SFA BILL ANALYSIS

Senate Fiscal Agency • Lansing, Michigan 48909 • (517) 373-5383

Senate Bill 310
Sponsor: Senator Doug Carl
Committee: Commerce and Technology

Date Completed: 5-9-89

<u>SUMMARY OF SENATE BILL 310 as introduced 4-13-89:</u>

The bill would amend the Insurance Code to provide for the regulation of long-term care coverage. The bill would define "long-term care insurance" as individual or group coverage promising or designed to cover at least 12 consecutive months of necessary services of a wide variety provided in other than an acute care unit of a hospital. The term would not include basic Medicare supplemental coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident-only coverage, specific disease or specific accident coverage, or limited benefit health coverage.

<u>Rules</u>

The Insurance Commissioner would be authorized to promulgate rules establishing specific standards for provisions contained in long-term care insurance policies and establishing loss ratio standards for such coverage. Rules would cover such matters as initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, definition of terms, terms of renewability, and standards setting forth the nature of required disclosures involved in the sale of long-term care coverage.

<u>Long-Term Care Policies</u>

A long-term care policy would have to contain a guaranteed renewable provision, and insurers would not be allowed to cancel or otherwise terminate a long-term care policy on the grounds of the age or the deterioration of the mental or physical health of the member. If existing coverage were converted to or replaced by a long-term care policy with the same insurer, the new policy could not contain a new waiting period except for voluntarily selected benefit increases.

Each long-term care policy would have to contain a conversion provision permitting an individual entitled to benefits under a group policy to convert to an individual policy with the option of receiving substantially similar benefits.

A long-term care policy that provided coverage for care in an intermediate care facility or a skilled nursing facility also would have to provide coverage for home care services. An "intermediate care facility" would be a facility, or distinct part of a facility, certified by the Department of Public Health to provide intermediate care, custodial care, or basic care that was less than skilled nursing care but more than room and board. "Home care services" would mean medically prescribed services for the long-term care and treatment of an insured that are provided by home health or care agencies in a noninstitutional setting according to a written diagnosis and plan of care and would include nursing services; nutritional services; physical, speech, respiratory and occupational therapy; personal care services; homemaker services; meal preparation; and similar medical and nonmedical services.

A long-term care policy could not contain a preexisting condition limitation period extending more than six months beyond the effective date of coverage. A different period of time could be set by the Insurance Commissioner if he or she determined it to be in the best interest of the public and if he or she considered it justified because the group in question was specially limited by age, group categories, or other specific policy provisions. Except for those issued to labor or employer groups, a policy could not use a definition of "preexisting condition" more restrictive than that found in the bill. Insurers would not, however, be prevented from eliciting complete health histories from applicants, and on the basis of their answers, underwrite in accordance with an insurer's established underwriting standards. Unless the policy said otherwise, a preexisting condition would not have to be covered until after the waiting period. A policy could not exclude, limit, or reduce coverage or benefits for specifically named or described preexisting conditions beyond the waiting period.

A long-term care policy could not condition benefits on the prior institutionalization of the insured.

Group Coverage

Group coverage could be provided to employer and labor organizations, to professional, trade, and occupational associations, and to other kinds of associations and trusts if they met certain standards. The bill also would allow for the establishment of "discretionary groups" (those not specifically allowed to act as conduits for insurance) if the Insurance Commissioner determined that the issuance of the group policy was not contrary to the best interests of the public and would result in economies of acquisition or administration and that the benefits were reasonable in relation to the premiums charged.

Group long-term care coverage could not be offered to a Michigan resident under a policy issued in another state to a discretionary group unless this State or another state with statutory or regulatory long-term care insurance requirements similar to those of Michigan determined that all requirements had been met.

Before advertising, marketing, or offering a group long-term care policy in the State to an association, trust, or the trustees of a fund established for members of an association, the group or the insurer would have to file evidence with the Insurance Commissioner that the group consisted of at least 100 members, had been in active existence for at least one year, held regular meetings at least annually, collected dues or solicited contributions from members, afforded members voting privileges and representation on the governing board and committees, and had been organized in good faith for purposes other than obtaining insurance, unless the Commissioner waived the last requirement.

Return of Certificate

Long-term policy holders would have the right to return policies within 30 days and have the premium refunded if they were not satisfied for any reason, and would have up to 30 days to return a policy obtained as a result of a direct response solicitation (i.e., direct mail, magazine or television advertisements). In each case, the policy and the accompanying outline of coverage would have to notify the customer of the right to return in a prominently printed notice on the first page.

Tie-Bar

The bill is tie-barred to Senate Bill 311 or House Bill 4395, which would amend the Insurance Code to specify the conditions under which long-term care coverage policies could be cancelled or replaced; require insurers to provide summaries of long-term coverage; and prescribe penalties for violations.

Proposed MCL 500.2280-500.2290 Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: J. Schultz

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