STATE OF NEW YORK

4327--C

Cal. No. 347

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to requiring certain notices be posted and provided regarding long term care insurance policy changes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraphs (E) and (F) of paragraph 6 of subsection (b) of section 1117 of the insurance law, as amended by chapter 424 of the laws of 2016, are amended and ten new subparagraphs (G), (H), (I), (J), (K), (L), (M), (N), (O) and (P) are added to read as follows:

(E) A graphic demonstration of the maximum daily nursing home benefit level provided by the policy or certificate, and the impact that the selection of any inflation protection options would have on such maximum daily nursing home benefit level; [~~and~~]

(F) The right of the prospective insured, upon attaining the age of sixty-five years, to designate a third party who will receive a copy of any notices of nonpayment of premiums due or notice of cancellation for nonpayment of premiums that is sent to the prospective insured[~~.~~];

(G) (i) A written statement as to whether the insurer anticipates requesting increases of premium rates for such policy or certificate over the next ten years; and

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(ii) A list of past premium rate increases for such policy or certificate over the previous ten years, or if such policy or certificate was not offered over the previous ten years, past premium rate increases for similar policies or certificates over the previous ten years;

(H) Directions on how to obtain information about the department's review of any rate filing or application, contact information for the department, and information on how to contact the insurer for more information;

(I) Whether or not there is an initial period in which rates will not change, and if so, when that time period expires;

(J) A description of whether or not the premium may change, and if so, the circumstances under which any such premium changes could occur, including whether the department must approve such changes;

(K) Whether the policy contains provisions providing for a refund or partial refund of premium upon the surrender of the policy, and if such provisions exist, provide a description of their terms;

(L) A description of the options policyholders will have to mitigate any future premium increases;

(M) A description of the options policyholders will have should the premiums increase, and the policyholder deems it in their best interest to surrender the policy;

(N) A statement that the policyholder will be given at least sixty days notice before any premium change takes effect;

(O) A statement that if the company seeks to increase the premium, the department will post notice of the rate filing on its website prior to any determination by the department; and

(P) The right of the prospective insured to submit public comments on any rate filing or application regarding premium rates on the department's website.

§ 2. Paragraph 3 of subsection (f) of section 1117 of the insurance law, as added by chapter 245 of the laws of 1986, is amended to read as follows:

(3) (A) the premium rates for the long term care plan are reasonably related to the benefits provided, [~~and~~] are self-supporting, and are in the best interests of policyholders and certificate holders.

(B) "Best interests of policyholders and certificate holders" for the purposes of this paragraph shall mean that the premium rate increase is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the policy or certificate with no future premium increase anticipated; and

§ 3. Section 1117 of the insurance law is amended by adding four new subsections (h), (i), (j) and (k) to read as follows:

(h) The department shall post on its website information describing the process that it uses in reviewing and approving premium rates for policies or contracts of long term care insurance.

(i) Whenever an insurer submits a rate filing or application to the superintendent to increase or decrease premium rates for any policy or certificate subject to this section, the superintendent shall post a public notice of the rate filing or application on the department's website within seven days. The superintendent shall provide for a process for the public to provide comments on such rate filing or application electronically or in writing for a period of thirty days after such public notice is posted on the department's website.

(j) The superintendent, upon rendering a decision regarding approval, disapproval or modification of a rate filing or application, shall issue

a public notice of such decision. Such written decision and notice shall be made publicly available on the department's website no later than the date on which the rate filing or application is approved, disapproved, or modified. Such notification shall include:

(1) a summary of the determinations made and considerations used by the department regarding the approval, disapproval or modification of such rate filing or application, and

(2) a statement with relevant detail as to why the approval, disapproval or modification of the proposal is consistent with paragraph three of subsection (f) of this section.

(k) Upon receipt by an authorized insurer, corporation, health maintenance organization or fraternal benefit society covered by the provisions of this section of an approval or modification decision by the superintendent with respect to a rate filing application with the department, such insurer, corporation, health maintenance organization or fraternal benefit society shall notify policyholders and certificate holders of such decision within forty-five days and in no event later than sixty days prior to the effective date of the premium rate increase. Such notification shall include:

(1) a description of such decision; and

(2) a written statement conforming to the requirements set forth in subparagraph (G) of paragraph six of subsection (b) of this section.

§ 4. The insurance law is amended by adding a new section 334 to read as follows:

§ 334. Minimum loss ratio standards; long term care insurance. In establishing minimum benefit standards for long term care insurance plans pursuant to this article, the superintendent shall ensure that minimum loss ratio standards are no less favorable to policyholders and certificate holders than those specified by the model regulations for long term care insurance as published by the National Association of Insurance Commissioners, as updated from time to time.

§ 5. This act shall take effect on the one hundred eightieth day after it shall have become a law, and shall apply to any rate filing submitted on or after such date.