



July 23, 2024

Fred Andersen, Co-Chair
 Paul Lombardo, Co-Chair
 Long-Term Care Actuarial (B) Working Group (LTCAWG)
 Long-Term Care Insurance (B) Task Force
 National Association of Insurance Commissioners (NAIC)

Via email: eking@naic.org

Re: Minnesota Approach as a Candidate for a Single Long-Term Care Insurance (LTCI) Multistate Rate Review Approach

Dear Co-Chairs Andersen and Lombardo,

On behalf of the American Academy of Actuaries' (Academy)¹ Long-Term Care (LTC) Committee (Committee) we offer the following comments in response to your July 2 request for comments on the Minnesota approach by the NAIC's LTCAWG:

The Working Group requests comments on the Minnesota Approach with adjustments to haircut percentages or cumulative rate increase ranges of the cost-sharing formula as a candidate for a Single LTCI Multistate Rate Review Approach.² The adjustments are intended to increase cost-sharing burden for the company where cumulative rate increases are very high (which tends to be the case for higher-age policyholders, higher-duration policies) and potentially decrease cost-sharing burden for the company for lower-duration policies.

Non-Actuarial Considerations

In evaluating the Minnesota approach, the Committee notes that the method includes both actuarial and non-actuarial considerations. The April 2022 [LTCI Multistate Rate Review \(MSA\) Framework](#) includes several paragraphs regarding non-actuarial considerations in Section V.F. ("Non-Actuarial Considerations"):

The Long-Term Care Insurance (EX) Task Force continues to review and consider non-actuarial considerations affecting states' approval or disapproval of LTCI rate changes to develop consensus among jurisdictions and develop recommendations for application of these considerations. These considerations include such topics as:

¹ The American Academy of Actuaries is a 20,000-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.

² <https://content.naic.org/sites/default/files/documents/lhci-msa-framework.pdf>

1. Caps or limits on approved rate changes.
2. Phase-in of approved rate changes over a period of years.
3. Waiting periods between rate change requests.
4. Considerations of prior rate change approvals and disapprovals.
5. Limits or disapproval on rate changes based solely or predominately on the number of policyholders in a particular state.
6. Limits or disapproval on rate changes based on attained age of the policyholder.
7. Fair and reasonableness considerations for policyholders.
8. The impact of the rate change on the financial solvency of the insurer.

As these items are based on pragmatic considerations, rather than mathematical principles of actuarial science, defining them as “actuarially justified” seems inappropriate. Of particular concern to the Committee are comments cited in the [minutes](#) of the February 20, 2024, LTCAWG Virtual Meeting:

(Co-Chair) Andersen said the general consensus received from Working Group members and regulators is to not dismiss aspects of proposals labeled as “non-actuarial” by the American Council of Life Insurers (ACLI), and that the Working Group should consider all proposals made thus far regarding incorporation into a single actuarial approach. Lombardo said he has received feedback from regulators that these should be considered new actuarial techniques and not necessarily non-actuarial. He said going forward, such things can be considered actuarial in nature even if historically they were not.

The Committee would be very interested in learning more about any new actuarial techniques being proposed for use in LTC rate regulation. However, we do not believe that applying retrospective modifications to existing rate regulation of in-force policies, solely for the purpose of reducing actuarially determined rate increases on certain subsets of insureds, can be considered a purely actuarial approach. It is not clear which specific subsets of insureds will be affected, or whether these represent appropriate classes of insureds under the filed premium rate structure of the policies. Overall, we believe that designation of an item as being “actuarial” in nature should be based on mathematical principles of actuarial science, not policy or pragmatic considerations.

As stated in our October 8, 2021, [comment letter](#),

We believe that the Minnesota approach embeds implied policy decisions that are not actuarial in nature. While the calculations themselves may require actuarial methods, ... the approach embeds non-actuarial considerations that seek a “fair and reasonableness consideration,” the level of which is not clearly defined. Also, as the approaches labeled “if-knew / makeup approach” and “cost-sharing formula” are public policy decisions that are not specified in adopted model law, defining them as “actuarially justified” seems inappropriate.

It is not clear how moving to a single approach will address the above concerns. The MSA Review is a recommendation only, as an individual state retains the ability to perform additional analyses after receiving the report. Should a single approach be adopted for the MSA Review, it is the Committee’s strong recommendation that the approach be based on actuarial fundamentals. Should an approach that entails comparing multiple methods be used, clear guidance that helps guide regulators to determine the best method for a given filing must be developed.

Working Group Recommendations

As the Committee reviewed the [February 2024 exposure](#), “Recommendation on a single MSA actuarial approach after regulator feedback,” we offer the following comments on considerations No. 1 to No. 7:

RECOMMENDATION BASED ON APPARENT CONSENSUS:

- 1. Generally have lower rate increases for those at very advanced ages with high-duration policies that have had substantial past rate increases.**

Appropriate implementation to avoid administrative and discrimination concerns may be to adjust the method for older blocks (which tend to have older policyholders that have been subject to substantial past rate increases) instead of differentiating rate increases by age within a block.

Recognize that high-duration policyholders have:

- **tended to have the most benefit from what proved to be underpricing due to the number of underpriced premiums paid;**
- **tended to have been the most surprised by the magnitude of cumulative rate increases compared to any that could have been expected when the policy was issued.**

Committee Comments: It is not clear exactly how the Minnesota Approach would be adjusted to get to the “appropriate implementation.” We recommend that any concrete proposal take into account the provisions of ASOP No. 12, *Risk Classification*.

- 2. Do not dismiss aspects of proposals labeled as “non-actuarial” by the ACLI.**

Consider all proposals made thus far regarding incorporation into a single actuarial approach.

Committee Comments: Please see our comment above regarding Non-Actuarial Considerations.

- 3. Balance between consumer protection and preventing further financial distress for insurers.**

Further analysis may be necessary to assess certain attractive proposal aspects how they maintain this balance.

Committee Comments: We recognize that the method and framework may include both actuarial and non-actuarial components to address consumer protection concerns and prevent further financial distress for insurers. Please see our comments above regarding Non-Actuarial Considerations.

- 4. Continue including a catch-up provision in a single actuarial approach for attaining a similar rate level between states.**

Align with actuarial soundness, consumer fairness, insurers’ financial sustainability, and regulatory considerations.

Committee Comments: We agree that a catch-up provision is appropriate to address disparities across states. However, using a catch-up provision which looks solely at current rate equity does not consider historical state regulatory decisions. This would include scenarios where a company may have filed for an appropriate rate increase and the request was denied or limited in approval. By considering only the current rate, an unintended consequence could result that encourages states to delay approving rate increases.

5. Continue to encourage buy-in from states on the MSA actuarial approach.

Perhaps LTC Task Force leadership could have individual meetings with states that tend to approve the lowest rate increases, providing information and addressing questions.

Acknowledge that some states that perform detailed reviews of state filings will tend to review and consider their own method and compare with the MSA recommendation; some states are committed to following the MSA recommendation. States that aren't able to perform detailed reviews are more likely to rely on the MSA.

Committee Comments: We agree with the goal to encourage buy-in from states, leading to greater consistency and predictability of LTC rate regulation across more jurisdictions. It is not clear from the description how much state regulatory buy-in will increase by limiting the MSA Review to a single methodology. As noted in our [previous comments](#) on the MSA from October 2021:

Insurers may want to file rate increase requests in non-participating states concurrently with the MSA Review filing so that the insurer does not needlessly delay the filing and review process in non-participating states. It is unclear if and how insurers will know which states are Participating States in the MSA Review, and whether states will decide on participation in the MSA review each time any rate increase request is submitted.

A growing number of states now ask about the Texas/PPV and Minnesota Methods in their own reviews. If the LTCAWG introduces additional policy decisions into the methodology, it is possible that this will have a more significant impact beyond filings submitted through the MSA and participating states alone. This reinforces the need for clear guidance about what is a non-actuarial/policy decision, so that these states know this when asking for information outside of an MSA rate review.

6. Pre-approve and phase in rate increases over a reasonable period of time as opposed to requiring annual re-filings.

Part of the reason is pre-approved phased-in rate increases transparently enable policyholders to make well-informed decisions about their LTC policy based on the most likely future rates.

Also, pre-approved phase-ins eliminate work effort for companies and regulators that often provides little value.

Committee Comments: We agree with these comments. The Committee would note, as we did in our July 26, 2021, [comment letter](#), that phasing-in a rate increase should ordinarily result in ultimate rates higher than if a single actuarial equivalent rate increase were implemented. Additionally, it is not clear, under a phased-in approach for an increase with the catch-up provision, which would take precedence: ensuring similar rate levels or actuarial equivalence of the proposed rate increase. If the latter, the ultimate rate level would be higher for states where the catch-up provision has been applied.

RECOMMENDATIONS, BUT SPLIT VIEWS AMONG REGULATORS:**7. If-knew weighting and additional cost-sharing considerations**

Study impacts on rates and solvency of various weights (including the Utah proposal) as well as the potential effects of eliminating an explicit cost-sharing provision.

Committee Comments: It is not clear exactly how the weights or cost-sharing in the Minnesota Approach would be adjusted. We recommend that any concrete proposal take into account the provisions of ASOP No. 12, *Risk Classification*.

The Committee welcomes the opportunity to speak with you in more detail and answer any questions you have regarding these comments on finding a single MSA approach. If you have any questions or wish to discuss these comments further, please contact Matthew Williams, the Academy's senior health policy analyst (williams@actuary.org).

Sincerely,

Andrew Dalton, MAAA, FSA
Chairperson, LTC Committee
American Academy of Actuaries

CC: Eric King, Health Actuary, NAIC