"People helping people help themselves"

Joseph E. Kernan, Governor
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Before the Senate Special Committee on Aging

"Medicaid Crisis: Could Long Term Care Partnerships Be Part of the Solution?"

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INTRODUCTION

Mr. Chairman, thank you for inviting me to testify today on behalf of Governor Joe Kernan and the State of Indiana on our Long Term Care Insurance Program. This opportunity is even more of an honor and privilege given that the Indiana Long Term Care Insurance Program would not be where it is today were it not for the vision of Senator, then Governor, Evan Bayh who understood the importance of implementing a program to encourage individual responsibility for long term care and reduce the growing burden on our Medicaid program and taxpayers.

Thank you also for demonstrating your leadership on this issue by joining with Senator Bayh in introducing legislation to expand the Partnership for Long Term Care, which the Robert Wood Johnson Foundation helped to develop, beyond the four pilot states – Indiana, Connecticut, New York, and California – to every state interested in promoting self-responsibility and Medicaid asset protection. Based on our experience in Indiana, we believe this legislation will spur the growth of the long term care insurance market, thereby providing Hoosiers with more affordable insurance options.

BACKGROUND

The Indiana Long Term Care Insurance Program (ILTCIP) is a public-private partnership between the State of Indiana and private insurance companies to make high quality long term care (LTC) insurance policies available to Indiana residents.

In 1987, the Indiana General Assembly passed enabling legislation to create the ILTCIP. This bipartisan legislation was the first of its kind in the country. Indiana received federal approval for the ILTCIP program in December 1991. Under the leadership of then Governor Evan Bayh, the first ILTCIP policies were available in May 1993.

The ILTCIP was created to address the following concerns:

- Rapidly increasing Medicaid expenditures for nursing home care;

- A rapidly growing elderly population in the state, especially in the number of persons age 85+, the heaviest users of long term care services;
- The limited extent to which people were using private insurance to protect against the high cost of long term care;
- The variability in the quality of long term care insurance policies and benefits provided under these policies; and
- The only public program providing significant financial relief to seniors was Medicaid, which required seniors to become impoverished in order to qualify.

The purpose of the ILTCIP is to provide incentives for the purchase of private long term care (LTC) insurance through a partnership between the Medicaid program and private LTC insurance companies. The ILTCIP helps Hoosiers plan for their LTC needs without fear of impoverishment and helps the State contain the growth of Medicaid LTC expenditures by encouraging persons to purchase private insurance. The goals of the ILTCIP are to:

- Foster and encourage the development of high quality, affordable LTC insurance;
- Provide a means by which Hoosiers can plan to finance their own long term care needs, without the fear of impoverishment;
- Increase the number of Hoosiers purchasing LTC insurance policies;
- Contain the growth of Medicaid expenditures for long term care, by encouraging buying of private insurance; and
- Improve public understanding of long term care financing and provide counseling services to persons in planning for their long term care needs.

The ILTCIP has been modified over the years to make changes designed to increase the purchase of Partnership policies. Such modifications include:

- Amending the statute to allow for the development of an ILTCIP facility-only policy;

- Moving the program into the Office of Medicaid Policy and Planning (OMPP) and providing state funding for the program;
- Expanding the expanding the asset protection feature to include both dollar-for-dollar and total asset protection;
- Establishing reciprocity with other states' partnership for long term care programs; and
- Passing tax legislation to provide a state tax deduction for premiums paid for ILTCIP policies beginning with tax year 2000.

The most significant change for the ILTCIP occurred in 1998 when the Indiana General Assembly added total asset protection as an option in ILTCIP policies. Indiana is the only state with a Partnership program that offers both dollar-for-dollar and total asset protection. This is a significant benefit for Indiana citizens.

MEDICAID ASSET PROTECTION

A key feature of Indiana LTC partnership policies is Medicaid asset protection. Medicaid asset protection allows policyholders to keep more assets than is normally allowed when, and if, the policyholder needs help with long term care from the Indiana Medicaid program. There are two types of asset protection - total and dollar-for-dollar.

- “Total asset protection” means <u>all</u> assets will be disregarded during the Indiana Medicaid eligibility process, should the policyholder choose to apply for help from Indiana Medicaid.
- “Dollar-for-dollar asset protection" means that the policyholder will be allowed to retain one dollar of assets for every one dollar of benefits used in the Partnership policy. However, any remaining assets will be considered (unless otherwise protected by law) during the Indiana Medicaid eligibility process.

Whether the policyholder receives total or dollar-for-dollar asset protection depends on the amount of LTC insurance initially purchased and the amount of benefits used under their ILTCIP policy. If, at the time of purchase, the maximum benefit (total amount of dollars the policy will pay out) when the policy was first purchased equals or exceeds the State-set dollar amount for the calendar year of the policy's effective date, the policyholder may earn **total asset protection**. If the maximum benefit initially purchased is less than the State-set dollar amount for the calendar year of a policy's effective date, the policyholder will earn **dollar-for-dollar asset protection.** For example:

- If the original effective date of a policy is 2004, the State-set dollar amount is $187,613. A policyholder who purchases coverage equal to, or greater than, $187,613 will earn total asset protection once the policy benefits are exhausted.
- A policyholder who purchases coverage of $100,000, which is less than the State-set dollar amount, will earn dollar-for-dollar asset protection. In other words, once the policy benefits are exhausted, the policyholder will be able to disregard $100,000 when determining Medicaid eligibility.

Cumulatively, 75% of all ILTCIP policies qualify for total asset protection.

The ability to provide legitimate asset protection is critical to state Medicaid program's efforts to eliminate asset shelters and close eligibility loopholes. A market has been created by some attorneys, consultants, and financial planners to offer "Medicaid planning" services. Medicaid planners help individuals with substantial assets qualify for Medicaid and avoid using their assets to pay for nursing home care. This is accomplished by converting available, non-exempt assets to unavailable or exempt assets, or by transferring assets to family members. Another goal of Medicaid planning is avoiding Medicaid estate recovery in order to preserve assets for heirs.

States across the county are grappling with this issue and looking for ways to close loopholes and ensure limited Medicaid funds are being used to pay for services for those who truly need them and rightly meet the Medicaid financial requirements. The Medicaid asset protection offered through Partnership policies is a vital tool for states to be able to offer as a reasonable alternative to the asset sheltering techniques being promoted today.

RECIPROCITY

As a result of state legislation in Indiana and Connecticut and the approval of the Health Care Financing Administration (now Centers for Medicare and Medicaid Services), reciprocity exists between the Indiana Medicaid and Connecticut Medicaid program. Beginning January 1, 2001, under a reciprocity agreement between Indiana and Connecticut Medicaid programs, each state's Medicaid program can honor the asset protection earned under the other state's Partnership policies.

The reciprocity between the Indiana and Connecticut Partnership programs is the first in the country and demonstrates the potential for establishing widespread portability of Medicaid asset protection. Although the LTC insurance benefit was always portable, this is the first time the Medicaid asset protection feature is able to transfer with the policyholder if the policyholder relocates.

This means that if an Indiana resident purchases a Partnership policy and then later moves to Connecticut and has to apply for Medicaid assistance, he/she can receive Medicaid asset protection from Connecticut Medicaid. The same is true for a Connecticut resident who initially purchased a Partnership policy in Connecticut and relocates to Indiana and needs Medicaid assistance. At this time, the reciprocity offers dollar-for-dollar asset protection and not full asset protection, yet this is an important first step.

The next step is allowing all states to establish LTC Partnership programs. All states should have the same opportunity that Indiana, Connecticut, New York and California have to offer LTC Partnership policies to their residents. Once that is achieved, the final step is promoting reciprocity amongst all participating states. The more portable the asset protection feature is, the more attractive it is to potential purchasers—especially younger purchasers who may not know at the time of policy purchase where they plan to retire. Expansion to all states will improve the overall LTC insurance market and make policies more affordable for everyone.

TAX BENEFITS

Beginning with tax year 2000, Indiana residents who pay premiums for Indiana Partnership LTC insurance policies can receive a state tax deduction. The full amount of the premium paid by a taxpayer for a Partnership policy for the taxpayer or his/her spouse may be deducted.

Premiums paid for LTC policies that meet certain federal standards may also be deducted, up to a limit, as a medical expense on the federal tax return. The types of policies that qualify are better known as “tax-qualified” (TQ) policies.

In other words, all Partnership policies quality for an Indiana state tax deduction. And, if the policy is a TQ Partnership policy, it qualifies for the federal deduction as well. This is yet another incentive the State of Indiana uses to encourage Hoosiers to purchase LTC insurance.

ILTCIP STATISTICS (as of March 31, 2004)

As of March 31, 2004, there are 13 insurance companies approved to participate in the ILTCIP. A snapshot of ILTCIP data is listed below that summarizes sales, purchasers, policy features and benefits used to date. Through March 2004, 31,042 policies have been purchased. A priority for Governor Kernan and the Family and Social Services Administration in the 2004-2005 biennium is to increase the number of Partnership policies purchased by 15,000 by June 2005, to reach over 42,000 policyholders. The passage of the Long-Term Care Partnership Act (S. 2077) would really help in our efforts to increase enrollment by raising the knowledge, interest and importance of LTC insurance at the national level.

Sales

- 36,474 applications received
- 31,042 policies purchased
- 25,998 policies in force

Purchasers

- 57% female
- 77% married
- Average age: 62
- Age range: 19 – 90 53% of all policyholders were age 65 or under at the time of purchase 97% all policies purchased have been by first time purchasers

Policy Features

- 86% of policies are comprehensive policies (nursing home plus home health care)
- 75% of policies qualify for total asset protection
- Common daily benefits chosen: $120 nursing home; $120 home health
- Common elimination periods chosen: 30, 90, or 100 days

Benefits Used

- 187 policyholders have used benefits, thus earning $7.3 million of asset protection (all have been dollar-for-dollar; this amount represents the amount of benefits paid out)
- 68% of benefits used have been for nursing home care
- 13 policyholders have exhausted their policy benefits and are receiving Medicaid assistance (asset protection totaled $646,000 cumulatively)

Impact on Medicaid

- In a survey of ILTCIP policyholders, 15% responded they would have transferred assets in order to qualify for Medicaid had they not purchased a LTC Partnership policy.
- The average length of stay in a nursing facility is 2-2.5 years.
- ILTCIP policies with total asset protection have a maximum benefit equal to approximately 4.5 years of nursing facility care.
- Actuarial estimates indicate the benefits derived from preventing or delaying Medicaid eligibility more than exceed the costs of asset protection if and when a policyholder exhausts his/her benefits.

- Every year that Medicaid eligibility is delayed or prevented saves Indiana Medicaid and the federal government approximately $35,000 in nursing home, prescription drug and other medical services costs.

CLOSING

The budget challenges facing all states in the Medicaid and long term care arena are only going to worsen unless significant changes are made to the way these services are financed. As the nation's population ages and people live longer thanks to advances in technology and medicine, the demand for long term care services is only going to grow. Today, 750,000 people older than 65 years of age live in Indiana, or one in every eight Hoosiers. More than 90,000 Hoosiers are older than 85. Over the next two decade, the number of people over age 85 is expected to grow by 55 percent.

States cannot afford to continue to be the primary payers of nursing home and other long term care services. State Medicaid programs are now paying for two out of every three nursing home beds. In Indiana, this represents $788 million in state fiscal year (SFY) 2004, or 18% of total Medicaid expenditures. These costs are not sustainable. The more attractive the Partnership policies are, the more people who will purchase the insurance. The more people who purchase, the less reliance there will be on state Medicaid programs to fund long term care.

As Medicare begins to take more responsibility for providing the services seniors need through the Part D pharmacy benefit, the Bush Administration and Congress should also give serious consideration to how long term care services are being financed. Since, at least in the short term, states are likely to continue to bear those costs, including for individuals dually eligible for Medicare and Medicaid, states need more tools to address these growing long term care costs. To that end, the Administration's support for expansion of the LTC Partnerships is much appreciated and we are hopeful that Congress will pass the Long-Term Care Partnership Act, introduced by Senator Craig (ID) and Senator Bayh (IN).

Everyone deserves the chance to plan for his or her LTC needs and receive Medicaid asset protection. All states should have the chance to reward their residents for taking responsibility for planning ahead and purchasing a high quality LTC insurance product before turning to Medicaid and the state for assistance.

Additional Information on the Indiana Long Term Care Insurance Program can be found online atwww.longtermcareinsurance.IN.gov

Indiana Long Term Care Insurance Program:
Cumulative Program Statistics Through March 2004

Cumulative as of 03/31/04

Applications Received	36,474
Applications Denied	5,142 (14%)
Total Policies Purchased	31,042
Total Policies Dropped *	6,153 (20%) 377 Died (6%) 1,670 Voluntarily (27%) 1,587 Unknown (26%) 135 Converted (2%)
Policies Not Taken Up During 30 Day Free Look	2,384 Not Taken Up (39%)
Policies in Force	25,998

**Does not include exhausted or recissions.*

Policies in Force as of 3/31/04

Nursing Home and Home Care Policies	22,447 (86%)
Nursing Home Only Policies	3,551 (14%)
First Time Purchasers Upgrades or Replacements	24,357 (94%) 1,641 (6%)
Individual Group Certificates Organization Sponsored	24,902 (96%) 318 (1%) 778 (3%)
Male Female	11,133 (43%) 14,865 (57%)
Married Not Married Unknown	19,990 (77%) 5,633 (22%) 375 (1%)