

AMENDED IN SENATE APRIL 4, 2016

SENATE BILL

No. 1091

Introduced by Senator Liu

February 17, 2016

An act to ~~amend Sections 10231.2 and 10235.9 of~~ *add Sections 10231.3, 10233.8, and 10235.9a* to the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1091, as amended, Liu. Long-term care insurance.

Under existing law, the Department of Insurance, headed by the Insurance Commissioner, licenses and regulates insurers. Existing law divides insurance into various classes, including long-term care insurance, which includes an insurance policy, certificate, or rider advertised, marketed, offered, solicited, or designed to provide coverage for diagnostic, preventative, therapeutic, rehabilitative, maintenance, or personal care services that are provided in a setting other than an acute care unit of a hospital. *Existing law defines "policy" for these purposes.*

~~This bill would, among other things, provide that long-term care insurance also includes disability income coverage that provides benefits that may commence after the insured has reached Social Security's normal retirement age and family expense disability insurance policies, riders, endorsements, or amendments that provide coverage for disabled persons during periods of institutional care, as specified. The bill would provide that long-term care insurance does not include a policy, rider, endorsement, or amendment that provides benefits triggered by activities of daily living, and that complies with specified requirements, including~~

~~that it not be advertised, marketed, offered, or designed as long-term care insurance or as providing coverage for long-term care services.~~

This bill would, among other things, define “alternate plan of care” as a policy, rider, endorsement, or amendment containing a provision that allows benefits for long-term care services that are not specifically defined as a covered service under the policy. The bill would prohibit an insurer from designating, advertising, marketing, offering, or soliciting a policy as “family-friendly,” “catastrophic,” “deferred,” “short-term,” or “standardized,” unless the respective policy contains specified provisions.

Existing law requires an insurer to report annually by June 30 to the department the total number of claims denied by each class of business in the state, as specified, and to provide a policyholder or certificate holder whose claim is denied written notice of the reasons for denial, as specified. *Existing law requires the department to provide that information to the public upon request.*

~~This bill would require an insurer to adopt and implement reasonable standards for the prompt investigation and processing of claims. The bill would require an insurer to report information to the department regarding denial of requests for treatment under an alternate plan of care, and to provide a policyholder or certificate holder written notice of denial of those requests, as described above regarding denial of insurance claims: a request for treatment under an alternate plan of care. The bill would require the department to provide that information to the public upon request.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) Long-term care insurance is a vital lifeline for many of
- 4 California’s aging population.
- 5 (b) Ensuring that the insurance available to consumers is fair
- 6 and accessible is ~~important to values and~~ *essential to our aging*
- 7 *community’s* quality of life.
- 8 SEC. 2. It is the intent of the Legislature to ensure that
- 9 insurance products provide appropriate benefits that fit consumers’
- 10 needs.

1 SEC. 3.— Section 10231.2 of the Insurance Code is amended to
2 read:

3 ~~10231.2.— (a) “Long-term care insurance” includes any~~
4 ~~insurance policy, certificate, or rider advertised, marketed, offered,~~
5 ~~solicited, or designed to provide coverage for diagnostic,~~
6 ~~preventive, therapeutic, rehabilitative, maintenance, or personal~~
7 ~~care services that are provided in a setting other than an acute care~~
8 ~~unit of a hospital. Long-term care insurance includes all products~~
9 ~~containing any of the following benefit types:~~

10 ~~(1) Coverage for institutional care, including care in a nursing~~
11 ~~home, convalescent facility, extended care facility, custodial care~~
12 ~~facility, skilled nursing facility, or personal care home.~~

13 ~~(2) Home care coverage, including home health care, personal~~
14 ~~care, homemaker services, hospice, or respite care.~~

15 ~~(3) Community-based coverage, including adult day care,~~
16 ~~hospice, or respite care.~~

17 ~~(4) Disability income coverage that provides benefits that may~~
18 ~~commence after the insured has reached Social Security’s normal~~
19 ~~retirement age.~~

20 ~~(5) Family expense disability insurance policies, riders,~~
21 ~~endorsements, or amendments that provide coverage for disabled~~
22 ~~persons during periods of institutional care, unless the benefits are~~
23 ~~designed to cover expenses not related to the institutional care.~~

24 ~~(b) (1) Long-term care insurance includes disability based~~
25 ~~long-term care policies, but does not include insurance designed~~
26 ~~primarily to provide Medicare supplement or major medical~~
27 ~~expense coverage.~~

28 ~~(2) Long-term care insurance does not include an insurance~~
29 ~~policy rider, endorsement, or amendment that provides benefits~~
30 ~~triggered by activities of daily living, as defined in paragraph (2)~~
31 ~~of subdivision (a) of Section 10232.8, and that complies with both~~
32 ~~of the following:~~

33 ~~(A) The benefits are not dependent on, or vary in amount based~~
34 ~~on, the receipt of long-term care services.~~

35 ~~(B) The coverage is not advertised, marketed, offered, or~~
36 ~~designed as long-term care insurance or as providing coverage for~~
37 ~~long-term care services.~~

38 ~~(c) Long-term care policies, certificates, and riders shall be~~
39 ~~regulated under this chapter. The commissioner shall review and~~
40 ~~approve individual and group policies, certificates, riders, and~~

1 outlines of coverage. Other applicable laws and regulations shall
2 also apply to long-term care insurance insofar as they do not
3 conflict with the provisions in this chapter. Long-term care benefits
4 designed to provide coverage of 12 months or more that are
5 contained in or amended to Medicare supplement or other disability
6 policies and certificates shall be regulated under this chapter.

7 SEC. 4. Section 10235.9 of the Insurance Code is amended to
8 read:

9 10235.9. (a) An insurer shall adopt and implement reasonable
10 standards for promptly investigating and processing claims.

11 (b) Every insurer shall report to the department by June 30 of
12 each year all of the following information:

13 (1) The total number of claims denied by each class of business
14 in the state and the number of these claims denied for failure to
15 meet the waiting period or because of a preexisting condition as
16 of the end of the preceding calendar year.

17 (2) The number of requests from insureds for treatment to be
18 provided under an alternate plan of care, any reason used by the
19 insurer to deny those requests, and the number of requests denied
20 for each reason.

21 (c) The insurer shall provide every policyholder or certificate
22 holder whose claim is denied, or whose request for treatment under
23 an alternate plan of care has been denied, a written notice within
24 40 days of the date of denial of the reasons for the denial and all
25 information directly related to the denial. Insurers shall annually
26 report to the department the number of denied claims.

27 (d) The department shall make available to the public, upon
28 request, the denial rate of claims by insurer pursuant to subdivision
29 (b).

30 SEC. 3. Section 10231.3 is added to the Insurance Code, to
31 read:

32 10231.3. An “alternate plan of care” means a policy, rider,
33 endorsement, or amendment containing a provision that allows
34 benefits for long-term care services that are not specifically defined
35 as a covered service under the policy.

36 SEC. 4. Section 10233.8 is added to the Insurance Code, to
37 read:

38 10233.8. (a) An insurer shall not designate, advertise, market,
39 offer, or solicit a policy as “family-friendly” unless the policy
40 provides both of the following:

1 (1) A coordination benefit as described in paragraph (1) of
2 subdivision (b) of Section 22005.1 of the Welfare and Institutions
3 Code.

4 (2) One or both of the following benefits:

5 (A) Permits family members to provide the care covered under
6 the policy and provides caregiver training.

7 (B) Provides one or both of the following benefits:

8 (i) Credit for unused benefits granted to another insured in the
9 same family.

10 (ii) An annuity or death benefit assignable to the caregiver or
11 that covers legal services related to the care of a person, including
12 the preparation of a power of attorney, a health care power of
13 attorney or advance directive, or legal representation in a
14 conservatorship proceeding involving the person.

15 (b) An insurer shall not designate, advertise, market, offer, or
16 solicit a policy as a “catastrophic policy” unless the insured
17 retains substantial risk before the insured becomes eligible to
18 receive benefits.

19 (c) An insurer shall not designate, advertise, market, offer, or
20 solicit a policy as a “deferred policy” unless the policy provides
21 coverage only after the insured reaches an age specified in the
22 policy.

23 (d) An insurer shall not designate, advertise, market, offer, or
24 solicit a policy as a “short-term policy” unless the policy provides
25 benefits designed to last for a time period of less than one year.

26 (e) An insurer shall not designate, advertise, market, offer, or
27 solicit a policy as a “standardized policy” unless the policy meets
28 standardized benefit levels and other criteria as determined by the
29 commissioner.

30 SEC. 5. Section 10235.9a is added to the Insurance Code,
31 immediately following Section 10235.9, to read:

32 10235.9a. (a) An insurer shall provide a policyholder or
33 certificate holder, whose request for treatment under an alternate
34 plan of care has been denied, a written notice within 40 days of
35 the date of the denial, including the reasons for the denial and all
36 information directly related to the denial.

37 (b) An insurer shall report to the department by June 30 of each
38 year, together with the information required pursuant to Section
39 10235.9, the number of requests from insureds for treatment to be
40 provided under an alternate plan of care, any reason used by the

- 1 *insurer to deny those requests, and the number of requests denied*
- 2 *for each of those reasons.*
- 3 *(c) The department shall make available to the public, upon*
- 4 *request, the information obtained pursuant to subdivision (b).*

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