Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 946 (Delegate Kramer, *et al.*)
Health and Government Operations

Long-Term Care Insurance - Nonforfeiture Benefits

This bill requires a long-term care insurance carrier to provide to an insured a nonforfeiture benefit if (1) the insured has maintained the policy or contract for at least 10 years; (2) the insured has paid in full all premiums for the policy or contract; and (3) the policy or contract is terminated by the insured within 12 months after receiving notice of a premium increase. The nonforfeiture benefit must be equivalent to at least the accumulated value of all premiums paid by the insured, adjusted for inflation. The bill applies to all policies, contracts, or certificates of long-term care insurance issued, delivered, or in effect in the State and rate filings submitted to the Insurance Commissioner on or after October 1, 2018.

Fiscal Summary

State Effect: Minimal increase in special fund revenues for the Maryland Insurance Administration (MIA) in FY 2019 from the $125 rate and form filing fee. Review of filings can likely be handled with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Under Maryland regulations, an insurer may not deliver or issue a long-term care insurance policy in Maryland unless the option of purchasing a nonforfeiture benefit has been offered. The offer of a nonforfeiture benefit may be in the form of a policy rider. A policy offered with nonforfeiture benefits must have coverage elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be issued without nonforfeiture benefits.

A nonforfeiture benefit allows a consumer to retain some value of the policy should the policy lapse due to nonpayment of premiums. The nonforfeiture benefit is equivalent to a reduced paid-up long-term care contract. The standard nonforfeiture benefit must equal 100% of the sum of all premiums paid. A consumer that elects to purchase a nonforfeiture benefit does not receive a cash refund or lump-sum cash payment equal to the amount of aggregate premiums paid, nor does the standard nonforfeiture benefit include any adjustments for inflation.

If an applicant rejects the offer of a nonforfeiture benefit at time of application or if, for specified products, the applicant accepts the nonforfeiture benefit on a policy with a fixed or limited premium paying period, the carrier must provide for "contingent benefit upon lapse." "Contingent benefit upon lapse" is triggered whenever an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium, as specified in regulation.

Each long-term care policy must also include a provision that allows the policyholder to reduce coverage and lower the premium by reducing the maximum benefit or reducing the daily, weekly, or monthly benefit amount. A carrier may offer additional reduction options (such as adjustment to a product's elimination period or inflation benefits) if the options are consistent with the policy or certificate design or the carrier's administrative processes.

Chapter 672 of 2017 required MIA to assess the impact on long-term care insurance policyholders and carriers of the existing State regulation requiring carriers to offer a nonforfeiture benefit, determine whether expanding the requirement may be desirable, and report to specified committees of the General Assembly by January 1, 2018. MIA issued a report in December 2017, which found that the nonforfeiture benefit provides an overall positive impact on the market and protects consumers that are unable to afford premium increases. The report noted that expanding the nonforfeiture benefit to account for inflation may be in the best interest of policyholders who utilize the benefit. The report recommended that the General Assembly may wish to limit the expansion to policies sold after the effective date of the legislation in order to mitigate the financial impact on carriers' existing lines of business and negate the need to raise premiums to account for this change. Alternatively, an optional nonforfeiture benefit with inflation could be offered as an enhanced product to consumers.

According to MIA, as of December 2017, approximately 134,000 Marylanders are covered by long-term care insurance. While 19 carriers have approved long-term care insurance policies in Maryland, only a few remain open for business.

Additional Information

Prior Introductions: As introduced, HB 493 of 2017 included an identical provision to this bill; that bill was amended and enacted as Chapter 672 of 2017.

Cross File: None.

Information Source(s): Maryland Insurance Administration; Department of Legislative Services

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