

Update



John Hancock DRA Partnership Frequently Asked Questions

WHAT IS A DRA PARTNERSHIP?

Q. What is a DRA Long term Care Partnership?

A. On February 2, 2006 Congress passed the Deficit Reduction Act of 2005 (DRA). President Bush signed this bill into law on February 8, 2006. There are several aspects to this legislation; three sections in particular affect long term care insurance (LTCI). The most notable of these promotes and allows the expansion of Long Term Care Partnership programs.

DRA LTC Partnership programs combine private LTCI as a primary payer of long term care with Medicaid as a secondary payer when an applicant needs to apply for Medicaid. When an individual insured under a LTC Partnership policy becomes eligible for Medicaid benefits he/she may protect a portion of his/her assets above the amounts usually allowed by Medicaid. Under this program, the amount of assets that could be protected above the regular Medicaid spend-down limits is equal to the amount of benefits paid by the LTCI Partnership policy.

Q. Is the LTC Partnership a new program?

A. No. Before 1994, four states had implemented full LTC partnership programs: California, Connecticut, New York and Indiana. These state programs mandated: different administrative practices, unique and stringent policy requirements that differed from traditional LTC policies sold in the state, and provided different levels of Medicaid asset protection. Expansion of the Partnership programs ceased with the passage of the Omnibus Budget Reconciliation Act (OBRA) of 1993. The DRA grandfathered the four existing state Partnership programs. Specifically,

- DRA Partnership provisions and requirements do not apply to them. They can continue to operate under their current regulatory requirements.
- They can continue to offer and administer their own Partnership program as they currently do.
- These states continue to have unique training programs which will not be transferable to DRA-Partnership states unless a DRA-Partnership state expressly allows for such credit. Nor will NAIC producer training requirements meet their specific training requirements.

The DRA allows new states to implement LTC Partnership programs at their discretion.

The DRA recognized the importance of uniformity in successfully implementing Partnership programs and set uniform national standards for Partnership policies. Additionally, no state may impose requirements on Partnership policies that are not imposed on non-Partnership LTCI policies. This was done so that we would not have 50 separate and unique Partnership programs nationwide.

Q. What is Medicaid asset protection?

A. If a consumer purchases a Partnership policy and keeps such policy in force, he/she may be eligible for Medicaid asset protection. This means that a consumer is allowed to protect one dollar of their assets for every dollar a Partnership policy pays out in benefits. The total amount of asset protection is equal to the sum of all benefits paid under such a policy when they apply for Medicaid. The assets consumers are able to keep as a result of their Partnership policy are above and beyond all the regular allowances under the Medicaid program, including any assets the assets a consumer's spouse may be allowed to keep. As a reminder, while a certain portion consumer's assets may be protected, they are still required to apply their income toward the cost of care in accordance with Medicaid requirements as well as meet any other specific state Medicaid eligibility requirements. **Important note:** The purchase of a DRA Partnership policy does not automatically qualify the policyholder for Medicaid.

Q. Can you provide an example for the Medicaid asset protection provided under the National LTC Partnership programs?

A. Let's assume that an unmarried person without an LTCI Partnership policy applies for Medicaid to cover his/her long term care expenses. While the Medicaid rules and limits differ by marital status and state, it's not unusual for a state to require the single individual to spend their countable assets (excludes the primary residence) down to a fairly low level, such as \$2,000 before Medicaid will begin to cover their long term care services.

Now suppose that same individual has a LTCI that participates in the National LTC Partnership program. Let's say that he/she has a policy that provides up to a maximum of \$200,000 in benefits. The individual begins to receive long term care services and qualifies for benefits under the terms of the policy. Over time the policy pays out \$200,000 in benefits for long term care services, depleting the benefit pool. Because of the dollar-for-dollar asset protection provided by the Partnership program a dollar of assets is protected from Medicaid spend down for every dollar of benefits paid from the policy. That individual could then apply for Medicaid and be allowed to keep \$202,000 of his or her countable assets, \$200,000 above the regular limit, because of the Partnership policy.

Q. Do policy benefits have to be exhausted before policyholder can apply for Medicaid?

A. The original 4 Partnership states require that all LTCI benefits must be exhausted before a policyholder may apply for Medicaid. Under the DRA, a policyholder can apply for benefits prior to benefits being exhausted. States have the option to require the exhaustion of benefits, though to date, most new DRA Partnership states are not requiring exhaustion. The important thing to note is that the amount of assets that can be protected will be equivalent to the benefits paid at the time of application for Medicaid. Therefore, if the policy benefits are not exhausted and continue to be paid, those benefits paid after the individual qualifies for Medicaid will not qualify for asset protection.

Q. What is asset protection reciprocity?

A. States with approved Partnership programs (and which have not elected exemption from such standards) agree to apply asset protection provisions on a dollar for dollar basis for all eligible Medicaid applicants who purchased a Partnership policy. Dollar for dollar asset protection will be applied regardless of the state in which the Partnership policy was originally purchased. **Important note:** States may elect to opt out of or into the asset protection reciprocity standards at any time.

Q. Are states opting into asset protection reciprocity?

A. Yes, to date, all states which have filed an SPA under the DRA have opted into asset protection reciprocity.

STATE IMPLEMENTATION

Q. How will the National LTC Partnership program be implemented in each state?

A. A state may elect to establish a DRA Partnership program by filing a Medicaid State Plan Amendment with CMS. Once CMS approves the SPA, the Partnership program is established. However, from a practical perspective there may be a long period of time between this program's SPA effective date and the date carriers actually launch their program in that state. This is due to the fact that many states must then update their laws or regulations to actually implement the program. Once any needed regulatory action is taken, carriers must then certify that their policies meet all applicable consumer protection requirements to the applicable state insurance department. Once the state approves our certification filing, a carrier may begin to issue Partnership policies. As with any newly passed legislation there may be a period of time during which certain details are sorted out.

Q. Can I begin selling Partnership policies once a state announces its effective date based on approval of Medicaid State Plan Amendment (SPA) or effective date?

A. A state's announcement of SPA approval/effective date does not mean the partnership program is actually operational. Regulatory changes, carrier filings must be approved and producer training requirements must be established before a carrier's Partnership sales may begin. The carrier will determine when it launches its participation in any Partnership program.

REQUIREMENTS FOR A PARTNERSHIP POLICY

Q. What are the policy requirements for LTCI policies that participate in the DRA LTC Partnership Program?

A. A DRA Partnership policy is a policy that:

- Covers an insured who was a resident of the State when coverage first became effective;
- Is tax-qualified (TQ) under IRC section 7702B (all our policies are TQ);
- Is issued after the effective date of the DRA Partnership program;
- Meets certain consumer protection requirements (based on the NAIC's 2000 Model Act and Regulation);
- Meets the following specific inflation protection requirements:
 - Under age 61 – applicant must select annual compound inflation coverage;
 - (Note, the DRA did not mandate a certain fixed percentage for compound inflation, therefore, a 3% 4% or 5% would be acceptable. In addition, an annual compound inflation feature based upon CPI would meet DRA requirements.)
 - Age 61-75 – applicant must select some level of inflation protection (e.g., simple inflation);
 - Age 76 or more – applicant need not select any inflation.

Note: Our Custom Care 2 (CC II) and Leading Edge (LE) products are intended to meet DRA Partnership policy requirements.

Q. Will John Hancock's CPI inflation protection on Leading Edge meet the Partnership requirements?

A. Yes. We believe that Leading Edge's CPI inflation protection meets the inflation requirement for all three age tiers.

Q. Will John Hancock's GPO option meet the inflation requirements for Partnership?

A. Due to both the lack of specificity in the DRA and guidance from CMS we do not believe that GPO satisfies the requirements. Therefore, unless a state provides us guidance or clarification on this issue, our position is that GPO does not meet the Partnership requirements for the first two age tiers.

Q. Can the inflation protection requirements vary between states?

A. As long as the state meets the DRA minimum required inflation requirements, they can adopt more stringent requirements. For example - a state could mandate the inclusion of a 5% compound inflation benefit for applicants aged 60 and under even though a 3% compound inflation benefit is available for purchase under a non-Partnership policy.

Q. Can states regulate the inflation requirements under a Partnership differently from non-Partnership policies?

A. Yes. This is the only area where a state can set forth differing standards between Partnership and non-Partnership policies.

Q. What happens if the policyholder drops or changes the required inflation?

A. It is up to each state to determine what happens when a policyholder drops or changes their inflation protection coverage. However, unless a state indicates to the contrary, we believe that policyholders may reduce inflation coverage within the DRA specified age tiers without losing DRA Partnership status.

- Example – age 58 purchaser buys 5% compound at issue. At age 61, purchaser reduces coverage to simple inflation, DRA Partnership not lost
- Example – age 58 purchaser buys CPI at issue. At age 76, purchaser drops inflation coverage, DRA Partnership not lost.

Important Note: Unless we are told to the contrary by a state, a policyholder cannot “age into” a Partnership policy. For example, a policyholder age 50 elects simple inflation. The policyholder does not earn Partnership status when he/she turns 61. The policy must meet Partnership requirements on the date the policy is issued in order to be considered a Partnership policy.

Q. Will there be separate product brochures and applications for Partnership policies?

A. No. Unless a state requires otherwise, Partnership policies and non-partnership policies will all use the same materials. In any state that adopts a Partnership program, you can expect that a disclosure notice will be added to the application package that describes the Partnership program.

Q. Are there going to be minimum daily benefits for Partnership policies?

A. No. Except for establishing inflation requirements for Partnership policies, states may not impose separate minimum benefit requirements for Partnership policies.

Q. How will the policyholder know that they have a Partnership policy?

A. Unlike the original 4 grandfathered partnership programs, you will not see separate policies for Partnership nor any Partnership identifiers/logos on or within the policy. Disclosure will come in the form of a separate notice. If the policy meets Partnership requirements a “disclosure notice” will accompany the policy at issue stating that the policy is intended to be a Partnership policy. If the policy does not meet Partnership requirements, a disclosure notice will accompany the policy at issue indicated that the policy is not intended to be a Partnership policy. The client does not have to request a Partnership policy. It will automatically be issued as a Partnership policy if it meets the applicable inflation requirements and our records show the producer has completed their Partnership training.

Q. How does a policy lose Partnership status?

A. A policy can lose its DRA Partnership status if:

- The policyholder drops the required inflation protection.
Examples:
 - Policyholder under age 61 switches to Simple or none /GPO
 - Policyholder 61-75 switches to none /GPO
- The policyholder moves to a state that does not maintain a DRA Partnership Program
- The policyholder moves to a state that does not recognize the specific policy as a DRA Partnership Policy
Example:
 - Original state A allows GPO under a DRA Partnership policy. State B does not allow GPO. Policyholder moves from state A to B and DRA Partnership status is not recognized in state B
- The DRA Partnership program is modified or discontinued
- Federal or state law changes

Note: The policy remains in effect with all its benefits. Only the DRA Partnership status is terminated.

PARTNERSHIP TRAINING REQUIREMENTS

Q. What training requirements were passed in the Deficit Reduction Act?

A. The DRA requires that states provide assurance to CMS that producers who sell Partnership policies must demonstrate an understanding of these policies and their relationship to public and private coverage of long term care.

Q. How are states implementing producer training requirements?

A. The passage of the DRA fast-tracked efforts at the NAIC to develop producer training standards so that such standards could coincide with state implementation of Partnership programs. As a result, the NAIC passed a new model provision on producer training. The purpose of this model provision is to provide a legislative/regulatory template for states when adopting producer training requirements.

While the DRA requirements accelerated the NAIC process, it is important to note that the producer training requirements were established primarily as a prerequisite to sell any LTCI products regardless of whether or not the product qualifies as Partnership.

A one-year implementation period was included in recognition that the industry needs time to develop curriculums and producers need time to be able to take the applicable course. This means that producers can continue to sell LTCI (Partnership and non-Partnership) during this implementation period.

This new provision would require that LTCI producers must complete a one-time initial 8-hour training course and thereafter, an ongoing 4-hour training “refresher” requirement every 2 years. Components that must be included in such training include topics related to: LTCI; long term care services/providers; if applicable, qualified state LTCI Partnership programs; alternatives to the purchase of private LTCI; the importance of inflation and impact on benefits; and suitability.

Please note that that such training may be included as continuing education so long as the curriculum has been approved as CE in the state. The model provision recognizes reciprocity among state requirements. In addition, there is no restriction as to how courses may be provided (e.g., in person, web-based or self-study would all be acceptable).

Important Note – While we anticipate that most states will adopt the NAIC producer training standards, such requirements are determined at the state level. States may adopt the NAIC producer training

standards in whole, in part or something very different. Therefore, it is important to remember that state variations may apply.

Q. If a state only requires training for producers selling Partnership policies, why are some carriers requiring training for all producers?

A. We believe that the vast majority of states will implement producer training requirements for ALL producers in accordance with the NAIC producer training requirements. If and when a state adopts training requirements that only apply to Partnership-related sales, we will require that ALL producers receive training. As a leader in the LTCI industry, John Hancock is working very closely with the states to ensure the successful implementation of partnership programs across the country. One of our main goals is to encourage consistency across all states, for ease of implementation and understanding among carriers, producers and consumers alike. However, variations in programs and requirements are beginning to emerge and in these cases, our role is to develop an appropriate business solution that will meet our needs and producer needs and be in the best interest of the consumer.

We believe that requiring training for only “Partnership” producers can result in some unintended consequences. Specifically, there will be numerous situations where carriers will be required to deny consumers asset protection that they would otherwise qualify for in such a state (assuming the appropriate inflation choices are made), simply because their producer did not meet the state’s Partnership-only training requirements. For this reason, John Hancock has determined that it will require all producers doing business in a “Partnership-only training state” to complete the state’s new training requirements. We realize this may be viewed by some as an imposition by some producers, but we believe that it is the right decision for the following reasons:

- Consumers, who are eligible for asset protection under the Partnership program, when they make the appropriate inflation benefit selections, are entitled to it. We do not believe it is appropriate for carriers to deny this protection for any reason.
- Due to the increasing number of partnership programs across the country, we believe that all producers should be trained in the nuances of the Partnership program and Partnership policies going forward, regardless of whether they sold these plans in the past.

This is the same policy adopted by other major carriers. Adopting the NAIC training requirement also ensures that producer’s training will more likely qualify for reciprocity in other states.

Q. Do I need to complete training in every state I write business in that has adopted training requirements?

A. No. The expectation is for most states to adopt training reciprocity. That means if you have received the 8 hour NAIC training in either your resident state, or another state you do business in, you can use that training to satisfy the training in other states. There may be some states that have additional state specific training that may need to be taken as well. The course providers will make these training requirements available on a state by state basis.

Q. In a case of split commissions, do all agents on the application need to meet the state’s training requirements?

A. Yes, any producer whose name is on the application will need to be properly trained and provide evidence of completion of the applicable training

Q. Why do training requirements differ from the Partnership guidelines or between carriers?

A. Generally, carriers are in agreement in the interpretation of producer training requirements due to the fact that most states are implementing the NAIC producer training requirements without modification. However, carriers may decide to choose a slightly different approach based on their interpretation of the rules, what states have relayed to them on an individual carrier basis and what they believe to be in the best interests of their clients and producers.

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Not for use with consumers. Information is subject to change based upon regulatory considerations
and will be updated on an ongoing basis.

Q. Who is responsible for determining the training requirements in each state?

A. The state insurance departments are responsible for setting producer training requirements. The state Medicaid agency may also provide assistance to the state insurance department regarding these efforts.

Q. Who has the primary responsibility to ensure that producers have the appropriate training requirements met?

A. It is up to each carrier to ensure that agents have met the appropriate training requirements. Carriers can impose additional training as they see fit.

EXCHANGE PROVISIONS

Q. Will policies that I have written in the past all be grandfathered, like with HIPAA in 1996?

A. No, the DRA did not grandfather existing policies as HIPAA did in 1996. Congress felt that grandfathering all existing policies would cause a future strain on state Medicaid budgets as policyholders who never had any expectation of asset protection would be granted such protection. In addition, Congress believed that all Partnership policies should meet certain NAIC consumer protection standards that were not mandated in states prior to 2002. The DRA does permit carriers to allow existing non-Partnership policyholders/certificate holders to exchange their policies for DRA Partnership policies in limited circumstances. States are allowed to regulate how exchanges may be handled in their state. Absent state mandates, it will be up to the carriers to determine if or how they will implement an exchange program. **Important note** – John Hancock is in the process of developing our exchange process. Additional details will be released shortly.

Q. If someone is interested in applying for a John Hancock LTC policy today should they wait until DRA Partnership policies are available in their state?

A. Generally, no. The timing for availability of DRA LTC Partnership policies for each state will vary. Some states will take longer than others. Individuals who wait for a DRA Partnership policy to be available in their state run the risk of a change in health making them uninsurable or a change in age making the coverage more expensive than if they apply for an LTC insurance policy today. Of course, depending on the state and an individual's circumstances, he or she may decide to wait.

Miscellaneous

Q. Will Family Care policies qualify for Partnership policies?

A. Yes. Asset protection will only apply to insureds who actually receive benefits under the policy. The asset protection is not-transferable. We would need to determine the primary insured on the Family Care policy. We would check the inflation selection for that person. We would get the true ages of each person on the policy at time of policy issuance. We would compare the age of the youngest person to the inflation selection of the primary insured. If 60 or younger, some form of compound inflation must be selected. If between 61 and 75, some form of compound or simple inflation must be selected. If 76 or older, no inflation is required. Only the primary insured needs to be a resident of the issue state. The Partnership Endorsement that gets sent with these policies will specify that the Primary Insured and any Covered Persons that also reside in that state at time of application will be eligible for asset protection.

Q. I sell a lot of Shared Care riders. Will benefits paid out under this be eligible for asset protection?

A. Yes. However, as is true for Family Care, asset protection is only available to the individual actually receiving the benefits. The amount of assets one can protect under a DRA Partnership policy is equal to the amount of benefits paid for one's care under such policy. If a spouse/partner is accessing benefits under a policy, the other spouse/partner will not receive asset protection for that care. Asset protection is

not transferable between spouses/partners. In addition, continued access by one spouse/partner to the policy's benefits could lead to the exhaustion of the policy limit.

Q. Other than the DRA LTC Partnership program, what other Sections of the Deficit Reduction Act of 2005 affect LTC insurance?

A. There are sections of the Act that further restrict an individual's ability to transfer assets and access Medicaid benefits. These restrictions include:

- The "look back" period for transfer of assets to an individual will be extended from 3 years to 5 years.
- There will be a new Medicaid cap on the home equity exemption of \$500,000 with the allowance for individual states to increase that cap to \$750,000.
- There is a limitation on the use of certain annuities to shield assets from Medicaid. These and other new Medicaid restrictions will not apply retroactively; but will take effect on the date this legislation is enacted.