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**SUBSTITUTE HOUSE BILL 1971**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Dyer, Dellwo, Zellinsky, Kremen, Basich, Brough, Long, Carlson, Ballard, Sehlin, Edmondson, Thomas, Stevens, Miller, Wood, Forner, Horn, Campbell, Chandler, Brumsickle, Tate, Vance, Fuhrman, Ballasiotes, Sheahan, Lisk, Cooke, Van Luven, Mielke, Foreman, Talcott, Springer, Finkbeiner, Mastin, Pruitt, Kessler, Rust, Morton, Chappell, Brown, Ogden, Flemming, Reams, Locke and Schoesler)

Read first time 03/03/93.

1 AN ACT Relating to a public and private partnership for long-term  
2 care insurance for the elderly; adding a new chapter to Title 48 RCW;  
3 and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that the elderly  
6 are the fastest-growing age group nation-wide and in Washington state,  
7 increasing in absolute terms and as a percentage of the total  
8 population. In addition, the older population itself is aging. The  
9 over eighty-five years of age group of elderly are growing faster than  
10 any other group. This is in large part due to the substantial advances  
11 in medical technology that have increased the elderly's life expectancy  
12 and have changed their prevalent causes of death. Living longer has  
13 meant that chronic conditions have become major causes of death,  
14 disability, and functional dependency. These conditions can effect the  
15 individual for years, impairing their ability to function and  
16 necessitating high use of long-term care and health care resources to  
17 manage, not cure, the conditions. On the average, the elderly's health  
18 care and long-term care utilization and expenditures are much greater  
19 than those of the nonelderly. While the elderly spend nearly three

1 times the amount the population as a whole spends on health care, per  
2 capita, their largest source of out-of-pocket expenditures is for  
3 nursing home care. Currently, almost half of all the nursing home  
4 expenditures in the United States are financed by public tax dollars  
5 through the medicaid program. Almost all of the remaining expenditures  
6 nation-wide for nursing homes are financed privately and are primarily  
7 paid directly by individual out-of-pocket payments. Since private  
8 health insurance for long-term care has not been a major component of  
9 the financing for long-term care, the majority of the aged in our state  
10 face the risk of financial ruin from an extended nursing home stay.

11 The legislature finds that the aged in nursing homes often "spend  
12 down" their income and become dependent on tax-supported medicaid  
13 nursing home care. Approximately half of the people that medicaid pays  
14 for in nursing homes were not initially poor, but spent down their  
15 assets as a result of catastrophic nursing home bills. The current  
16 financing dilemma is likely to worsen. Additional demands are expected  
17 to be made on the long-term care system. At the same time, the public  
18 sector's ability to finance increased long-term care needs through tax-  
19 supported programs, will decline. The lack of elderly persons  
20 protected by private insurance further encourages them to seek medicaid  
21 eligibility, often by transferring their assets to family members. As  
22 a result, assets are lost that might be used advantageously to add to  
23 their income, for more appropriate housing, or for health and social  
24 services, to improve the quality of their lives, to prevent or delay  
25 institutional placement, and to prevent their becoming indigent.

26 The legislature further finds that the private long-term care  
27 insurance, as regulated and provided in this state, provides a proven  
28 and viable option for protecting many of our state's elderly from the  
29 devastating financial impact of a nursing home admission. If a  
30 sufficient quantity of long-term care policies were purchased, it could  
31 also reduce the state's large and growing burden for financing long-  
32 term care.

33 It is the purpose and intent of this chapter to provide a realistic  
34 approach to financing needed long-term care to the elderly by  
35 encouraging the private market to be an appealing and effective partner  
36 in long-term care financing and structuring linkages between private  
37 insurance options and access to an improved medicaid system. The  
38 approach will build upon the significant responsibilities and  
39 experience that we have developed in the finance and delivery of long-

1 term care to address the challenge of coordinating the role of the  
2 private sector with rapidly changing public programs.

3 NEW SECTION. **Sec. 2.** The department of social and health services  
4 shall from July 1, 1993, to July 1, 2000, coordinate a pilot program  
5 entitled the Washington long-term care partnership, whereby private  
6 insurance and medicaid funds shall be used to finance long-term care.  
7 This program must allow for the exclusion of an individual's assets, as  
8 approved by the federal health care financing administration, in a  
9 determination of the individual's eligibility for medicaid; the amount  
10 of any medicaid payment; or any subsequent recovery by the state for a  
11 payment for medicaid services to the extent such assets are protected  
12 by a long-term care insurance policy or contract governed by chapter  
13 48.84 RCW and meeting the criteria prescribed in this chapter.

14 NEW SECTION. **Sec. 3.** The department of social and health services  
15 shall seek approval and a waiver of appropriate federal medicaid  
16 regulations to allow the protection of an individual's assets as  
17 provided in this chapter. The department shall adopt all rules  
18 necessary to implement the Washington long-term care partnership  
19 program, which rules shall permit the exclusion of an individual's  
20 assets in a determination of medicaid eligibility to the extent that  
21 private long-term care insurance provides payment or benefits for  
22 services that medicaid would approve or cover for medicaid recipients.

23 NEW SECTION. **Sec. 4.** (1) The insurance commissioner shall adopt  
24 rules defining the criteria that long-term care insurance policies must  
25 meet to satisfy the requirements of this chapter. The rules shall  
26 provide that all long-term care insurance policies purchased for the  
27 purposes of this chapter:

- 28 (a) Be guaranteed renewable;
- 29 (b) Provide coverage for home and community-based services and  
30 nursing home care;
- 31 (c) Provide automatic inflation protection or similar coverage to  
32 protect the policyholder from future increases in the cost of long-term  
33 care;
- 34 (d) Not require prior hospitalization or confinement in a nursing  
35 home as a prerequisite to receiving long-term care benefits; and

1 (e) Contain at least a six-month grace period that permits  
2 reinstatement of the policy or contract retroactive to the date of  
3 termination if the policy or contract holder's nonpayment of premiums  
4 arose as a result of a cognitive impairment suffered by the policy or  
5 contract holder as certified by a physician.

6 (2) Insurers offering long-term care policies for the purposes of  
7 this chapter shall demonstrate to the satisfaction of the insurance  
8 commissioner that they:

9 (a) Have procedures to provide notice to each purchaser of the  
10 long-term care consumer education program;

11 (b) Offer case management services;

12 (c) Have procedures that provide for the keeping of individual  
13 policy records and procedures for the explanation of coverage and  
14 benefits identifying those payments or services available under the  
15 policy that meet the purposes of this chapter;

16 (d) Agree to provide the insurance commissioner, on or before  
17 September 1 of each year, an annual report containing the following  
18 information:

19 (i) The number of policies issued and of the policies issued, that  
20 number sorted by issue age;

21 (ii) To the extent possible, the financial circumstance of the  
22 individuals covered by such policies;

23 (iii) The total number of claims paid; and

24 (iv) Of the number of claims paid, the number paid for nursing home  
25 care, for home care services, and community-based services.

26 NEW SECTION. **Sec. 5.** The insurance commissioner, in conjunction  
27 with the department of social and health services, shall develop a  
28 consumer education program designed to educate consumers as to the need  
29 for long-term care, methods for financing long-term care, the  
30 availability of long-term care insurance, and the availability and  
31 eligibility requirements of the asset protection program provided under  
32 this chapter.

33 NEW SECTION. **Sec. 6.** By January 1 of each year, the insurance  
34 commissioner, in conjunction with the department of social and health  
35 services, shall report to the legislature on the progress of the asset  
36 protection program. The report shall include:

37 (1) The success of the agencies in implementing the program;

1 (2) The number of insurers offering long-term care policies meeting  
2 the criteria for asset protection;

3 (3) The number, age, and financial circumstances of individuals  
4 purchasing long-term care policies meeting the criteria for asset  
5 protection;

6 (4) The number of individuals seeking consumer information  
7 services;

8 (5) The extent and type of benefits paid by insurers offering  
9 policies meeting the criteria for asset protection;

10 (6) Estimates of the impact of the program on present and future  
11 medicaid expenditures;

12 (7) The cost-effectiveness of the program; and

13 (8) A determination regarding the appropriateness of continuing the  
14 program.

15 NEW SECTION. **Sec. 7.** Sections 2 through 6 of this act shall  
16 constitute a new chapter in Title 48 RCW.

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