3901-4-02 **Long-term care partnership program.**

(A) Purpose. The purpose of this rule is to implement a state long-term care partnership program in Ohio in accordance with sections 5111.18 and 3923.41 to 3923.49 of the Revised Code.

(B) Authority. This rule is issued pursuant to the authority vested in the superintendent under sections 3901.041, 3923.44 and 3923.47 of the Revised Code.

(C) Applicability. This rule applies to long-term care insurance that is intended to qualify under the state's long-term care partnership program.

(D) Definitions. For purposes of this rule, the definitions set forth in section 3923.41 of the Revised Code and rule 3901-4-01 of the Administrative Code shall have the same meaning as if such definitions were fully set forth herein. The term "policy" shall also include a certificate issued as evidence of coverage under a group insurance policy.

(E) Offers of exchange.

(1) Within one hundred eighty days of the date that an insurer begins to advertise, market, offer, sell or issue policies that qualify under the state long-term care partnership program, the insurer shall offer, on a one time basis, in writing, to all existing policyholders and certificate holders that were issued long-term care coverage by the insurer on or after August 12, 2002, the option to exchange their existing long-term care coverage for coverage that is intended to qualify under the state's long-term care partnership program (partnership plan). The written offer of exchange shall include a long-term care partnership program exchange notification, appendix A to this rule, or a form that is substantially similar in content.

(2) An exchange occurs when an insurer offers a policyholder or certificate holder (hereinafter "insured") the option to replace an existing long-term care insurance policy with a policy that qualifies as a partnership plan, and the insured accepts the offer to terminate the existing policy and accepts the new policy. In making an offer to exchange, an insurer shall comply with all of the following requirements:

(a) The offer shall be made on a nondiscriminatory basis without regard to the age or health status of the insured;

(b) The offer shall remain open for a minimum of ninety days from the date of mailing by the insurer; and

(c) At the time the offer is made, the insurer shall provide the insured a copy of appendix A to this rule or a form that is substantially similar in content.

(3) Notwithstanding paragraphs (E)(1) and (E)(2) of this rule,

(a) An offer to exchange may be deferred for any insured who is currently eligible for benefits under an existing policy or who is subject to an elimination period on a claim, but such deferral shall continue only as long as such eligibility or elimination period exists; and

(b) An offer to exchange does not have to be made if the insured would be required to purchase additional benefits to qualify for the state long-term care partnership program and the insured is not eligible to purchase the additional benefits under the insurer's new business, long-term care, underwriting guidelines.

(4) If the new policy has an actuarial value of benefits equal to or lesser than the actuarial value of benefits of the existing policy, then all of the following apply:

(a) The new policy shall not be underwritten; and

(b) The rate charged for the new policy shall be determined using the original issue age and risk class of the insured that was used to determine the rate of the existing policy.

(5) If the new policy has an actuarial value of benefits exceeding the actuarial value of the benefits of the existing policy, then all of the following apply:

(a) The insurer shall apply its new business, long-term care, underwriting guidelines to the increased benefits only; and

(b) The rate charged for the new policy shall be determined using the method set forth in paragraph (E)(4)(b) of this rule for the existing benefits, increased by the rate for the increased benefits using the then current attained age and risk class of the insured for the increased benefits only.

(6) The new policy offered in an exchange shall be on a form that is currently offered for sale by the insurer in the general market and the effective date of the partnership plan policy shall be the same as the new policy.

(7) In the event of an exchange, the insured shall not lose any rights, benefits or built-up value that has accrued under the original policy with respect to the benefits provided under the original policy, including, but not limited to, rights established because of the lapse of time related to pre-existing condition exclusions, elimination periods, or incontestability clauses.

(8) Insurers may complete an exchange by either issuing a new policy or by amending an existing policy with an endorsement or rider.

(9) The requirements of rule 3901-4-01 of the Administrative Code shall apply to exchanges including, but not limited to, the requirements relating to replacements and suitability.

(10) The offer of exchange required by this division (E) only applies to products issued by an insurer that are comparable to the types of policy forms (e.g. group policies or individual policies) offered by the insurer which are qualified as partnership plans. For example, if an insurer offers a comprehensive individual long-term policy qualified as a partnership plan, it is only required to offer exchanges to comprehensive individual long-term care policyholders who were issued coverage on or after August 12, 2002. In this example, since only an individual policy is qualified as a partnership plan, exchange offers would not be required to be made to group certificate holders under a group policy.

~~(10)~~(11) For those insureds with long-term care policies issued before August 12, 2002, any insurer may offer any insured an option to exchange an existing policy for a policy that qualifies as a state long-term partnership plan. The requirements set forth in paragraphs (E)(2) to (E)(9) shall apply to any such exchange.

(F) Filing requirements for long-term care insurance partnership program policies.

(1) Any policy that is intended to qualify as a partnership plan must be filed with the superintendent in accordance with section 3923.02 of the Revised Code prior to use, and such filing shall include the partnership program certification form attached as appendix B to this rule, signed by an officer of the company.

(2) Insurers intending to make use of a previously filed qualifying partnership policy shall submit to the superintendent a partnership program certification form (appendix B to this rule) signed by an officer of the company with respect to each such policy form filed. For each policy form, the partnership program certification form (appendix B to this rule) shall identify the policy

by the original form number and filing date.

(3) If an insurer intends to amend a previously filed policy with an endorsement or rider in order to bring the policy into compliance with the partnership program, the insurer shall file the endorsement or rider with the superintendent prior to use, and the filing shall include a partnership program certification form (appendix B to this rule) signed by an officer of the company for each policy to be amended by the endorsement or rider, which shall include the original form number and filing date of the previously filed policy.

(4) Insurers using appendix A or appendix C to this rule do not have to file the forms with the superintendent before use. However, if the insurer modifies the content of appendix A or appendix C to this rule or intends to use another form, even though substantially similar in content, the form must be filed with the superintendent before use.

(G) The partnership program disclosure form.

For policies intended to qualify under the partnership program,

(1) the agent or insurer shall give the consumer a partnership disclosure notice, either using appendix C to this rule or a notice substantially similar in content, along with the outline of coverage required by division (I) of section 3923.44 of the Revised Code at the time of solicitation;

(2) In the case of a policy issued to a group where an outline of coverage is not delivered, the agent or insurer shall deliver copies of a partnership disclosure notice, either using appendix C to this rule or a notice substantially similar in content, along with the enrollment forms; or

(3) In the case of a life insurance policy that offers long-term care insurance as a term of the policy or in a rider, the agent or insurer shall give the consumer a partnership disclosure notice, either using appendix C to this rule or a notice substantially similar in content, along with the policy summary at the time of solicitation.

(4) In addition to assuring that either a copy of appendix C to this rule or a notice substantially similar in content is provided to the consumer at the time of the initial solicitation, or to the group at the time the enrollment forms are delivered, the insurer shall also assure that a copy of appendix C to this rule or a notice substantially similar in content, is provided no later than partnership policy delivery.

(H) Data reporting.

Each insurer offering partnership program policies in this state shall make regular reports to the United States secretary of health and human services that include such information as required by law or as the secretary determines is appropriate for the administration of the partnership program.

Effective:

R.C. 119.032 review dates: 10/14/2008

_____

Certification

_____

Date

Promulgated Under:	119.03
Statutory Authority:	3901.041, 3923.44, 3923.47
Rule Amplifies:	3923.41 to 3923.49
Prior Effective Dates:	9/10/2007