

**COMMONWEALTH OF MASSACHUSETTS**  
**Office of Consumer Affairs and Business Regulation**  
**DIVISION OF INSURANCE**

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March 9, 2010

IIPRC Management Committee  
444 North Capitol St., NW  
Hall of the States, Suite 701  
Washington, DC 20001-1509

Dear Members of the Committee:

This document contains the written response of the Massachusetts Division of Insurance to the IIPRC standards posted for public comment on January 21, 2010. Massachusetts has participated in the development of these standards and, while many of the disclosures, or similar language, currently required under Massachusetts laws and regulations are contained within the standards, we would like to note that there are several requirements under Massachusetts law that are not addressed therein.

The disclosures that we are concerned with seem to be primarily those unique to Massachusetts. Including these disclosures in a policy that may be used in another state would seem to be problematic.

**The following disclosures are currently required in Massachusetts. These disclosures are consumer protection items required in part because of the unique health insurance market that exists in our state:**

• **Disclosure about Qualification for Certain Massachusetts MassHealth (Medicaid) Exemptions**

In Massachusetts, it is required under 211 CMR 65.09(1)(e) that a long-term care insurance policy include the following information "on the face of the policy or certificate, or a sticker attached to the first page of the policy or certificate:"

**STATE MASSHEALTH (MEDICAID) EXEMPTIONS:**

This policy **(IS)(IS NOT)** intended to satisfy Massachusetts' minimum long-term care insurance coverage requirements as of the policy's effective date for certain asset and liability exemptions under the Massachusetts MassHealth (Medicaid) Program. Please note that there may be other MassHealth (Medicaid) requirements to qualify for these exemptions.

Please read *Your Options for Financing Long-Term Care: A Massachusetts Guide* for important information about the

federal and state exemptions. PLEASE NOTE THAT STATE AND FEDERAL LAWS ARE SUBJECT TO CHANGE AND THAT FEDERAL AND STATE EXEMPTIONS MAY NOT APPLY TO THIS POLICY AT A FUTURE DATE.

- **Disclosure About Changes to MassHealth (Medicaid) Eligibility and Recovery Exemptions under 130 CMR 515.014**

As noted above, in Massachusetts, it is required under 211 CMR 65.09(1)(e) that long-term care insurance policies disclose the policy's qualification for certain Massachusetts MassHealth (Medicaid) Exemptions. It is also required in Massachusetts, under 211 CMR 65.09(4)(c) that if a long-term care insurance company "issued a policy that met the standards of 130 CMR 515.014 and said standards are subsequently changed, the carrier shall notify all insureds whose policies will no longer satisfy the MassHealth (Medicaid) standards and shall offer all such insureds on a guaranteed issue basis the opportunity to purchase needed benefits to meet the MassHealth (Medicaid) policy criteria...[and that t]he rates for any change in benefits shall be based upon the rate characteristics for the insured at the time of policy change."

In order to reduce confusion within the Massachusetts market for long-term care insurance, our Division expects all companies offering long-term care insurance that have indicated to insureds that the policy "IS intended to satisfy Massachusetts' minimum long-term care insurance coverage requirements as of the policy's effective date for certain asset and liability exemptions under the Massachusetts MassHealth (Medicaid) Program" will continue to be required to issue the disclosure described in 211 CMR 65.09(4)(c) in the event the MassHealth (Medicaid) standards described in 130 CMR 515.014 change.

- **Use of Massachusetts-Specific Policy Illustration Form**

In Massachusetts, it is required under 211 CMR 65.09(3)(b), that "[n]o long-term care insurance policy may be delivered or issued for delivery in Massachusetts unless the applicant receives a policy illustration in a form that is substantially similar to the one set forth in 211 CMR 65.100." It is further noted in this section that "[t]he carrier or its agents must deliver the policy illustration no later than the time of each policy proposal or quote. In the case of direct response sales, the carrier must deliver the form at the time that the application or enrollment form is sent to the potential insured."

- **Use of Massachusetts-Specific Form When Coverage is Other Than Requested**

In Massachusetts, it is required under 211 CMR 65.09(4)(a) that "[i]f the policy is issued on a basis other than that applied for, a disclosure statement properly describing the actual policy terms must accompany the policy when it is delivered and must contain a statement substantially similar to the following: "NOTICE: Read this disclosure statement carefully. The coverage you originally applied for has not been issued. This policy is therefore not identical to the coverage you requested, but it differs in the following respects: [list]."

- **Use of Massachusetts-Specific Health Reform Law Disclosures**

In Massachusetts, certain additional disclosures are required for all accident and sickness insurance products to inform Massachusetts consumers about whether the coverage satisfies the "Minimum Creditable Coverage" requirements of the Massachusetts individual health insurance coverage mandate required under Chapter 58 of the Acts of 2006. As identified in Massachusetts Insurance Bulletin 2008-02, "[i]f an insured accident and sickness plan is not considered a "health plan", as defined in M.G.L. c. 176N, the following disclosure notice must be included on the face or the first page of the text of the policy or certificate or on any

required notice submitted with the product in substantially the same language and format:



This health plan, alone, **does not meet Minimum Creditable Coverage standards** and **will not satisfy** the individual mandate that you have health insurance. Please see page # for additional information.

In addition, the following disclosure shall be placed within the body of the policy, certificate, or any required notice submitted with the product in substantially the same language and format:

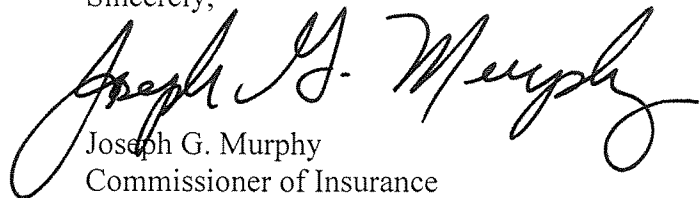
**As of January 1, 2009, the Massachusetts Health Care Reform Law requires that Massachusetts residents, eighteen (18) years of age and older, must have health coverage that meets the Minimum Creditable Coverage standards set by the Commonwealth Health Insurance Connector, unless waived from the health insurance requirement based on affordability or individual hardship. For more information call the Connector at 1-877-MA-ENROLL or visit the Connector website ([www.mahealthconnector.org](http://www.mahealthconnector.org)).**

This plan is not intended to provide comprehensive health care coverage and **does not meet Minimum Creditable Coverage standards**, even if it does include services that are not available in the insured's other health plans.

**If you have questions about this notice, you may contact the Division of Insurance by calling (617) 521-7794 or visiting its website at [www.mass.gov/doi](http://www.mass.gov/doi).**

Massachusetts is formally notifying the IIPRC of these requirements during the public comment period of the proposed product standards in the hopes of reconciling our state's disclosure needs with these proposed standards.

Sincerely,



Joseph G. Murphy  
Commissioner of Insurance

cc: Kevin Beagan, Deputy Commissioner & Director of the State Rating Bureau  
Edward Charbonnier, Director of Policy Form Review