



# Special Alert: New LTC Legislation Signed into Law Today

*The latest John Hancock news and ideas to grow your LTC business.*

President Bush signed The Deficit Reduction Omnibus Reconciliation Act of 2005 today at 3:35 p.m. Members of the John Hancock LTCI team who worked diligently on this legislation witnessed the signing firsthand in a ceremony held in the East Room of the White House.

The new law tightens Medicaid long term care eligibility rules and allows for the nationwide expansion of the Long Term Care (LTC) Partnership program. This is great news for the long term care insurance industry as it will encourage proper planning for future long term care needs, allow for the sale of Qualified State LTCI policies (QSLTCI) under the new partnership program, and ultimately lead to an increase your long term care insurance sales.

Below is a summary of the changes:

## **Changes to Medicaid Eligibility**

The changes to Medicaid eligibility will make it harder for individuals to qualify for coverage. Such changes include:

- Extension of look-back period for the transfer of assets from three years to five years prior to applying for Medicaid coverage. *Note on grandfathering:* The five-year look-back period will be phased in, as it will only affect transfers made after the law's effective date.
- Applicants will need to meet the required spend-down limits prior to the penalty period beginning.
- Legislation will deny Medicaid coverage for nursing home care to any applicant with home equity valued above \$500,000 (up to \$750,000 in some states).

## **Expansion of Partnership LTC Insurance Policies**

The new law also includes the expansion and availability of LTCI partnership plans nationally. Each individual state will have the opportunity to implement a Partnership program with possible availability in some states as soon as this summer. Partnership policies help to protect state Medicaid budgets by requiring that the benefits of those qualifying insurance policies be paid before Medicaid benefits can be accessed. (The four existing partnership programs in CA, CT, IN, and NY will be grandfathered).

The new partnership policies allow consumers to protect a portion of their assets that they would typically need to spend down prior to qualifying for Medicaid coverage – ensuring that more of the funds accumulated for retirement will be protected.

Under the expansion of state partnerships, states must have the same requirements for partnership and non-partnership policies. The objective as states elect to participate is to have uniform requirements. Essentially, any tax-qualified LTCI policy approved by a state insurance department that meets the requirements of the federal partnership program would qualify for asset protection, on a dollar-for-dollar basis, up to the policy maximum.

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While the partnership law does not require reciprocity - which means that asset protection would still apply if you move to another state that participates in the partnership - the law requires the Department of Health and Human Services to prepare guidance on reciprocity. The partnership law also includes a provision dealing with exchanges - moving from a non-partnership policy to a partnership policy.

We are very excited about the possibilities that this new law presents for consumers, producers, and John Hancock.

See the next page for an overview of the new legislation provided by America's Health Insurance Plans (AHIP).




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## S. 1932, the Budget Reconciliation Bill: Expansion of Long-Term Care (LTC) Partnerships

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Issue	Conference Report for S. 1932*
<b>Expanding LTC Insurance (LTCI) Partnerships</b>	States are authorized to adopt “qualified State long-term care insurance” (QSLTCI) partnerships by amending their Medicaid plans.
<b>Effective Date</b>	New state QSLTCI partnership programs may become effective, at the state’s discretion, as early as the first day of the first calendar quarter in which the state plan amendment was submitted to the HHS Secretary. The conference committee did <b>not</b> accept a Senate provision that would have delayed the effective date of the new rules until October 1, 2007.
<b>Requirements for Policy Terms &amp; Benefits</b>	<p>A QSLTCI partnership policy is required to:</p> <ul style="list-style-type: none"> <li>• be a qualified LTCI contract within the meaning of IRC § 7702B(b);</li> <li>• cover an individual who was a resident of such state when coverage first became effective under the policy (in the case of an LTCI policy that is exchanged for another such policy, this requirement applies based on the coverage of the first such policy); and</li> <li>• meet specified requirements of the NAIC Long-Term Care Insurance Model Regulations and the NAIC Long-Term Care Insurance Model Act (when the NAIC makes changes to the relevant sections of these models, the HHS Secretary is directed to review the changes within 12 months and determine whether they should be incorporated into the compliance requirements for QSLTCI partnership policies).</li> </ul>
<b>Grandfathering/ Treatment of 4 Existing Partnerships</b>	The existing 4 LTCI partnership programs (in California, Connecticut, Indiana, and New York) are considered to be in compliance, if the Secretary determines that the state plan amendment provides for consumer protection standards that are not less stringent than those applied by the state on December 31, 2005.
<b>Reciprocity</b>	By January 1, 2007, the HHS Secretary is directed to develop standards for the uniform reciprocal recognition of QSLTCI partnership policies, requiring that benefits paid by such policies be treated the same by all states with QSLTCI partnership programs. These standards will apply to all states with QSLTCI partnership programs, unless a state notifies the HHS Secretary in writing that it is electing to be exempt from such standards. The Secretary is required to consult with the NAIC, issuers of LTCI, consumer representatives, and other specified entities in developing these standards.
<b>Uniformity of Product Requirements</b>	States may not impose any requirement affecting the terms or benefits of QSLTCI partnership policies unless such requirement is imposed on both partnership and non-partnership policies.

\* This conference report was approved by the House on December 19, 2005. It subsequently was approved by the Senate on December 21, 2005, but was sent back to the House for further consideration after senators raised a point of order that successfully removed a small number of provisions.

Issue	Conference Report for S. 1932*
<b>Inflation Protection</b>	Individuals age 60 and younger must purchase some form of compound inflation protection, but the rate is not specified. For individuals age 61-75, some form of inflation protection must be included, but not necessarily compound inflation and the rate is not specified. For individuals age 76 and older, no inflation protection is required.
<b>Dollar-for-Dollar Medicaid Asset Protection</b>	Individuals seeking to qualify for Medicaid are permitted to retain assets equal to the dollar amount of LTCI benefits received beyond the level of assets otherwise permitted to be retained under the state's Medicaid plan. The conference committee did <b>not</b> accept Senate provisions that would have limited asset protection to \$250,000.
<b>Limitations on Incontestability of Claims</b>	The NAIC Long-Term Care Insurance Model Regulations would apply. The conference committee did <b>not</b> accept Senate provisions that would have limited LTC insurers' ability to contest claims or rescind policies (even for fraud) to two years.
<b>Exchanges of Policies</b>	The conference report includes report language stating: "With respect to policy exchanges, Conferees expect existing policy holders will be able to exchange existing policies for Partnership policies in accordance with policy provisions and state law after a State's plan amendment is effective."
<b>Reporting Requirements Imposed on Insurers</b>	Issuers of QSLTCI partnership policies must provide regular reports to the HHS Secretary, including notification regarding when benefits have been paid and the amount of such benefits paid, notification regarding when the policy otherwise terminates, and such other information as the Secretary determines may be appropriate. The Secretary is required to consult with the NAIC, issuers of LTCI, consumer representatives, and other specified entities in developing these reporting requirements. States may require issuers of QSLTCI partnership policies to report additional information or data to the states.
<b>Recommendations on Electronic Reporting</b>	The HHS Secretary is directed to develop recommendations for Congress to authorize and fund a uniform minimum data set to be reported electronically by all issuers of QSLTCI partnership policies to a secure, centralized electronic system. The Secretary is required to consult with other federal agencies, issuers of LTCI, the NAIC, state insurance commissioners, and other specified entities in developing these recommendations.
<b>Agent Training</b>	In states with QSLTCI partnership programs, the state Medicaid agency must provide information and technical assistance to the state insurance department regarding efforts to ensure that individuals who sell QSLTCI partnership policies receive training and demonstrate evidence of an understanding of such policies and how they relate to other public and private coverage of LTC expenses.
<b>HHS Reports to Congress</b>	The HHS Secretary is directed to report to Congress annually on the QSLTCI partnership programs. Such reports shall include an analysis of the extent to which partnerships expand or limit access to LTC and their impact on federal and state expenditures for Medicare and Medicaid.
<b>National Clearinghouse for Long-Term Care</b>	The HHS Secretary is directed to establish a National Clearinghouse for Long-Term Care Information, which is charged with: educating consumers about LTCI; providing objective information to assist consumers in making decisions about LTCI; and maintaining a list of states with QSLTCI partnerships that provide reciprocal recognition of LTCI policies issued under such partnerships. Funding for the Clearinghouse is set at \$3 million annually from FY 2006 through FY 2010.

