Insurance Policy Checklist and Individual or Group Health Insurance Contract Checklist

KRS 304.14-615

( ) 1. Provides coverage for skilled care only (Subsection 2)
( ) 2. Pre-existing condition limitation (Subsection 3)
( ) 3. Prohibits prior hospital stay requirement (Subsection 4)
( ) 4. Thirty-day (30) free look (Subsection 6)

Section 1 and 2 Definitions

( ) 1. Long-term care – must provide coverage for a minimum of 12 consecutive months (X-ref. KRS 304.14-600 (2))
( ) 2. Adult day care – care provided during the day for four or more individuals
( ) 3. Acute condition – medically unstable (806 KAR 14:081 Section 2(2))
( ) 4. Home health care services – medical and non-medical services in the home(10)
( ) 5. Medicare – **SHALL** be defined (11)
( ) 6. Mental or nervous disorder – cannot exclude Alzheimer's disease as a mental disorder (12)
( ) 7. Personal care – needs assistance in daily living activities (13)
( ) 8. **SHALL be defined**:
Skilled nursing care, intermediate care, personal care, home care
(define level of skill required, nature, type of care and setting)(14)
( ) 9. Providers of service – **SHALL** be defined (17)

Section 3 Policy Practices and Provisions

( ) 1. Renewability – **SHALL** appear on the first page of the policy and be: (X-ref. KRS 304.14-615(2))
Guaranteed renewable (rates, may be revised) or
Noncancellable (rates may not be revised)
( ) 2. Thirty-day (30) right to return policy (X-ref. KRS 304.14-615 (6))
( ) 3. Limitations and exclusions allowed: (806 KAR 17:081 Section 3(2)(a))
a. Pre-existing condition - if used, the limitation **SHALL** appear as a separate paragraph labeled: "Pre-existing Conditions Limitations" (Section 5 (4))
b. Mental or nervous disorders, except Alzheimer's (Section 3(2)(a)2.)
c. Alcoholism and drug addiction (Section 3(2)(a)3.)
d. Conditions resulting from war, riot, armed forces, suicides, etc.(Section 3(2)(a)4.)
e. Treatment in government facility, covered by Medicare, Workers' Compensation, etc. (except Medicaid) (Section 3 (a)5. (i),(ii)
f. Type of provider or territorial limitations (Section 3(2)(b))
g. Does not have to pay if immediate family (Section 3(2)(a)5.c)
( ) 4. Extension of benefits beyond termination of policy may be limited to: (806 KAR17:081 Section 3 (3))
a. Duration of benefit period
b. Payment of maximum benefits
c. Subject to policy waiting period and other provisions of policy
( ) 5. Continuation and Conversion (GROUP) (806 KAR 17:081 Section 3 (4))

( ) 6. Discontinuance and Replacement (GROUP) - Replacing insurers **SHALL** offer coverage to all persons covered under the previous policy
( ) 7. Premiums **SHALL NOT** increase due to:
a. Increasing age beyond age 65 (X-ref. KRS 304.14-615 (2) (a))
b. Length of time the insured has been covered
( ) 8. Electronic enrollment requirements (806 KAR 17:081 Section 3 (7))

Section 4 Unintentional Lapse
( ) 1. Protections against unintentional lapse
( ) 2. Reinstatement (806 KAR 17:081 Section 4(2))

Section 5 Required Disclosure Provisions
( ) 1. Renewability (1)
a. Appear on the first page and clearly state guaranteed renewable or noncancellable
( ) 2. Statement that premiums may change (Section 5(1)(c))
( ) 3. Riders and endorsements (Section 5 (2))
a. Except when requested by the insured, riders and endorsements which change benefits and premiums SHALL require signed acceptance by the insured (except when changes are required by law).
b. If additional premium is charged, premium **SHALL** be in the policy, rider or endorsement.
( ) 4. Payment of benefits (Section 5(3)If the basis of payment of benefits is based on standards described as "usual and customary," etc., the terms must be defined and explained in the Outline of Coverage. (304.14-615(4)(b))
( ) 5. Other limitations or conditions on eligibility for benefits
a. If used, SHALL be labeled as such and give description of limitation or conditions, including number of days of confinement (Section 5(5))
( ) 6. Disclosure of tax consequences (Section 5(6))
( ) 7. Benefit triggers (Section 5(7))
a. Labeled "Eligibility for the Payment of Benefits"
( )8. Tax qualified statement (Section 5(8)

Section 6 Rating disclosure requirements (806 KAR 17:081)
( ) 1. Effective dates (Section 1(1) and (2))
( ) 2. Disclosure of rating practices (Section 6(3))
( ) 3. Signed acknowledge that insurer made disclosure required under (3)(a0 and (e)
( ) 4. Notification of rate increases at least 45 days prior (Section 6 (7) and(8))
( ) 5. Disclosure of renewal provision (Section 5(1))

Section 7 Initial filing requirements
( ) Included actuarial information for actuaries to review

Section 8 Prohibition against post claims underwriting
( ) 1. Policy shall include: "Caution: Policy based on answers on application, etc." (Section 8(3))
( ) 2. Application **SHALL** contain clear and unambiguous questions to ascertain the health condition (does not apply to guarantee issue polices) (2)(a)
( ) 3. If application asks whether the applicant had medication prescribed, it must contain a place for listing the medication. If the insurer should have known at the time of the application that medication listed directly relates to a medical condition, the policy or certificate shall not be rescinded for that condition.(2)(b)
( ) 4. A copy of the application shall be delivered at the time of delivery of the policy.

Section 9 Minimum standards for home health and community care coverage
( ) 1. Shall not limit or exclude benefits by:

a. Requiring insured to need care in a skilled nursing facility if home health care was not provided
b. Requiring prior nursing or therapeutic services
c. Limiting eligible services to services provided by RN or LPN
d. Requiring nurses or therapists to provide services that could be provided by home health aides or other home care worker
e. Excluding coverage for personal care services provided by a home health aides
f. Requiring level of certifications greater than eligible service
g. Requiring acute condition
h. Limiting benefits to services provided by Medicare certified agencies
i. Excluding coverage for adult day care

( ) 2. Home health or community care, if provided, SHALL be equivalent to at least 1/2 of coverage available for nursing home benefits (does not apply to residents of continuing care retirement communities). (2)(a) and (b)
( ) 3. Home health care benefits may be counted toward maximum length of coverage

Section 10 Inflation protection

( ) 1. When a long-term care policy is offered, the applicant **SHALL** also be offered a policy with an inflation protection feature, no less favorable than (Refer to Section 10 (1) for specifics):
a. Increases benefit levels annually at a rate no less than 5 percent
b. Guarantees the individual the right to increase benefit levels without evidence of insurability
c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit
( ) 2. Inflation protection policy must be offered to the GROUP policyholder
( ) 3. Not required for life
( ) 4. Graphic comparison chart – included in outline of coverage

Section 11 Requirements for applications and replacement coverage

( ) 1. Applications SHALL include the questions in Section 11 (1) and (2).
( ) 2. Copy of replacement form in Section 11 must be furnished to the applicant prior to issuance of the policy and a copy retained by the insurer. (Section 11(3) or (4)) (HIPMC-LTC-8, HIPMC-LTC-9)
( ) 3. Replacing insurer shall notify the existing insurer. (Section 11(5))

Section 12 Reporting requirements

Section 13 Agent licensing

Section 14 Discretionary Powers of Commissioner

Section 15 Reserve Standards

Section 16 Loss Ratio

Section 17 Premium Rate Schedule Increases

( ) Notice requirements (Section 17(2))

Section 18 Filing Requirement for a Group policy Issued in Another State

( ) Policies/certificates must have approval by a state having statutory or regulatory long-term care requirements similar to those adopted in this state. (Out-of-state group certificates must be filed and approved.)

Section 19 Advertising

( ) A copy of advertising must be "Filed Only" in Kentucky prior to use. (Advertising must be retained by the insurer for at least 5 years from date first used)

( ) Must comply with 806 KAR 12:010

Section 20 Standards for marketing

Section 21 Suitability

HIPMC-LTC-1, HIPMC-LTC-5, HIPMC-LTC-6

Section 22 Prohibition against pre-existing conditions and probationary periods in replacement policies/certificates (X-ref. KRS 304.14-615(3) (a thru d))

( ) Replacing insurer **SHALL** waive pre-existing and probationary periods if they have been satisfied under the original policy.

Section 23 Availability of New Services or Proiders

( ) Notice provided within 12 months (1)(b)

( ) Policy issued pursuant to this section considered an exchange, not a replacement (6)

Section 24 Right to Reduce Coverage and Lower Premiums(applies to policies issued on or after January 1, 2010)

( ) SHALL include provision to reduce coverage and lower premium in at least one of the following (1):

a. Reducing the maximum benefit
b. Reducing the daily, weekly or monthly benefit amount

( ) Age used to determine a premium for reduced coverage shall be based on age used to determine current coverage (3).

( ) If policy is about to lapse, insurer SHALL provide written reminder of the right to reduce coverage and premiums (5)

Section 25 Nonforfeiture benefit

( ) Offering nonforfeiture benefit (Section 25(2))

( ) Contingent benefit upon lapse (Section 25(2)(b),and (6)

( ) Contingent benefit for fixed and limited premium pay policies (Section 25(5)(b)

Section 26 Standards for benefit triggers

( ) Eligibility Subsections (1) and (2)

( ) Activities of daily living (ADLs) Subsection (3)

( ) Determination of deficiency Subsection (5)

( ) Assessment of ADLs Subsection (6)

( ) Appeals Subsection (7)

Section 27 Additional Standards for Benefit Triggers for Qualified LTC Contracts

( ) Tax qualified LTC contract requirements Subsections (1) through (4)

( ) Appeals Subsection (5)

Section 28 Outline of Coverage

( ) Shall be delivered at the time of solicitation (x-ref. KRS 304.14-615(7)

( ) Text shall be mandatory and consistent with form HIPMC-LTC-7

Section 29 Requirements to Deliver Shopper's Guide

1. Agent SHALL deliver the guide prior to presentation of application (KRS 304.615(7))
2. Direct response solicitation- the Guide shall be presented with the application (KRS 304.14-615(7))
3. Life: not required (a policy summary is required)

Section 30 Penalties

Section 31 Permitted compensation arrangements

Section 32 Materials incorporated by reference

KRS 304.14-370 -Binding arbitration cannot be required, although it can be an option
KRS 304.12-080, KRS 304.12-215- Discrimination
KRS 304.12-090, KRS 304.12-110-Rebates and illegal inducements
KRS 304.12-190 -Illegal dealing in premiums
KRS 304.12-230-Unfair claims settlement practices
KRS 304.14-622 Refund of unearned premium due to cancellation
806 KAR 17:010 Refund of premium at death

Applies to individual policies

KRS 304.17-030(1) -Consideration
KRS 304.17-030(2)-Date and duration
KRS 304.17-030(4)-Undue prominence to any portion of text
KRS 304.17-030(5)-Exceptions and reductions
KRS 304.17-030(6)-Form number
KRS 304.17-050-Entire contract
KRS 304.17-060-Incontestability
KRS 304.17-070-Grace period
KRS 304.17-080-Reinstatement
KRS 304.17-090-Notice of claim
KRS 304.17-100-Claim form
KRS 304.17-110- Proof of loss
KRS 304.17-120 & KRS 304.12-235 Timely payment of claims
KRS 304.17-150 -Legal Actions

Assisted Living requirements
KRS 304.14-617 Requires any long-term care policy issued on or after June 21, 2001, which provides coverage for assisted living benefits, to cover in any assisted living community which meets the criteria of KRS 194A.700 to 194.729 and any administrative regulation promulgated under KRS 194A.700 to 194A.729.
KRS 194A.700 Definitions
194A.700(3) Assisted living community that contains a series of living units on the same site, certified under KRS 194A.707 to provide services to five (5) or more adult persons not related with the third degree of consanguinity to the owner or manager.
194A.700(2) Self-administration of medication
194A.705 Services to be provided for assisted living requirements
194A.717 Staffing requirements
194A.719 Staffing education requirements

Health-related services not offered in these facilities
Adult day care requirements
Requires any long-term care policy, issued after June 21, 2001, which provides benefits for adult day care services, to not contain any requirements that are more restrictive than what is required for certification. See KRS205.950 or 216B.0443 and regulations promulgated under KRS 194A.700 to 194A.729.
KRS 205.010 Definitions
KRS 205.010(15) adult day care centers provide care for four or more individuals not related to operator on a part-time basis, day or night, but less than 24 hours.
Health-related services are not required in a certified adult day care facility.

902 KAR 20:026. Operation and Services; Skilled nursing facilities
902 KAR 20:036. Operation and services; Personal care homes
902 KAR 20:048. Operation and services; nursing homes
902 KAR 20:051. Operation and services; Intermediate care
902 KAR 20:081. Operations and services; Home health agencies
902 KAR 20:140. Operation and services; Hospice
902 KAR 20:300.Operation and services; Nursing facilities
Advertising: 806 KAR12:010