

Advisory Memorandum

To: All Long Term Care Insurers Operating in Montana

From: MONICA J. LINDEEN - Commissioner of Securities and Insurance
Office of the Montana State Auditor [CSI]

Date: October 27, 2009



Prohibition Against Gender or Marital Status Discrimination In Long Term Care Insurance

Since 1985, Montana law has prohibited discrimination based on gender or marital status in the issuance or operation of any insurance policy, plan, or coverage. The prohibition against discrimination applies to rates, premiums, and payments or benefits. Mont. Code Ann. § 49-2-309; *Bankers Life and Cas. Co. v. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993).

The Commissioner of Insurance previously issued an advisory memorandum to all long term care insurers reminding them of the prohibition against gender or marital status discrimination and that discounts cannot be based on gender or marital status. Instead, insurers could offer "caregiver," "multi-policy," "household" or other discounts, which the insurers could define, as long as gender or marital status was not a criterion for the discount. A copy of the advisory memorandum can be viewed on the website for the Commissioner of Securities and Insurance - Office of the Montana State Auditor at <http://www.sao.mt.gov/bulletins/Longtermcare2003.pdf>.

Enclosed is a questionnaire regarding whether gender or marital status is used in underwriting, rating, or policy forms including endorsements. Please complete and return the questionnaire by **December 1, 2009**. In addition, if gender or marital status are being used, please submit the appropriately revised underwriting, rating, or policy form documents, as set out in the questionnaire.

If you have questions regarding this matter, please contact the Insurance Department at (406) 444-3443 (Forms) or (406) 444-5220 (Rates).

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TO: All Long Term Care Insurers Operating in Montana
FROM: Monica Lindeen, Commissioner of Securities and Insurance (CSI), Montana State Auditor
RE: Long Term Care Rates and Forms Compliance with Montana Code Annotated (MCA) § 49-2-309
DATE: October 27, 2009

The Montana Commissioner of Insurance is contacting companies that reported written premium for long term care policies in Montana in their 2008 annual statements. The Commissioner reminds you that since 1985 Montana law has, by statute and court decision, prohibited discrimination based on gender or marital status. Please see § 49-2-309, MCA; see also *Bankers Life and Cas. Co. V. Peterson*, 263 Mont. 156, 866 P.2d 241 (1993). Insurers may use a "caregiver," "multi-policy," "household," or other such discounts which individual insurers must define, so long as gender or marital status is not a criterion for the discount or variation in premium.

Please complete both sections of the checklist below confirming whether or not gender and marital status have been utilized to discriminate between risks in the company's premium rates, underwriting practices, forms or endorsements in any way. After completing the checklist, please have it certified by a qualified actuary and return it to the Department postmarked by December 1, 2009. Failure to respond is actionable under Montana Law. See § 33-1-315, MCA.

If the company is currently utilizing gender and/or marital status as a factor or consideration, please revise your premium rates, pricing factors, underwriting guidelines, forms, and endorsements to remove those factors or considerations and submit those to the Department along with this checklist.

1. Gender and Marital Status are not utilized in underwriting or rating.
 Gender and/or Marital Status have been utilized in underwriting or rating. Attached are copies of the new rates, rules, underwriting guidelines, or other rating methods that do not utilize gender or marital status which will be utilized for all new and renewal business no later than January 1, 2010.

2. Gender and Marital Status are not utilized in forms, endorsements, etc.
 Gender and/or Marital Status have been utilized in forms, endorsements, etc. Attached are copies of the new forms, endorsements, etc. that do not utilize gender or marital status which will be utilized for all new and renewal business no later than January 1, 2010.

If both revised forms and rates are submitted, please provide them under separate cover letters.

Please provide actuarial certification from a qualified actuary* to the above by completing the following:

Qualified Actuary Signature: _____ Date: _____
Qualified Actuary Printed Name: _____ Title: _____
Mailing Address: _____
Phone Number: _____ Email Address: _____

Please return this signed letter (and all attachments) postmarked by December 1, 2009, to:
Mari Kindberg, FCAS, MAAA
Montana Commissioner of Securities and Insurance, Montana's State Auditor
840 Helena Avenue
Helena, MT 59601

If you have questions, please contact Mari Kindberg, FCAS, MAAA, CSI Rates Bureau Chief at 406-444-5220 or mkindberg@mt.gov.

* A qualified actuary is one who has met the current Qualification Standards for Actuaries Issuing Statement of Actuarial Opinion in the United States as approved by the American Academy of Actuaries.