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HOUSE BILL 1971

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State of Washington

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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 02/19/93. Referred to Committee on Health Care.

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

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 office of insurance commissioner shall,  
4 from July 1, 1993, to July 1, 2000, coordinate a pilot program entitled  
5 the Washington long-term care partnership, whereby private insurance  
6 and medicaid funds shall be combined to finance long-term care. This  
7 program will allow an individual to purchase a precertified long-term  
8 care insurance policy in an amount commensurate with his or her assets.  
9 Notwithstanding any provision of law, the resources of such an  
10 individual, to the extent such resources are equal to the amount of  
11 long-term care insurance benefit payments as provided in this section,  
12 shall not be considered by the department of social and health services  
13 in a determination of: (1) His or her eligibility for medicaid, (2)  
14 the amount of any medicaid payment, or (3) in any subsequent recovery  
15 by the state of a payment for medical services.

16 NEW SECTION. **Sec. 3.** The department of social and health services  
17 shall seek appropriate amendments to its medicaid regulations or any  
18 other regulations to allow protection of resources and income pursuant  
19 to section 1 of this act. The protection assets shall be provided, to  
20 the extent approved by the federal health care financing  
21 administration, for any purchaser of a precertified long-term care  
22 policy delivered, issued for delivery, or renewed from January 1, 1994,  
23 to December 31, 1999, inclusive, or the termination of the program,  
24 whichever is sooner. The projections shall last for the life of the  
25 purchaser. The department of social and health services shall count  
26 insurance benefit payments toward resource exclusion to the extent such  
27 payments are for: (1) Services medicaid approves or covers for its  
28 recipients; (2) the lower of the actual charge and the amount paid by  
29 the insurance company; (3) nursing home care or formal services  
30 delivered to those insured in the community as part of a care plan  
31 approved by a coordination assessment and monitoring agency approved by  
32 the department of social and health services; and (4) services provided  
33 after the individual meets the coverage requirements for long-term care  
34 benefits established by the department of social and health services  
35 for this program. The secretary of social and health services shall  
36 adopt rules, in accordance with current law, to implement the  
37 provisions of this chapter relating to determining eligibility of

1 applicants for medicaid and the coverage requirements for long-term  
2 care benefits.

3 NEW SECTION. **Sec. 4.** The insurance commissioner may precertify  
4 only those long-term care insurance policies that: (1) Alert the  
5 purchaser to the availability of consumer information and public  
6 education provided by the department on aging and adult services  
7 pursuant to section 5 of this act; (2) offer the option of home and  
8 community-based services in lieu of nursing home care; (3) in all home  
9 care plans, offer case management services delivered by a coordination,  
10 assessment, and monitoring agency, approved by the department of social  
11 and health services or by a home health care agency separately licensed  
12 as a coordination, assessment, and monitoring agency under this  
13 chapter; (4) offer automatic inflation protection or optional periodic  
14 per diem upgrades until the insured begins to receive long-term care  
15 benefits; (5) provide for the keeping of records and an explanation of  
16 benefit reports on insurance payments that count toward medicaid  
17 resource exclusion; and (6) provide the management information and  
18 reports necessary to document the extent of medicaid resource  
19 protection offered and to evaluate the Washington long-term care  
20 partnership. No policy may be precertified if it requires prior  
21 hospitalization or a prior stay in a nursing home as a condition of  
22 providing long-term care benefits. The insurance commissioner shall  
23 adopt rules to carry out the precertification provisions of this  
24 chapter.

25 NEW SECTION. **Sec. 5.** The insurance commissioner shall require its  
26 senior health insurance department advisors program to educate  
27 consumers as to: (1) The need for long-term care; (2) mechanisms for  
28 financing such care; (3) the availability of long-term care insurance;  
29 and (4) the asset protection provided under this chapter. In addition  
30 the department of social and health services shall provide to the  
31 extent possible public information to assist individuals in choosing  
32 appropriate insurance coverage.

33 NEW SECTION. **Sec. 6.** The department of social and health services  
34 and the insurance commissioner shall seek the federal approvals  
35 necessary to carry out the purposes of this chapter. Each year, on  
36 January 1st, the insurance commissioner shall report to the legislature

1 on the progress of the program. The report shall include: (1) The  
2 success in implementing the public and private partnership; (2) the  
3 number of policies precertified; (3) the number, age, and financial  
4 circumstances of individuals purchasing precertified policies; (4) the  
5 number of individuals seeking consumer information services; (5) the  
6 extent and type of benefits paid under precertified policies that could  
7 count toward medicaid resource protection; (6) estimates of impact on  
8 present and future medicaid expenditures; (7) the cost-effectiveness of  
9 the program; and (8) a determination regarding the appropriateness of  
10 continuing the program.

11 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall  
12 constitute a new chapter in Title 48 RCW.

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