Links to applicable rules and statutes: [**Ins 400 - Submission/Form Rules**](http://www.gencourt.state.nh.us/rules/state_agencies/ins400.html)**;** [**Chapter 415-D LONG-TERM CARE INSURANCE ACT**](http://www.gencourt.state.nh.us/rsa/html/XXXVII/415-D/415-D-mrg.htm)**;** [**Ins 3600 LONG-TERM CARE INSURANCE**](http://www.gencourt.state.nh.us/rules/state_agencies/ins3600.html)

I. SUBMISSION REQUIREMENTS – ALL FORMS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM SUBMISSION ADHERES TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Filing Submission Requirements | Ins 401.14 (c) | Third Party Authorization: Authorization letter is attached to the Supporting Documentation tab if the forms are being submitted on behalf of an insurance company.  |  |  |
|  | Ins 401.14 (e) | Certificate of Compliance is signed/dated and attached to the Supporting Documentation tab. |  |  |
|  | RSA 420-H:5 I (a) & IV | All policy, certificate, or contract forms have a minimum Flesch score of 40. Certification of the Flesch score is attached to the Supporting Documentation tab or Readability Scores are completed on the Form Schedule tab.  |  |  |
|  | Ins 401.14 (f) | The SERFF Filing Description includes a brief description of each form, including any new or unusual features, and a list of forms to which it will be attached. |  |  |
|  |  | The General Information tab indicates a brief statement indicating the filing status in the state of domicile, including the date approved. |  |  |
|  |  | The SERFF Filing Description includes a statement indicating if a form is replacing another form, including the name of the form being replaced. |  |  |
|  |  | (4) If a form is being replaced, a “red-lined” document indicating the differences between the previous and new forms is attached to the Supporting Documentation tab. |  |  |
|  | Ins 401.14 (o) | If a rider, amendment, or endorsement is filed that changes or adds language to another form(s), a “red-lined” document of the impacted form highlighting the changes is attached to the Supporting Documentation tab. |  |  |
| Form Submission Requirements | Ins 401.14 (g) | All forms are submitted in the same layout as sold to consumers in New Hampshire.  |  |  |
|  | Ins 401.14 (h) | All policy, certificate, and contract forms over 3,000 words or printed on 3 or more pages are electronically bookmarked with a Table of Contents or index of the principal sections of the form. |  |  |
|  | Ins 401.14 (i) | Specifications page is completed with hypothetical data that is realistic and consistent with the other contents of the policy/contract. |  |  |
|  | Ins 401.14 (k) | All forms are filed as intended for use with all related forms to enable the review of the form with proper context. |  |  |
|  | Ins 401.14 (l) | Certificates include enrollment forms. |  |  |
|  | Ins 401.14 (m) | Policies, certificates, and rates are submitted together. |  |  |
|  | Ins 401.14 (p) | All variable language is identified with the use of brackets and a statement of variability is attached to the Supporting Documentation tab. |  |  |
|  | Ins 401.14 (q) | Revised forms are submitted with a distinguishing form number. |  |  |
|  | Ins 401.14 (r) | All forms submitted are in final print. |  |  |
|  | Ins 401.14 (u) | If a Group policy or certificate is filed, the corresponding group certificate or policy is included on the same filing.  |  |  |
|  | Ins 401.14 (w) | If forms were previously disapproved and are being resubmitted for review, the previous SERFF tracking number is stated in the Filing Description. In addition, all previous correspondence and red-lined copies of the previously submitted forms are attached to Supporting Documentation tab in SERFF.  |  |  |

II. GENERAL FORM REQUIREMENTS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Policy number | Ins 401.04 (a) | Each form shall contain a form number containing numbers, letters, or both that shall be placed in the lower left corner. The form number may contain the prefix “Form”. If a change is made to the form, the new form shall be submitted with a new form number. |  |  |
| Corporate Information | Ins 401.04 (b) | Each policy and certificate shall contain the full corporate title, address, toll free telephone and facsimile numbers, and the company website address if available. |  |  |
| Brief Description | Ins 401.04 (c) | Each policy and certificate shall provide a brief description of the nature of the policy on the face page, specifications page, or back page. |  |  |

III. LONG-TERM CARE INITIAL FILING REQUIREMENTS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Disclosure copies | Ins 3601.09 (b) (1) | A copy of the disclosure documents required by 3601.08 |  |  |
| Actuarial memo minimum | Ins 3601.09 (b) (2) (a) – (e) | An actuarial certification consisting of requirements detailed in (b) (2) (a) – (e) |  |  |

IV. LONG-TERM CARE APPLICATION/ENROLLMENT FORM REQUIREMENTS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM APPLICATIONS/ENROLLMENT FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
|  | Ins 3601.13 | Application complies with Ins 3601.13 in its entirety |  |  |
| Questions | Ins 3601.13 (a) (1) – (4) | Application includes all questions required by 3601.13 (a) (1) – (4) |  |  |
|  | Ins 3601.10 (b) | If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it shall also ask the applicant to list the medication that has been prescribed |  |  |
|  | Ins 3601.10 (c) | Except for policies or certificates which are guaranteed issue: (1)  The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate:Caution:  If your answers on this application are incorrect or untrue, [company] has the right to deny benefits or rescind your policy |  |  |
| Replacement question | Ins 401.12 (f) | Contains question whether policy sought is intended to replace existing policy |  |  |
| Declarative statement | Ins 401.12 (a) | The declarative portion of the application, if any, shall imply a representation of facts to the best of the applicant's knowledge. For example "I represent," or "To the best of my knowledge and belief, Wording such as "I Certify" are prohibited |  |  |
| Prohibition | Ins 401.12 (d) | No provision is permitted that changes the terms of the policy to which it is attached |  |  |
| Prohibition  | Ins 401.12 (e) | Questions as to race or ethnicity are prohibited |  |  |

V. LONG-TERM CARE GENERAL REQUIREMENTS

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Definitions |  |  |  |  |
| Group | RSA 415-D:3, IV | Group meets all requirements applicable to definition of “Group long-term care insurance” (a) - *employer*, (b) – *professional trade, or occupational association*, or (c) – *associations/ or trust maintained for members of association* |  |  |
| Long-term Care | RSA 415-D:3, V | "Long-term care insurance" means any insurance policy, group insurance certificate or rider advertised, marketed, offered, or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis, for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital… See RSA 415-D:3, V for entire definition |  |  |
| “Qualified” Long-term care | RSA 415-D:3, VII | "Qualified long-term care insurance contract" or "federally tax-qualified long-term care insurance contract" definition found at RSA 415-D:3, VII |  |  |
| Ins 3600 Definitions | Ins 3601.04 (a) – (q) | Activities of daily living; Acute condition; Adult day care; Bathing; Cognitive impairment; Continence; Dressing; Eating; Hand-on assistance; Home health care services; mental or nervous disorder, personal care, skilled nursing care, etc.; toileting; transferring; standards for certain providers of services, e.g., skilling nursing facility, convalescent nursing home, etc.  |  |  |
| Benefit Triggers | Ins 3601.03 (a) | "Benefit trigger", for the purposes of independent review, means a contractual provision in the insured's policy of long-term care insurance conditioning the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment.  For purposes of a tax-qualified long-term care insurance contract, as defined in section 7702B of the Internal Revenue Code of 1986, as amended, "benefit trigger" shall include a determination by a licensed health care practitioner that an insured is a chronically ill individual |  |  |
| General Policy Provisions |  |  |  |  |
| Cancellation -I Individual Policy | RSA 415-D:6, I | I. An individual long-term care insurance policy shall not be cancelled, refused renewal, or otherwise terminated by the insurer, except where the required premium has not been paid by or on behalf of the insured…. |  |  |
| Cancellation - Group | RSA 415-D:6, IIandIns 3601.05 (d)(1) | II. If a group policy is cancelled, refused renewal or terminated by either the insurer or the policyholder, each certificate holder shall be entitled to have issued to him or her an individual policy or replacement group certificate of insurance providing benefits equivalent to those enjoyed by the certificate holder under the group policy from which conversion is made. Such policy or certificate shall be issued by the insurer without evidence of insurability, provided the certificate holder makes application for the policy and pays the monthly premium within 30 days after receiving written notice of such cancellation, refusal to renew, or termination. No long-term care insurance policy or certificate shall contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new form or another form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder. |  |  |
| Continuation and Conversion | Ins 3601.05 (d) (1) | (1)  Group long-term care insurance issued in this state on or after the effective date of this section shall provide covered individuals with a basis for continuation or conversion of coverage. |  |  |
| Discontinuance and Replacement | Ins 3601.05 (e) | (e)  Discontinuance and Replacement.  If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer shall offer coverage to all persons covered under the previous group policy on its date of termination.  Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy: (1)  Shall not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and (2)  Shall not vary or otherwise depend on the individual's health or disability status, claim experience or use of long-term care services. |  |  |
| Continuation – family relationship | RSA 415-D:6, IV | IV. Notwithstanding any other provision of this section, any insured individual whose eligibility for group long-term care coverage is based upon that person's relationship to another person, shall be entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage. |  |  |
| Incontestability Periods | RSA 415-D:9, I - III | I. For a policy or certificate that has been in force for less than 6 months, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.II. For a policy or certificate that has been in force for at least 6 months but less than 2-years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance for coverage and which pertains to the condition for which benefits are sought.III. After a policy or certificate has been in force for 2 years, it is not contestable upon the grounds of misrepresentation alone; such policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health. |  |  |
| Nonforfeiture Benefits | RSA 415-D:10andIns 3601.27 | I. Except as provided in paragraph II, a long-term care insurance policy shall not be delivered or issued for delivery in this state unless the policyholder or certificate holder has been offered the option of purchasing a policy or certificate including a nonforfeiture benefit. The offer of a nonforfeiture benefit may be in the form of a rider that is attached to the policy. In the event the policyholder or certificate holder declines the nonforfeiture benefit, the insurer shall provide a contingent benefit upon lapse that shall be available for a specified period of time following a substantial increase in premium rates. |  |  |
| Unintentional Lapse Protections | Ins 3601.06 (a) | Policy language does not conflict with unintentional lapse protections. |  |  |
| Reinstatement | Ins 3601.06 (b) | Policy language does reflects reinstatement rights in compliance with Ins 3601.06 (b) |  |  |
| Renewability - Individual | Ins 3601.05 (a)  | (a)  Renewability.  The terms "guaranteed renewable" and "noncancellable" shall not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Ins 3601.08 of this rule. (1)  A policy issued to an individual shall not contain renewal provisions other than "guaranteed renewable" or "noncancellable." (2)  The term "guaranteed renewable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. (3)  The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate. (4)  The term "level premium" may only be used when the insurer does not have the right to change the premium. (5)  In addition to the other requirements of this subsection, a qualified long-term care insurance contract shall be guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986, as amended. |  |  |
| Inflation Protection | Ins 3601.12 | Inflation protection offered that that complies with Ins 3601.12 |  |  |
| Right to Reduce Coverage and Lower Premiums | Ins 3601.26  | Every long-term care insurance policy and certificate shall include a provision that allows the policyholder or certificate holder to reduce coverage and lower the policy or certificate premium in at least one of the following ways: a.  Reducing the maximum benefit; or b. Reducing the daily, weekly or monthly benefit amount. |  |  |
| Disclosures |  |  |  |  |
| Required Disclosure Provisions | Ins 3601.07 (a) – (i) | Policy complies with disclosures related to (a) Renewability, (b) Riders and Endorsements, (c) Payment of Benefits, (d) Limitations, (e) Other Limitations of Conditions for Eligibility for Benefits, (f) Disclosures of Tax Consequences, (g) Benefits Triggers, (h) Qualified long-term care disclosures, and (i) nonqualified long-term care insurance |  |  |
| Rating disclosures | Ins 3601.08 (a) – (e) | Policy complies with Required Disclosure of Rating Practices to Consumers. |  |  |
| Free Look | RSA 415-D:7 | Long-term care insurance applicants shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. Long-term care insurance policies and certificates shall have the notice prominently printed on the first page or attached thereto stating in substance that the applicant shall have the right to return the policy or certificate within 30 days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the applicant is not satisfied for any reason. This paragraph shall also apply to denials of applications and any refund shall be made within 30 days of the return or denial. |  |  |
| Disclosure if post-confinement, post-acute care or recuperative benefits | RSA 415-D:5, IV (b) | (b) A long-term care insurance policy containing post-confinement, post-acute care, or recuperative benefits shall clearly label in a separate paragraph of the policy or certificate entitled "Limitations or Conditions on Eligibility for Benefits" such limitations or conditions, including any required number of days of confinement. |  |  |
| Notice of potential denial or rescission | Ins 3601.10 | (c)  Except for policies or certificates which are guaranteed issue:(2)  The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:Caution:  The issuance of this long-term care insurance [policy] [certificate] is based upon your responses to the questions on your application.  A copy of your [application] [enrollment form] [is enclosed] [was retained by you when you applied].  If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy.  The best time to clear up any questions is now, before a claim arises!  If, for any reason, any of your answers are incorrect, contact the company at this address:  [insert address] |  |  |
| Minimum Standards |  |  |  |  |
|  | RSA 415-D:5 II (a) | No long-term care insurance may: (a) Be cancelled, nonrenewed or otherwise terminated on the grounds of the age or deterioration of the mental or physical health of the insured individual or certificate holder. |  |  |
|  | RSA 415-D:5 II (b) | No long-term care insurance may: (b) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder. |  |  |
|  | RSA 415-D:5 II (c) | No long-term care insurance may: (c) Provide coverage for skilled nursing care only or provide significantly more coverage for skilled care in a facility than coverage for lower levels of care. |  |  |
| Pre-existing | RSA 415-D:5 III (a) | III. (a) No long-term care insurance policy or certificate shall use a definition of preexisting condition that is more restrictive than the following: "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within 6 months preceding the effective date of coverage of an insured person. |  |  |
| Replacement Policies/Certificates - No Preexisting Conditions and Probationary Periods | Ins 3601.24 | If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer shall waive any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy. |  |  |
|  | RSA 415-D:5 III (b) | (b) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement that is the result of a preexisting condition unless the loss or confinement begins within 6 months following the effective date of coverage of an insured person. |  |  |
|  | RSA 415-D:5 III (d) | (d) …..No long-term care insurance policy or certificate may exclude or use waivers or riders of any kind to exclude, limit, or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions beyond the waiting period described in subparagraph (b). |  |  |
|  | RSA 415-D:5 IV (a) | (a) No long-term care insurance policy may be delivered or issued for delivery in this state if such policy:(1) Conditions eligibility for any benefits on a prior hospitalization requirement;(2) Conditions eligibility for benefits provided in an institutional care setting on the receipt of a higher level of institutional care; or(3) Conditions eligibility for any benefits other than waiver of premium, post-confinement, post-acute care, or recuperative benefits on a prior institutionalization requirement. |  |  |
|  | RSA 415-D:5 IV (c) | (c) A long-term care insurance policy or rider that conditions eligibility of noninstitutional benefits on the prior receipt of institutional care shall not require a prior institutional stay of more than 30 days. |  |  |
|  | RSA 415-D:5 IV (d) | (d) No long-term care insurance policy or rider that provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than 30 days after discharge from the institution. |  |  |
| Standards if Home Health and Community Care Benefits are offered in Long-Term Care Insurance Policies. | Ins 3601.11 | (a)  A long-term care insurance policy or certificate shall not, if it provides benefits for home health care or community care services, limit or exclude benefits: (1)  By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (2)  By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community or institutional setting before home health care services are covered; (3)  By limiting eligible services to services provided by registered nurses or licensed practical nurses; (4)  By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of his or her licensure or certification; (5)  By excluding coverage for personal care services provided by a home health aide; (6)  By requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service; (7)  By requiring that the insured or claimant have an acute condition before home health care services are covered; (8)  By limiting benefits to services provided by Medicare-certified agencies or providers; or (9)  By excluding coverage for adult day care services.           (b)  A long-term care insurance policy or certificate, if it provides for home health or community care services, shall provide total home health or community care coverage that is a dollar amount equivalent to at least one-half of one year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received.  This requirement shall not apply to policies or certificates issued to residents of continuing care retirement communities.           (c)  Home health care coverage may be applied to the nonhome health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. |  |  |
| Standards for Benefit Triggers – LTC | Ins 3601.28 | (a)  A long-term care insurance policy shall condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment.  Eligibility for the payment of benefits shall not be more restrictive than requiring either a deficiency in the ability to perform not more than 3 of the activities of daily living or the presence of cognitive impairment. |  |  |
| Standards for Benefit Triggers – Qualified LTC | Ins 3601.29 | Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts |  |  |
| Limitations and Exclusions | Ins 3601.05 (b) | A policy may not be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows: (1) Preexisting conditions or diseases; (2)  Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease;(3)  Alcoholism and drug addiction; (4)  Illness, treatment or medical condition arising out of: a.  War or act of war (whether declared or undeclared); b.  Participation in a felony, riot or insurrection; c.  Service in the armed forces or units auxiliary thereto;d.  Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; or e. Aviation (this exclusion applies only to non-fare-paying passengers)…See also (5) – (9) |  |  |
| Appeals | Ins 3601.30 | Policy/Certificate details appeal process in compliance with Ins 3601.30 |  |  |

VI. LONG-TERM CARE OUTLINE OF COVERAGE

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Outline of Coverage |  |  |  |  |
|  | RSA 408:8, IV | Outline of Coverage complies with RSA 408:8, IV. |  |  |
|  | Ins 3601.32 | Outline of Coverage format complies with format requirements. |  |  |

VII. LONG-TERM CARE RATE - INFORMATIONAL

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | RULE/STATUTE REFERENCE | CONFIRM FORMS ADHERE TO THE FOLLOWING REQUIREMENTS | YES | N/A |
| Rates |  |  |  |  |
| Rate Increases | Ins 3601.19 | NOTE: Filings for Rate increases must be accompanied by the letters to the policyholder as well as the election form. Filing must be submitted as Form/Rate, and the forms must be submitted for review and approval. |  |  |
| Loss Ratios | RSA 415-D:3, VISee also: Ins 3601.18 (b) | VI. "Loss ratio standards" means the minimum anticipated loss ratio permitted for a long-term care insurance policy or certificate. The anticipated loss ratio is that which is expected to be incurred over the lifetime of the policy or, at the option of the insurer, 20 years, whichever is shorter. Such a loss ratio shall be based on a typical distribution of business anticipated to be sold in a period of 12 months and followed to its conclusion. The loss ratio shall be calculated as the ratio of the present value of all expected future benefits, excluding dividends, to the present value of all expected future premiums. |  |  |
| Conversion | RSA 415-D:6, III | Unless the group policy from which conversion is made replaces previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. If the group policy from which conversion is made replaces previous group coverage, the premium for the converted policy shall be calculated on the basis of the insured's age at inception of coverage under the group policy replaced. |  |  |

VIII. COMMENTS: