

House Bill 1451 (AS PASSED HOUSE AND SENATE)

By: Representatives Sheldon of the 105th, Knox of the 24th, Walker of the 107th, Byrd of the 20th, Channell of the 116th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7A of Chapter 4 of Title 49 of the Official Code of Georgia Annotated,
2 relating to the Long-term Care Partnership Program, so as to revise certain definitions; to
3 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
4 other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Article 7A of Chapter 4 of Title 49 of the Official Code of Georgia Annotated, relating to the
8 Long-term Care Partnership Program, is amended by striking Code Section 49-4-161,
9 relating to definitions, and inserting in lieu thereof a new Code Section 49-4-161 to read as
10 follows:

11 "49-4-161.

12 As used in this article, the term:

13 (1) 'Asset disregard' means ~~the total assets an individual owns and may retain upon application for the, with regard to state Medicaid program and still qualify for benefits, the disregard of any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an if the individual:~~
14 ~~(A) Is who is a beneficiary under of a Georgia Long-Term Care Partnership Program approved policy; and~~
15 ~~(B) Has exhausted the benefits of such policy or has diminished such assets below anticipated remaining policy benefits a qualified long-term care insurance partnership policy.~~

16 ~~(2) 'Commissioner' means the Commissioner of Insurance.~~
17 ~~(2)(3) 'Department' means the Department of Community Health.~~
18 ~~(3)(4) 'Georgia Long-Term Qualified Long-term Care Partnership Program approved policy' means a long-term care insurance policy that is approved by the Commissioner of Insurance and is provided through state approved long-term care insurers through the~~

1 Georgia Long-Term Care Partnership Program meets the model regulations and
2 requirements of the National Association of Insurance Commissioners' long-term care
3 insurance model regulation and long-term care insurance model act as specified in 42
4 U.S.C. 1917(b) and Section 6021 of the Federal Deficit Reduction Act of 2005 and the
5 Commissioner certifies such policy as meeting these requirements.

6 ~~(4)~~ (5) 'State Medicaid program' means the medical assistance program established in
7 this state under Title XIX of the federal Social Security Act.

8 (6) 'State plan amendment' means a state Medicaid plan amendment made to the federal
9 Department of Health and Human Services that provides for the disregard of any assets
10 or resources in an amount equal to the insurance benefit payments that are made to or on
11 behalf of an individual who is a beneficiary under a qualified long-term care insurance
12 partnership policy."

13 SECTION 2.

14 Said article is further amended by striking Code Section 49-4-162, relating to the Georgia
15 Long-term Care Partnership Program, and inserting in lieu thereof a new Code Section
16 49-4-162 to read as follows:

17 "49-4-162.

18 (a) There In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005,
19 there is established the Georgia Long-Term Long-term Care Partnership Program which
20 shall be administered by the Department of Community Health, with the assistance of the
21 Commissioner of Insurance and the Department of Human Resources, and which shall be
22 for the following purposes:

23 (1) To provide incentives for individuals to insure against the costs of providing for their
24 long-term care needs;

25 (2) To provide a mechanism for individuals to qualify for coverage of the cost of their
26 long-term care needs under the state Medicaid program without first being required to
27 substantially exhaust their resources;

28 (3) To provide counseling services through the Division of Aging Services of the
29 Department of Human Resources to individuals in planning of their long-term care needs;
30 and

31 (4) To alleviate the financial burden on the state's Medicaid program by encouraging the
32 pursuit of private initiatives.

33 (b) Upon the exhaustion of benefits or upon the diminishment of assets below the
34 anticipated remaining benefits under a Georgia Long-Term Qualified Long-term Care
35 Partnership Program approved policy, certain assets of an individual, as provided in

1 subsection (c) of this Code section, shall not be considered when determining any of the
2 following:

3 (1) Medicaid eligibility;

4 (2) The amount of any Medicaid payment; and

5 (3) Any subsequent recovery by the state of a payment for medical services.

6 (c) The department shall: ~~amend the state Medicaid program to allow for asset disregard.~~
7 ~~The department shall provide for asset disregard by counting insurance benefits paid for~~
8 ~~covered services under the Georgia Long-Term Care Partnership Program for purchasers~~
9 ~~of a Georgia Long-Term Care Partnership Program approved policy toward asset disregard~~

10 (1) Within 180 days of the effective date of this Code section, make application to the
11 federal Department of Health and Human Services for a state plan amendment to
12 establish that the assets an individual owns and may retain under Medicaid and still
13 qualify for benefits under Medicaid at the time the individual applies for benefits is
14 increased dollar for dollar for each dollar paid out under the individual's long-term care
15 insurance policy if the individual is the beneficiary of a qualified long-term care
16 insurance partnership policy purchased through the Georgia Long-term Care Partnership
17 Program; and

18 (2) Provide information and technical assistance to the Commissioner to assure that any
19 individual who sells a qualified long-term care insurance partnership policy receives
20 training and demonstrates evidence of an understanding of such policies and how they
21 relate to other public and private coverage of long-term care."

SECTION 3.

22 Said article is further amended by striking Code Section 49-4-163, relating to eligibility for
23 asset disregard, and inserting in lieu thereof a new Code Section 49-4-163 to read as follows:
24
25 "49-4-163.
26 (a) An individual who is a beneficiary of a Georgia Long-Term Qualified Long-term Care
27 Partnership Program approved policy is eligible for assistance under the state Medicaid
28 program using asset disregard pursuant to the provisions of subsection (c) of Code Section
29 49-4-162.
30 (b) If the Georgia Long-Term Long-term Care Partnership Program is discontinued, an
31 individual who purchased a Georgia Long-Term Qualified Long-term Care Partnership
32 Program approved policy prior to the date the program was discontinued shall be eligible
33 to receive asset disregard if allowed as provided by Title VI, Section 6021 of the Federal
34 Deficit Reduction Act of 2005.
35 (c) The department may enter into reciprocal agreements with other states to extend the
36 asset disregard to residents of the state who purchase long-term care policies in another

1 state which has asset disregard provisions as established under this article as provided by
2 Title VI, Section 6021 of the Federal Deficit Reduction Act of 2005."

3 **SECTION 4.**

4 Said article is further amended by striking Code Section 49-4-164, relating to rules and
5 regulations, and inserting in lieu thereof a new Code Section 49-4-164 to read as follows:
6 "49-4-164.

7 (a) The Commissioner shall:

8 (1) Develop requirements to ensure that any individual who sells a qualified long-term
9 care insurance partnership policy receives training and demonstrates evidence of an
10 understanding of such policies and how they relate to other public and private coverage
11 of long-term care; and

12 (2) Not impose any requirement affecting the terms or benefits of qualified long-term
13 care partnership policies unless the Commissioner imposes such a requirement on all
14 long-term care policies sold in this state without regard to whether the policy is covered
15 under the partnership or is offered in connection with such partnership.

16 (b) The department and the Commissioner of Insurance are authorized to promulgate rules
17 and regulations to implement and administer the provisions of this article.

18 (c) The issuers of qualified long-term care partnership policies in this state shall provide
19 regular reports to both the Secretary of the Department of Health and Human Services in
20 accordance with federal law and regulations and to the department and the Commissioner
21 as provided in Section 6021 of the Federal Deficit Reduction Act of 2005."

22 **SECTION 5.**

23 Said article is further amended by striking Code Section 49-4-165, relating to notice to
24 consumers, and inserting in lieu thereof a new Code Section 49-4-165 to read as follows:
25 "49-4-165.

26 (a) A qualified long-term care insurance partnership policy issued after the effective date
27 of this article shall contain a summary notice to the consumer in plain language on the
28 current law pertaining to asset disregard and asset tests.

29 (b) The notice to the consumer under subsection (a) of this Code section shall be
30 developed by the Commissioner of Insurance."

31 **SECTION 6.**

32 Said article is further amended by striking Code Section 49-4-166, relating to effective date,
33 and inserting in lieu thereof a new Code Section 49-4-166 to read as follows:

1 "49-4-166.

2 ~~The provisions of this article shall become effective 60 days after the effective date of the~~
3 ~~repeal of the restrictions to asset protection contained in the federal Omnibus Budget~~
4 ~~Reconciliation Act of 1993, Public Law 103-66, 107 Stat. 312 Reserved."~~

5 **SECTION 7.**

6 This Act shall become effective upon its approval by the Governor or upon its becoming law
7 without such approval.

8 **SECTION 8.**

9 All laws and parts of laws in conflict with this Act are repealed.