

TITLE 50: INSURANCE
PART 2012 TRADITIONAL LONG-TERM CARE INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE

Section 2012.40 Policy Definitions

No insurance policy or certificate may be advertised, solicited, delivered or issued for delivery in this State as a traditional long-term care policy unless the policy or subscriber contract contains definitions or terms that are more restrictive than the requirements of this Section.

"Activities of Daily Living" means at least bathing, continence, dressing, eating, toileting and transferring.

"Acute Condition" means a condition that causes the individual to be medically unstable. Such individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, in order to maintain his or her health status.

"Adult Day Care" means a program for 6 or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home.

All providers of services, including but not limited to skilled nursing facility, intermediate care facility, convalescent nursing home, personal care facility, and home care agency shall be defined in relation to the services and facilities required to be available and the licensure or degree status of those providing or supervising the services. The definition may require that the provider be appropriately licensed or certified.

"Bathing" means washing oneself by sponge bath, or in either a tub or shower, including the task of getting into or out of the tub or shower.

"Chronically Ill Individual", for all traditional long-term care policies that are marketed as "qualified" pursuant to the Internal Revenue Code of 1986, as amended (26 USC 7702B(c)(2)(A)), the term "chronically ill individual" means any individual who has been certified by a licensed health care practitioner as:

- i) being unable to perform (without substantial assistance from another individual) at least 2 activities of daily living for a period of at least 90 days due to a loss of functional capacity,
- ii) requiring substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment.

Such term shall not include any individual otherwise meeting the requirements of the preceding sentence unless within the preceding 12-month period a licensed health care practitioner has certified that such individual meets such requirements.

"Cognitive Impairment" means a deficiency in a person's short- or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgement as it relates to safety awareness.

"Continence" means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).

"Dressing" means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.

"Eating" means feeding oneself by getting food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.

"Exceptional Increase" means only those increases filed by an insurer as exceptional for which the Director determines the need for the premium rate increase is justified:

Due to changes in laws or regulations applicable to traditional long-term care coverage in this State; or

Due to increased and unexpected utilization that affects the majority of insurers of similar products.

Except as proved in Section 2012.112, exceptional increases are subject to the same requirements as other premium rate schedule increases.

The Director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase.

The Director, in determining that the necessary basis for exceptional increase exists, shall also determine any potential offsets to higher claims costs.

"Hands-on Assistance" means physical assistance (minimal, moderate or maximal) without which the individual would not be able to perform the activity of daily living.

"Home Health Care Services" means medical and nonmedical services provided to ill, disabled or infirmed persons in their residences. Examples of such services may include but are not limited to homemaker services, assistance with activities of daily living and respite care services.

"Incidental", as used in Section 2012.112(j), means that the value of the traditional long-term care benefit provided is less than 10% of the total value of the benefits provided over the life of the policy. These values shall be measured as of the date of issue.

"Licensed Health Care Practitioner" means any physician (as defined in Section 1861(r)(1) of the Social Security Act) and any registered professional nurse, licensed social worker, or other individual who meets requirements as may be prescribed by the Secretary.

"Maintenance or Personal Care Services" within the meaning of the internal Revenue Code of 1986, as amended (26 USC 7702B(c)(3)), means any care the primary purpose of which is the provision of needed assistance with any of the disabilities as a result of which the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment).

"Medicare" means "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then Constituted or Later Amended", 42 U.S.C.A. Section 1395 et seq., including the "Medicare Catastrophic Coverage Act of 1988."

"Mental or Nervous Disorder" shall not be defined to include more than neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder of any kind.

"Personal Care" means the provision of hands-on services to assist an individual with activities of daily living, such as bathing, eating, dressing, transferring and toileting.

"Plan of Care" in qualified plans means the specific type and frequency of all services required to maintain the individual in the community, the service providers, and the cost of services. The plan of care shall be specified in writing by a licensed health care provider.

"Qualified Actuary" means a member in good standing of the American Academy of Actuaries.

"Qualified Long-Term Care Contract" means any insurance contract that provides only coverage of qualified long-term care services and is: guaranteed renewable; does not provide for cash surrender value or other money that can be paid, assigned, pledged or borrowed; dividends and refunds, other than refunds paid upon death of the insured or complete surrender or cancellation of the contract may only be used to reduce future premiums or increase future benefits; contract does not pay or reimburse expenses that are reimbursable under Medicare, except when Medicare is a secondary payor or when the contract makes payments per diem or on another periodic basis without regard to actual expenses; and consumer protective provisions for traditional long-term care insurance are satisfied.

"Qualified Long-Term Care Services" means necessary diagnostic, preventive, therapeutic, curing, treating, mitigating and rehabilitation services, and maintenance or personal care services that are required by a chronically ill individual and provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"Similar Policy Forms" means all of the traditional long-term care insurance policies and certificates issued by an insurer in the same traditional long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition found in Section 2012.30 are not considered similar to certificates or policies otherwise issued as traditional long-term care insurance, but are similar to other comparable certificates with the same traditional long-term care benefit classifications. For purposes of determining similar policy forms, traditional long-term care benefit classifications are defined as follows: institutional traditional long-term care benefits only, non-institutional traditional long-term care benefits only, or comprehensive traditional long-term care benefits.

"Skilled Nursing Care", "Intermediate Care", "Personal Care", "Home Care", and other services shall be defined in relation to the level of skill required, the nature of the care and the setting in which care must be delivered.

"Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.

"Transferring" means moving into or out of a bed, chair or wheelchair.

(Source: Amended at 26 Ill. Reg. 8835, effective July 1, 2002)