LONG-TERM CARE PARTNERSHIP POLICY

Legal Authority: 42 USC 1396p

1. Long-Term Care Partnership (LTCP) Insurance Overview

The LTCP program is a joint effort between the Federal Medicaid program and Long-Term Care (LTC) insurers. The program was developed to encourage people to plan for their future LTC needs, such as residing in a nursing facility or receiving services in a home and community-based setting.

The LTCP program in Tennessee involves private LTC insurers, TennCare and the Tennessee Department of Commerce and Insurance (TDCI). The LTCP program is overseen by CMS and states are given flexibility in how the program is administered at the state level. In Tennessee, qualified LTCP insurance policies must provide a specific amount of inflation protection based on the person's age when the policy is purchased. An LTCP policy must also meet other requirements determined by TDCI.

To participate in TennCare's LTCP program, a person must have purchased and received the benefits of a qualified LTCP policy. A person who requests TennCare Medicaid payment of LTC services after exhausting some or all LTCP policy benefits may have an amount of assets "disregarded" equal to the amount paid by the LTCP policy at the time the person is determined eligible for TennCare Medicaid.

These assets are NOT counted when the individual's TennCare Medicaid eligibility is determined and will NOT be recovered during estate recovery when the individual dies.

2. LTCP Program and TennCare Eligibility

a. Long-Term Care Partnership Policy Participants

An LTCP participant in Tennessee is someone who either:

- **i.** Requests TennCare Medicaid payment of LTC services after exhausting all benefits of a qualified LTCP policy; Requests and receives TennCare Medicaid payment of LTC services before exhausting all benefits of a qualified LTCP policy; or
- **ii.** Receives TennCare Medicaid payment of LTC services and dies before the LTCP policy benefits are exhausted.

b. Asset Disregard

When determining eligibility for TennCare Medicaid, TennCare shall disregard an individual's assets in an amount equal to the amount of payments made by the individual's qualifying LTC policy for services covered under the policy.

TennCare Medicaid individuals will be required to submit written proof of benefits paid from their LTCP policies.

c. Partnership Program Benefits

An LTCP participant receives the following benefits during his lifetime:

i. Assets may be disregarded in an amount equal to the benefits paid out by the qualified LTCP policy as of the effective date of the initial TennCare Medicaid approval;
ii. Disregarded assets are not counted toward the TennCare Medicaid asset limit for eligibility purposes; and
iii. Assets may be transferred to any other person without penalty.

NOTE: Additional benefits paid by the qualified LTCP policy after initial TennCare Medicaid approval shall not be disregarded in future renewal or determination of TennCare Medicaid eligibility.

d. LTCP and Estate Recovery

After the LTCP/TennCare Medicaid enrollee is deceased:

i. Assets which were disregarded during the TennCare Medicaid eligibility determination process because the enrollee purchased an LTCP policy are protected from estate recovery.
ii. When the amount of assets disregarded during the TennCare Medicaid eligibility determination process are less than the total benefits paid by the LTCP policy, additional assets up to the total amount of payments made by the LTCP policy may be protected during the estate recovery process.

3. Individual Responsibilities

It is the responsibility of the LTCP policyholder to inform TennCare that he has an LTCP policy.

TennCare Medicaid is typically the payor of last resort. Enrollees with other health care coverage or who have another party liable for their medical expenses will have medical costs paid by those sources before TennCare pays claims. Enrollees are required to cooperate with providing information regarding other payment sources. This includes LTC and LTCP insurance.

LTCP insurance benefits may not be used to offset the amount the enrollee is required to contribute, pursuant to federal post-eligibility provisions, to the cost of TennCare Medicaid reimbursed LTC services (known as “patient liability”), but rather, must be used to help offset the cost of LTC services that would otherwise be reimbursable by TennCare. Thus, both the LTC insurance benefits and patient liability reduce the TennCare payment for LTCP services.

4. When an LTCP Policy Holder Should Apply for TennCare Medicaid

a. If the LTCP policy holder exhausts the benefits of his LTCP policy; or
b. When the LTCP policyholder, a spouse, a family member or friend feels that the policyholder can no longer afford to pay for the cost of care.

5. Does an LTCP policy guarantee access to TennCare Medicaid?

No, owning an LTCP policy does not guarantee access to TennCare Medicaid even if the policy holder exhausts his benefits. Individuals must still meet all other eligibility requirements. The LTCP allows policy holders to have a portion of their assets disregarded (i.e., not counted) during the eligibility determination process and subsequently protected from estate recovery.

A copy of the LTCP *Statement of Benefits Paid* must be mailed or faxed to:

The Bureau of TennCare
Third Party Liability/Estate Recovery Unit
310 Great Circle Road, 4E
Nashville, TN 37243

Fax number: 615-253-5588

6. Examples

a. Example 1: LTCP Benefits have been Exhausted When an Institutionalized Individual Applies for TennCare Medicaid

Patricia McVey is a resident of Happy Homes nursing facility. Her qualified $90,000 LTCP policy has been paying for her care. When Ms. McVey applies for TennCare Medicaid, she verifies that the benefits of her LTCP policy have been exhausted and were used towards her cost of care.

Ms. McVey has the following countable resources: a $6,000 savings account; a $7,500 checking account; and $80,000 in a Certificate of Deposit.

TennCare verifies her countable resources equal $93,500 ($6,000 + $7,500 + $80,000). Her TennCare Medicaid resource limit is $2,000.

Because Ms. McVey has fully exhausted her LTCP policy benefit, $90,000 of her countable resources will be protected. The protected resources do not count toward her $2,000 TennCare Medicaid resource limit.

Ms. McVey has $80,000 in a Certificate of Deposit, $6,000 in her savings account and $4,000 in her checking account that are protected. This leaves her with $3,500 in resources that are to be considered when determining her eligibility for TennCare Medicaid. The resource limit is $2,000 and since she does not have a prepaid burial plan, she can designate $1,500 for burial. She is now TennCare Medicaid eligible.

b. Example 2: LTCP Benefits have been Exhausted While Institutionalized Individual is Receiving TennCare Medicaid

Some individuals may request Medicaid payment of LTC services before LTCP benefits are exhausted when:

The LTCP policy does not cover all LTC needs, and the person's income and resources are not sufficient to pay the LTC expenses that are not covered by the LTCP policy.

Joan and Beth are sisters. Both receive home care services that are partially covered by their separate qualified $20,000 LTCP policy. They have both used $10,000 of their policy benefits and each has $3,000 in separate savings accounts. Neither has enough income or resources to pay for their daily services that are not covered by their LTCP policies. Joan and Beth both apply for and are eligible for TennCare Medicaid through HCBS. Their LTCP policies are treated as third party liability and Medicaid pays for services not covered by the LTCP policies.

When applying for and while receiving TennCare Medicaid, they each own the following assets: a $3,000 savings account; a home with an equity value of $50,000; and a prepaid burial trust valued at $6,000

The savings account is the only countable resource and is a disregarded asset. The home and burial trust are excluded resources.

Joan dies after using another $5,000 of LTCP benefits, for a total expenditure of $15,000. Although she did not benefit from the full value of the policy ($20,000), the policy is considered exhausted and $15,000 of her assets may be protected from estate recovery. The $3,000 savings account and $12,000 from the value of the house will be protected from estate recovery.

Beth exhausts the remaining $10,000 of her LTCP policy benefits during her first six months of receiving TennCare Medicaid. Because the full $20,000 of her LTCP benefits has been exhausted, TennCare Medicaid now pays for services that were previously covered by her LTCP policy. Beth may protect $20,000 from estate recovery.

At Beth's death, the $3,000 in the savings account and $17,000 from the value of her house will be protected from estate recovery.

7. LTCP and Third Party Liability

When an individual has an LTCP insurance policy and applies for TennCare Medicaid prior to exhausting all LTCP benefits, the individual or his representative shall be informed that:

a. The insurance policy must be assigned to the nursing home or HCBS lead agency;
b. Any payments received from the LTCP policy must be assigned to the nursing home in which the individual is a resident or to the HCBS lead agency;
c. The nursing home or HCBS lead agency will collect any payments made on the benefit of the patient prior to billing TennCare; and
d. TennCare Medicaid is the payor of last resort.

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