

CR 86-92

STATE OF WISCONSIN  
RECEIVED AND FILED

OCT 21 1986

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

STATE OF WISCONSIN )  
 )  
OFFICE OF THE COMMISSIONER OF INSURANCE )

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Randy Blumer, Deputy Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order repealing and recreating a rule relating to standards for nursing home insurance was issued by this office on October 21, 1986.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 21st day of October, 1986.

*Randy Blumer*  
\_\_\_\_\_  
Randy Blumer  
Deputy Commissioner of Insurance

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STATE OF WISCONSIN  
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OCT 21 1986

DOUGLAS LA FOLLETTE  
SECRETARY OF STATE

ORDER OF THE COMMISSIONER OF INSURANCE

REPEALING AND RECREATING A RULE

To repeal and recreate Ins 3.46 relating to standards for nursing home insurance.

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ANALYSIS PREPARED BY THE COMMISSIONER OF INSURANCE

This rule interprets ss. 628.34 (11) and (12), 628.38 and 631.20, Stats.

The purpose of this rule is to establish minimum benefit standards and disclosure requirements for nursing home insurance policies sold in the state of Wisconsin.

The current rule became effective on November 1, 1981. This rule was adopted because of problems which existed in the marketing of nursing home insurance policies in Wisconsin.

Following the adoption of Ins 3.46, most insurance companies stopped marketing nursing home insurance in Wisconsin. Over the past year a subcommittee of the Life and Disability Advisory Council of the office of the commissioner of insurance has been working on revisions to this rule. The goal of the subcommittee was to recommend revisions which would encourage more insurers to enter the market but would prevent a recurrence of the marketing problems experienced earlier.

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The major differences between the current rule and the proposed rule are in the areas of required minimum standards and required disclosures.

For example, the current rule requires insurers to provide benefits for any level of care. The proposed rule requires only that skilled and intermediate care be covered. The current rule prohibits insurers from requiring a sickness or injury. The proposed rule permits insurers to limit coverage to sickness or injury but requires coverage for conditions of "irreversible dementia" such as Alzheimer's Disease. The current rule prohibits insurers from requiring prior hospitalization. The proposed rule permits insurers to require prior hospitalization only if they offer an identical policy which does not contain this restriction.

The proposed rule requires insurers to give an outline of coverage to prospective policyholders and sets up minimum loss ratios.

The proposed rule applies to both individual and association group policies. The current rule applies to individual policies only.

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Pursuant to the authority vested in the Office of the Commissioner of Insurance by s. 601.41 (3), Stats., the Office of the Commissioner of Insurance hereby repeals and recreates a rule interpreting ss. 628.34 (11) and (12), 628.38 and 631.20, Stats.

SECTION 1. Ins 3.46 is repealed and recreated to read:

Ins 3.46 STANDARDS FOR NURSING HOME INSURANCE. (1) Findings.

Information on file in the office of the commissioner of insurance indicates that those consumers who wish to buy health insurance to cover nursing home and other long term care frequently are not able to choose the policy which is most suitable for their needs because they do not understand the coverage being offered and do not know how long term care insurance fits in with other group and individual health insurance available in the marketplace. The

commissioner finds that the adoption of minimum standards and disclosure requirements for nursing home insurance policies will reduce marketing abuses in the sale of nursing home insurance, will help consumers understand what is covered in the policies being offered, and will assist them in comparing the various policies they are offered. The commissioner finds that a nursing home insurance policy which does not meet the minimum standards and disclosures of this section is misleading and deceptive under s. 628.34 (12), Stats., and the advertising and marketing of such a policy constitutes an unfair trade practice under s. 628.34 (11), Stats.

(2) PURPOSE. This section establishes minimum standards and disclosure requirements for insurance which may be sold as nursing home insurance. A policy shall be disapproved pursuant to s. 631.20 (2) (d), Stats., if the policy does not meet the minimum requirements specified in this section.

(3) SCOPE. (a) Except as provided in pars. (b) and (c), this section applies to any individual or group insurance policy or rider which provides coverage primarily for confinement or care in a licensed skilled or intermediate care facility.

(b) This section does not apply to a rider designed specifically to meet the requirement for coverage of skilled nursing care set forth in s. 632.895 (3), Stats.

(c) This section does not apply to a group policy issued to one or more employers or labor organizations or to the trustees of a fund established by one or more employers, or labor organizations, or a combination of both, for employes or former employes or both, or for members or former members or both of the labor organizations.

(d) This section also applies to any individual insurance policy issued to a person eligible for Medicare which provides coverage for

confinement or care in a licensed skilled or intermediate care facility in addition to providing hospital confinement indemnity coverage as defined in s. Ins 3.27 (4) (b) 6.

(4) DEFINITIONS. For the purpose of this section:

(a) "Custodial care" means care which can be performed by persons without professional medical training and which is primarily for the purpose of meeting the personal needs of the patient, including feeding and personal hygiene.

(b) "Intermediate nursing care" means basic care including physical, emotional, social and other restorative services under periodic medical supervision. This nursing care requires the skill of the registered nurse in administration, including observation and recording of reactions and symptoms, and supervision of nursing care.

(c) "Intermediate care facility" means a facility licensed as an intermediate care facility by the state in which it is located.

(d) "Irreversible dementia" means deterioration or loss of intellectual faculties, reasoning power, memory and will due to organic brain disease characterized by confusion, disorientation, apathy and stupor of varying degrees which is not capable of being reversed and from which recovery is impossible.

(e) "Medicare" means the hospital and medical insurance program established by title XVIII, 42 USC 1395 to 1395ss, as amended.

(f) "Medicare eligible persons" means all persons who qualify for Medicare.

(g) "Outline of coverage" means a document which gives a brief description of benefits in the format prescribed in Appendix 1 to this section and which complies with s. Ins 3.27 (5) (1) and (9) (zh).

(h) "Skilled nursing care" means care furnished on a physician's orders which requires the skills of professional personnel such as a

registered or a licensed practical nurse and is provided either directly by or under the supervision of these personnel.

(i) "Skilled care facility" means a facility licensed as a skilled nursing facility by the state in which it is located.

(5) NURSING HOME INSURANCE POLICY REQUIREMENTS. No insurance policy covered by this section shall be structured, advertised, or marketed as a nursing home insurance policy unless:

(a) The policy provides at a minimum the coverage set out in sub. (6).

(b) The policy for an individual policy and the certificate for a group policy are plainly printed in black or blue ink in a uniform type of a style in general use, not less than 10 point with a lower case unspaced alphabet length not less than 120 point.

(c) If the policy is sold to Medicare-eligible persons, it meets the requirements of s. Ins 3.39 (7) (a) and (b).

(d) The policy and certificates define skilled and intermediate nursing care no more restrictively than the definitions in this section.

(6) MINIMUM COVERAGES. (a) Except as provided in pars. (b) through (g) of this section, a nursing home policy shall provide coverage for each person insured under the policy for skilled nursing services or intermediate nursing services received while a resident of any licensed skilled care facility or intermediate care facility.

(b) Nursing home policies may limit benefits to a fixed daily benefit. The daily benefit may differ for different levels of care, but the lowest level of daily benefits shall not be less than 50% of the highest level of benefits.

(c) Nursing home policies may provide benefits subject to an elimination period. The elimination shall be expressed in a number of days per lifetime or per period of confinement. However, if an insurer offers a

policy with an elimination period of 100 days or more, it must also offer a policy with an elimination period of less than 100 days.

(d) Nursing home policies may provide benefits subject to a lifetime maximum, but the lifetime maximum shall be at least 365 days of coverage.

(e) Nursing home policies shall offer coverage for both skilled and intermediate nursing care.

(f) Nursing home policies are not required to duplicate payments by Medicare for nursing home care.

(g) Nursing home policies may limit coverage to care certified as medically necessary according to generally accepted standards of medical practice and recertified periodically. Insurers shall consider but are not necessarily bound by an attending physician's determination of the level of care the patient is receiving.

(h) Nursing home policies may limit benefits to care received after a hospitalization under the following conditions:

1. Any insurer offering a policy which requires prior hospitalization must also offer an identical policy which does not require a prior hospitalization.

2. The prior hospitalization requirement shall be no more than three days and shall not be applied to any person with irreversible dementia who requires either skilled or intermediate nursing care in a skilled or intermediate care facility and is otherwise eligible for benefits under the policy.

3. The caption described in sub. (8) (d) includes a statement which accurately describes the prior hospitalization requirement.

(i) The following limitations and exclusions are prohibited in nursing home policies.

1. Coverage limiting or excluding benefits for any form of irreversible dementia.

2. Coverage which conditions eligibility for intermediate care benefits on the prior receipt of skilled care benefits.

(7) RENEWABILITY. An insurer may not alter or terminate any policy subject to this section on an individual basis except for nonpayment of premium. The insurer may alter or terminate a policy if it alters or terminates all similar policies on a class basis.

(8) DISCLOSURE REQUIREMENTS. (a) Insurers and intermediaries shall provide to all prospective purchasers of any policy subject to this section an outline of coverage at the time the prospect is first contacted by an intermediary or insurer with an invitation to apply as defined in s. Ins 3.27 (5) (g).

(b) The outline of coverage shall be printed in an easy to read type in language which is easy to understand.

(c) The outline of coverage shall be approved by the commissioner prior to use.

(d) The policy for an individual policy, the certificate for a group policy and the outline of coverage for both shall contain the following caption printed in 12 point type in a style in general use:

The Wisconsin insurance commissioner's office has established minimum standards for nursing home insurance. This policy meets those standards.

This policy covers only certain types of nursing home care. It will not pay for all care in all nursing homes. PLEASE READ YOUR POLICY AND OUTLINE OF COVERAGE CAREFULLY TO BE SURE THAT YOU UNDERSTAND THE BENEFITS.

(e) If the policy is offered to a Medicare-eligible person, the outline of coverage shall comply with s. Ins 3.39 (7) (a) and (b).




(9) LOSS RATIO REQUIREMENTS. (a) The anticipated loss ratio shall be at least 55% in the case of individual policies, at least 55% in the case of group policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, and at least 75% in the case of other group policies.

(b) The loss ratio shall be approved along with the policy form.

(c) The loss ratio shall be computed on the basis of anticipated incurred claims and earned premiums as estimated for the entire period for which rates are computed to provide coverage, in accordance with accepted actuarial principles and guidelines.

Effective date. This rule shall take effect on the first day of the monthly following publication, as provided in s. 227.22 (2) (intro.), Stats., and first applies to policies issued after March 1, 1987.

Dated at Madison, Wisconsin, this 21<sup>st</sup> day of October, 1986.

  
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Randy Blumer  
Deputy Commissioner of Insurance

APPENDIX 1

(COMPANY NAME)

OUTLINE OF COVERAGE

NURSING HOME INSURANCE POLICY

(The caption required by s. Ins 3.46 (8) (d))

(The caption required by s. Ins 3.39 (7) (a) and (b)

if policy is offered to a person eligible for Medicare)

(1) The outline shall contain the following language: Read Your Policy Carefully. This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company.

(2) The outline shall contain the following language: This is a Nursing Home Insurance Policy. Policies of this category are designed to pay some of the costs of nursing home care. A policy in this category pays for skilled and intermediate care in a state licensed facility. This policy will not pay for custodial care such as help in walking, getting in and out of bed, eating, dressing, bathing and taking medicine. (This may be modified to reflect actual benefits in policy).

(3) The outline shall contain a brief description of the benefits in the policy in the format outlined below. Variations in this format to accommodate a particular policy may be permitted.

SCHEDULE OF BENEFITS

| <u>TYPE OF CARE</u> | <u>DAILY BENEFIT</u> | <u>DEDUCTIBLE</u> | <u>MAXIMUM<br/>(\$s and Days)</u> |
|---------------------|----------------------|-------------------|-----------------------------------|
| Skilled Care        |                      |                   |                                   |
| Intermediate Care   |                      |                   |                                   |
| Custodial Care      |                      |                   |                                   |

(4) The outline shall contain a description of the following items, if applicable:

- (a) Pre-existing condition limitations
- (b) Waiting periods
- (c) Exclusions and limitations in the policy
- (d) Prior authorization procedures
- (e) Benefit periods in the policy
- (f) Renewability provisions of the policy
- (g) Conditions for terminating coverage
- (h) "Free look" provisions in the policy
- (i) Prior hospitalization requirements

(5) The outline shall contain the definitions of skilled nursing care, intermediate nursing and, if applicable, custodial care included in this section.

(6) The outline shall contain a statement that the policy will cover skilled or intermediate care for persons with irreversible dementia if the person is receiving either of these levels of care and is otherwise eligible for benefits.

(7) A complete schedule of current premiums for all classifications and a statement concerning circumstances under which premiums are subject to change.



The State of Wisconsin  
Office of the Commissioner of Insurance

Thomas P. Fox  
Commissioner  
(608) 266-3585

DATE: October 21, 1986  
TO: Gary Poulson  
FROM: M. E. Van Cleave  
Assistant Deputy Commissioner of Insurance  
SUBJECT: Ins 3.46, Clearinghouse No. 86-92

Enclosed are two copies of an Order of the Commissioner of Insurance repealing and recreating Ins 3.46, Clearinghouse No. 86-92 relating to standards for nursing home insurance.

MEV:LH:imk  
Enclosure  
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10.21.86*