

# MONTANA STATE AUDITOR

John Morrison  
State Auditor



Commissioner of Insurance  
Commissioner of Securities

To: All Long Term Care Insurers Operating in Montana  
From: John Morrison, State Auditor  
Commissioner of Insurance and Securities  
Subject: Long Term Care Discounts  
Date: August 25, 2003

Since 1985, Montana has, by statute and court decision, prohibited discrimination based on gender or marital status. Mont. Code Ann. § 49-2-309; *Bankers Life and Cas. Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993). It has come to our attention that this office, in the past, may have approved discounts based on marital status for long term care policies. Because these discounts are contrary to current Montana law, policy forms and premium rates that contain a discount based upon gender or marital status will not be approved.

Because we do not wish to deprive Montana consumers of valuable discounts that do not discriminate on the basis of gender or marital status, this office is suggesting that insurers who wish to offer discounts may take the following action:

- insurers may re-file applicable long term care policy forms and rates using a "caregiver," "multi-policy," "household," or other discount, which individual insurers may define, so long as gender or marital status is not a criterion for the discount; or
- to expedite the policy form filing and approval process, insurers may choose to file an endorsement or other amended documents removing or modifying the discount language from the previously filed rates and forms.

In order to not upset the current long term care marketplace, the Department will not take administrative action against insurers for offering policies with previously approved marital discounts. However, any insurer that sells or offers to sell a long term care policy in Montana after December 1, 2003, that includes a discount based upon gender or marital status, may be subject to administrative penalties, regardless of prior approval by the Department. Insurers may continue to honor discounts for those policies purchased prior to December 1, 2003.

Please do not hesitate to contact Angela Huschka, Deputy Insurance Commissioner or Margaret Miksch, Life/Health Actuary at 406-444-2040, if you have any questions regarding this matter.