

Title 23. Public Utilities and Regulated Industries
Chapter I. State Insurance Department, Department of Commerce
Subchapter B. Life, Health, and Accident
Part 125. Arkansas Long-Term Care Insurance Partnership Program

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Section 2. Authority

This Rule is issued under the authority vested in the Arkansas Insurance Commissioner (the "Commissioner") by Ark. Code Ann. §23-97-320, to implement rules for long-term care insurance policies and to assist in the development of long-term care insurance policies under Act 99 of 2007, "An Act To Establish the Arkansas Long-Term Care Partnership Program." In addition, this Rule is also issued under the authority vested in the Commissioner under §23-61-108, and the Arkansas Administrative Procedure Act, codified at Ark. Code Ann. §25-15-201 et seq., and other applicable laws or rules."

"Section 9. Effective Date

This Rule shall be effective on July 1, 2008.

Section 10. Severability

Any section or provision of this Rule held by the court to be invalid or unconstitutional will not affect the validity of any other section or provision."

Subpart 1. Generally

23 CAR § 125-101. Purpose.

(a) The purpose of this part is to implement Acts 2007, No. 99, entitled "An Act To Establish the Arkansas Long-Term Care Partnership Program", by providing

requirements to establish partnership-qualified long-term care insurance policies in this state, in compliance with the federal Long-Term Care Partnership Program.

(b) This part provides standards for producers soliciting such policies and for insurers desiring to issue policies qualifying under such program.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

23 CAR § 125-102. Applicability and scope.

(a) This part applies to all:

(1) Arkansas PQLTC policies, including certificates issued under a group insurance contract;

(2) Producers soliciting such policies in Arkansas; and

(3) Insurers issuing such policies in Arkansas.

(b) Compliance with this part for such policies and parties is in addition to compliance with Long-Term Care Insurance, 23 CAR pt. 84.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. "PQLTC" means partnership-qualified long-term care.

23 CAR § 125-103. Definitions.

In addition to the definitions provided in Arkansas Code § 23-97-304, the following definitions shall apply for purposes of this part:

(1) "Commissioner" means the Insurance Commissioner;

(2) "Consumer price index" means the Consumer Price Index for All Urban Consumers, United States city average, and all items, as determined by the United States Bureau of Labor Statistics;

(3) "Federal Long-Term Care Partnership Program" means the Long-Term Care Partnership Program as authorized under Section 6021 of the Deficit Reduction Act of

2005, which amended Section 1917(b) of the federal Social Security Act to provide for qualified state long-term care insurance partnership programs;

(4)(A) "Inflation protection benefit" means a feature that increases benefit levels annually:

(i) By compounding annually at a stated rate of not less than three percent (3%) for ages less than sixty-one (61) and by annual simple interest at a stated rate of not less than three percent (3%) for ages sixty-one (61) through seventy-five (75); or

(ii) Based on changes to the consumer price index.

(B) Future guaranteed purchase options do not meet this definition;

(5) "Insurer" or "issuer" means an entity authorized to issue long-term care insurance under Arkansas Code § 23-97-304(7)(C);

(6) "Partnership-qualified long-term care insurance policy" means a long-term care insurance policy that meets all of the requirements of 23 CAR § 125-104;

(7) "Rule 13" means Long-Term Care Insurance, 23 CAR pt. 84; and

(8) "Secretary" means the United States Secretary of Health and Human Services.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. The Deficit Reduction Act of 2005 was enacted as Pub. L. No. 109-171.

23 CAR § 125-104. Policy requirements.

Any partnership-qualified long-term care insurance policy shall meet or exceed all of the following:

(1) The policy meets all the applicable requirements of this part and the requirements of Long-Term Care Insurance, 23 CAR pt. 84;

(2) The policy includes an inflation protection benefit as defined in 23 CAR § 125-103;

(3) The insured was a resident of Arkansas when coverage first became effective under the policy; and

(4) The policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986 and was issued no earlier than January 1, 2008.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. Section 7702B(b) of the Internal Revenue Code of 1986 is codified at 26 U.S.C. § 7702B(b).

23 CAR § 125-105. Exchange of existing policies.

(a) If an insurer intends to establish a procedure or procedures under which existing long-term care insurance policies may be exchanged for PQLTC policies, the insurer shall file with the Insurance Commissioner the details of such procedures for approval.

(b) The commissioner shall disapprove such procedures that are unfairly discriminatory or violate PQLTC partnership rules established by the State Medicaid Director.

(c) No exchanges are permitted without prior approval by the commissioner of such procedures.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. "PQLTC" means partnership-qualified long-term care.

23 CAR § 125-106. Producer requirements.

(a)(1) Every producer shall have completed the training required by Long-Term Care Insurance, 23 CAR pt. 84, prior to soliciting PQLTC policies.

(2) Proof of such training and demonstration of evidence of an understanding of such policies and how they relate to other public and private coverage of long-term care must be provided to each insurer for which the producer solicits PQLTC policies.

(b)(1) An issuer or its producer, soliciting or offering to sell a policy that is intended to qualify as a PQLTC policy, shall provide to each prospective applicant a Solicitation Disclosure Form, attached as Appendix A, outlining the requirements and benefits of a PQLTC policy.

(2) A similar notice may be used for this purpose if filed and approved by the Insurance Commissioner.

(3) The Solicitation Disclosure Form shall be provided with the required outline of coverage pursuant to 23 CAR pt. 84.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. "PQLTC" means partnership-qualified long-term care.

23 CAR § 125-107. Insurer requirements.

(a)(1) Each insurer shall establish and maintain procedures that assure that producers soliciting the insurer's PQLTC policies are in compliance with 23 CAR § 125-106 and the training required by Long-Term Care Insurance, 23 CAR pt. 84.

(2) The procedures and records of the insurer shall be made available to the Insurance Commissioner upon request by the commissioner.

(3) In addition, issuers shall complete the Producer Training Certification found in the Issuer Certification Form attached as Appendix C to this part.

(b)(1) Each insurer shall establish and maintain procedures assuring that each PQLTC policy issued or issued for delivery in Arkansas shall be accompanied by the Policy Disclosure Form, attached as Appendix B to this part, which explains the benefits associated with a PQLTC policy and indicates that, at the time the policy is issued, the policy is intended to be a PQLTC policy.

(2) A similar notice may be used if filed and approved by the commissioner.

(3) In determining whether to provide this notice with respect to a policy, the issuer of the policy may rely upon a statement by the policyholder, certificate holder, or insured that the insured is a resident of Arkansas.

(4) In the case of a group insurance contract, such notice must be provided to the insured under a certificate upon the issuance of the certificate.

(c)(1) Each insurer shall submit an Issuer Certification Form, attached as Appendix C to this part, identifying each policy form intended for use as a PQLTC policy and certifying such form's compliance with this part.

(2) An insurer may submit supplemental Issuer Certification Forms to identify and certify additional policy forms that are intended for use as a PQLTC policy.

(3)(A) If there is a change made by the United States Secretary of Health and Human Services, pursuant to Section 1917(b)(5)(C) of the Social Security Act (42 U.S.C. § 1396p(b)(5)(C)), in the provisions of the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act or Regulation that apply to new PQLTC policies, appropriate modifications will be made to the Issuer Certification Form to reflect the new requirements.

(B) In the event such modifications are made to the Issuer Certification Form, the State Insurance Department shall notify long-term care insurers of the changes through a bulletin, directive, or other public notice describing such changes.

(d)(1) Pursuant to Section 1917(b)(1)(C)(iii)(VI) and (v) of the Social Security Act (42 U.S.C. § 1396p(b)(1)(C)(iii)(VI) and (v), respectively), issuers of PQLTC policies must provide regular reports to the United States Secretary of Health and Human Services in accordance with any regulations of the United States Secretary of Health and Human Services.

(2) Until final regulations or other applicable guidelines are issued and become effective by the United States Secretary of Health and Human Services, issuers of policies must provide:

(A) A written notification to the United States Secretary of Health and Human Services regarding when insurance benefits provided under PQLTC policies have been paid and the amount of such benefits paid; and

(B) A written notification to the United States Secretary of Health and Human Services regarding when such policies terminate.

(3) Such notifications must be provided within sixty (60) days of the end of each calendar year with respect to benefits paid and terminations during such year or, in the case of terminations resulting from death, within the later of sixty (60) days after the end of the calendar year of death or one hundred twenty (120) days after notification of death has been received by the issuer of the policy.

(4) Until final regulations or other applicable guidelines are issued and become effective by the United States Secretary of Health and Human Services, including guidelines or regulations specifying a federal uniform minimum data set pursuant to Section 1917(b)(1)(C)(iii)(VI), (v), and (vi) of the Social Security Act (42 U.S.C. § 1396p(b)(1)(C)(iii)(VI), (v), and (vi)), appropriate modifications shall be made to these interim reporting requirements to reflect the availability of information from the United States Secretary of Health and Human Services.

(5)(A) As described above, PQLTC policies that cover more than one (1) insured are treated as separate PQLTC policies, each of which covers a single insured.

(B) Thus, the reporting requirements described herein shall apply with respect to each such separate PQLTC policy.

Authority. Arkansas Code §§ 23-61-108, 23-97-320.

Codification Notes. “PQLTC” means partnership-qualified long-term care.

Appendix A. Solicitation Disclosure Form

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/201/23CARpt.125AppendixA.pdf>

Appendix B. Long-Term Care Insurance Partnership Status Disclosure Form

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/202/23CARpt.125AppendixB.pdf>

Appendix C. Issuer Certification Form

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/203/23CARpt.125AppendixC.pdf>