



CONSUMER PARTICIPATION AGREEMENT

NEW YORK STATE PARTNERSHIP FOR LONG-TERM CARE

PURPOSE

The New York State Partnership for Long Term Care ("the Partnership") is authorized by New York State Social Services Law Section 367-f, as amended by Chapter 659 of the Laws of 1997, and by Medicaid State Plan Amendments 91-49, 91-79B, and 95-28. Its purpose is to help New York State residents plan long term care financing. Development of the Partnership was sponsored and partly funded by the Robert Wood Johnson Foundation. The Partnership operates under the direction of the Department of Health in consultation with the Department of Insurance and the State Office for the Aging.

Under the Partnership, persons who purchase Partnership-approved long term care insurance policies/certificates ("Participating Consumers"), and who receive 36 months of paid nursing home benefits (or its equivalent) under these policies/certificates, can apply for Medicaid Extended Coverage. Medicaid Extended Coverage means the Medicaid program will determine the Participating Consumer's eligibility for Medicaid without counting accumulated assets ("resources"). It also means that the Medicaid program will not attempt to recover correctly paid Medicaid by placing liens on real property or by making claims against the Participating Consumer's estate. Otherwise, eligibility for Medicaid will be determined in accordance with the normal rules and regulations governing the Medicaid program, including Section 366 of the Social Services Law.

The standards for Partnership policies/certificates are found in New York State Department of Insurance Regulation 144 (11 NYCRR 39). For a description of the benefits under a Partnership policy/certificate which are equivalent to nursing home benefits, see Attachment 1 of this Agreement, "Equivalent Benefits". General information about the Partnership is available by calling 1-888-NYS-PLTC (697-7582) from within New York State or (518) 486-9057 from anywhere.

AGREEMENT CONDITIONS

This Agreement provides information concerning the advantages and responsibilities of participating in the Partnership as a Participating Consumer. **IT IS IMPORTANT THAT YOU READ AND UNDERSTAND THIS AGREEMENT** before choosing to participate in the Partnership. For full details about the Partnership and Medicaid Extended Coverage, please see the Partnership publication entitled *Consumer Booklet: Affordable Financing for Long Term Care*. If you decide to participate in the Partnership, you must sign this Agreement and the original signed Agreement must be returned by your Participating Insurer to the Partnership office within thirty (30) days of the date you sign this Agreement. Please keep a copy of the signed Agreement in a safe place with your other important papers.

A. DEFINITIONS

1. A **Participating Insurer** is a private insurer which offers a Partnership insurance policy/certificate approved under New York State Department of Insurance Regulation 144 (11 NYCRR 39), and signs the Insurer Participation Agreement.
2. A **Participating Consumer** is a person who has signed this Agreement and has purchased a Partnership policy/certificate from a Participating Insurer
3. A **Partnership Policy/Certificate** is long term care insurance which is sold by a Participating Insurer and which has been approved by the New York State Department of Insurance as meeting the minimum requirements for a Partnership policy/certificate. Under Insurance Department regulations, approved policies/certificates must display the Partnership logo.
4. **Resources** (accumulated assets) are property of all kinds, including real property and personal property. Resources are not counted in determining eligibility for Medicaid Extended Coverage.
5. **Income** includes payments from any source, received on a one-time or recurring basis, whether earned or unearned. Income from all sources, including income generated by accumulated resources, is counted in determining eligibility for Medicaid Extended Coverage.

B. MEDICAID EXTENDED COVERAGE

1. **Use of minimum amount of benefits.** Before applying for Medicaid Extended Coverage, a Participating Consumer **MUST** use up the minimum amount of benefits under his or her Partnership policy/certificate. This minimum amount of benefits is 36 months of paid nursing home benefits or its equivalent (see Attachment 1 of this Agreement). Before you use up the minimum amount of benefits under your Partnership policy/certificate, your insurance company is obliged to notify you and recommend that you begin the application process for Medicaid Extended Coverage. You will need this notification letter to apply for Medicaid Extended Coverage.
2. **Medicaid Extended Coverage.** As a Participating Consumer, if you use 36 months of nursing home benefits or its equivalent under a Partnership policy/certificate, you are eligible to apply for New York State Medicaid Extended Coverage, regardless of the type or amount of resources you may have. This means that there is no limit on the amount of resources you may keep while receiving Medicaid Extended Coverage, nor will your resources be subject to Medicaid liens and recoveries for the cost of correctly paid Medicaid. However, your income will be used to determine your eligibility for Medicaid Extended Coverage, and you will be required to contribute your income toward the cost of your care in accordance with the rules and regulations governing the Medicaid program, including Section 366 of the Social Services Law.

3. **Transfer of resources.** Because resources are not counted in determining eligibility for Medicaid Extended Coverage, Participating Consumers are free to use their resources in any way, including making gifts or otherwise transferring away ownership of resources. This is true even if the resource generates income which otherwise would be counted in determining eligibility for Medicaid Extended Coverage. In other words, a Participating Consumer will not lose eligibility for Medicaid Extended Coverage because his/her income decreases after transferring an income-generating resource.

4. **New York State residence.** Medicaid Extended Coverage is available only through the New York State Medicaid program. Although the benefits payable under a Partnership policy/certificate may be used outside New York State, at the time your eligibility for Medicaid Extended Coverage is determined, you must be a resident of New York State pursuant to the rules and regulations of the Medicaid program. It is permissible for a Participating Consumer to reside outside New York State while receiving benefits under a Partnership policy/certificate, and to resume residence in New York State when it is time to apply for Medicaid Extended Coverage.

NOTE: If New York State elects to withdraw from the Partnership, all new sales of policies/certificates will be halted. However, the State will continue to honor its obligations under Consumer Participation Agreements in effect at that time, provided that the Participating Consumer maintains his or her in-force Partnership policy/certificate and complies with his or her responsibilities under the Consumer Participation Agreement.

C. BENEFITS UNDER PARTNERSHIP-APPROVED POLICIES/CERTIFICATES

1. **Benefits.** Details about applying for benefits under your Partnership long term care insurance can be found in the policy/certificate issued by your Participating Insurer.

2. **Benefit Authorization Requests.** All Benefit Authorization Requests (BARs) denied for failure to meet Participating Insurer disability standards under Partnership policies/certificates are subject to the following process:

BENEFIT AUTHORIZATION REQUESTS DENIED FOR FAILURE TO MEET PARTICIPATING INSURER DISABILITY STANDARDS

Only BARs that are denied for failure to meet disability standards for nursing home care in New York State will be reviewed automatically by the Partnership staff. If your BAR for nursing home care outside New York State or home care within or outside New York State is denied, you may request that the Partnership review your denied BAR. **IF YOU REQUEST SUCH A REVIEW, IT IS YOUR RESPONSIBILITY TO GET AN INDEPENDENT ASSESSMENT** of your condition from a qualified professional. Upon being notified by your insurance company that your BAR has been denied, if you wish to have the Partnership review your denied BAR, you or your representative may obtain information regarding the independent assessment by writing:

NYS Partnership for Long Term Care
New York State Department of Health
Corning Tower, Empire State Plaza
Albany, NY 12237

or by calling (518) 486-9057. You will be sent an independent assessment packet that will include instructions that must be followed in order for your denied BAR to be reviewed. To ensure a timely review, you should request independent assessment instructions as soon as possible after being notified by your insurance company that your BAR has been denied.

If the Partnership office determines that the denial may be unwarranted, the Partnership will contact your Participating Insurer to review your situation. If your Participating Insurer and the Partnership office cannot agree on the appropriate outcome, an independent board, the Joint Technical Review Board (JTRB), comprised of State and Participating Insurer representatives (other than your own) will review your denied BAR. If this board finds that, in its opinion, your BAR warrants approval, your Participating Insurer may reverse its denial approving your BAR, or may reject the independent board's recommendation and continue to deny your BAR.

If your Participating Insurer continues to deny your BAR, you have the option to elect binding arbitration to resolve your disagreement. The Partnership will notify you or your representative of your option to arbitrate your denied BAR, and provide you or your representative with the New York State Partnership for Long Term Care Rules of Arbitration, as adopted by its governing body, the Evolution Board. These rules describe the procedures for arbitration under this Agreement. **IF** you elect to arbitrate your denied BAR, it shall be arbitrated by an independent entity approved by the Evolution Board, and the decision rendered by the arbitrator(s) shall be binding on both parties and may be entered as a judgment in any court having jurisdiction thereof.

IF you elect to arbitrate, the Participating Insurer will be required to pay all arbitration fees as provided for in the New York State Partnership for Long Term Care Rules of Arbitration. The arbitration hearing will be conducted and a decision rendered, unless otherwise agreed to by the parties or specified by law, no later than thirty (30) calendar days from the date of closing the hearing. If the arbitrator(s) finds on your behalf, he or she may grant you the cost of the independent assessments necessary for JTRB review and arbitration and payment of the disputed benefits retroactive to the date you were determined by the arbitrator(s) to have been eligible for benefits, after any required elimination period or other policy provisions have been satisfied. It shall not be within the authority of the arbitrator(s) to award you reimbursement beyond that mentioned above. A decision against you shall absolve the Participating Insurer of any liability or additional cost associated with this proceeding except for the cost of arbitration as noted above.

NOTE: If your BAR is denied for any reason except failure to meet the disability standards of your Participating Insurer, no individual review of the denied BAR is provided through the Partnership. However, your Participating Insurer may have its own appeals process that you can use to seek review of both disability-based and non-disability-based BAR denials. In addition, you may litigate to have a court of law review a non-disability-based BAR denial (or a disability-based BAR denial if you do not elect binding arbitration).

D. YOUR RESPONSIBILITIES AS A PARTICIPATING CONSUMER

To be eligible for Medicaid Extended Coverage under the Partnership:

1. You must be a resident of New York State, under the rules of the Medicaid program, when you apply for Medicaid Extended Coverage.
2. You must maintain your Partnership policy/certificate coverage. At the time you purchase a Partnership policy/certificate, the per diem benefits of the policy/certificate must be at least equal to the Partnership's minimum required benefits. In addition, unless you are age 80 or over at the time of your initial purchase of a Partnership policy/certificate and do not choose inflation protection, the per diem benefits of the policy/certificate must be at least equal to the Partnership's minimum required benefits throughout the entire benefit period of the policy/certificate.
3. You are responsible for all insurance premiums and co-payments, and for long term care and other medical expenses not covered by your insurance or by Medicaid Extended Coverage.
4. When you have used up the minimum amount of benefits under your policy/certificate, you or your representative must apply for Medicaid Extended Coverage within New York State through your county Department of Social Services (in New York City, the Human Resources Administration). You or your representative must complete all documents and submit all information and documentation required by the New York State Medicaid Program to apply for Medicaid Extended Coverage.

5. In accordance with the rules and regulations of the New York State Medicaid Program set forth under 18 NYCRR, if you are otherwise eligible for Medicaid Extended Coverage but your income exceeds the appropriate income standard, you will be eligible for Medicaid Extended Coverage only after incurring medical expenses equal to or greater than your excess income, or by prepaying your excess income to your county Department of Social Services if a prepayment plan is offered.

6. Because there are a small number of nursing homes in New York State which do not accept Medicaid as a payment source, it is important that you select a nursing home which accepts Medicaid so that your continued care, after using up the minimum amount of benefits under your Partnership policy/certificate, can be covered under Medicaid Extended Coverage. If you choose a nursing home which accepts only non-Medicaid residents, it is your responsibility to pay for the continuing cost of your care or to relocate to a nursing home which accepts Medicaid.

NOTE: Medicaid recipients are not allowed to supplement the Medicaid reimbursement rate with private funds in order to receive services beyond those which Medicaid covers.

7. In order to receive Medicaid Extended Coverage for assisted living services, you must receive such services in a facility recognized as having an assisted living program by the New York State Health Department.

8. You will need to meet the citizenship and alien status requirements of the Medicaid Program.

E. REQUIRED INFORMATION; CONFIDENTIALITY

The Partnership program office must collect information about you to administer the Partnership, review BARs, and verify eligibility for Medicaid Extended Coverage. You are required as a Participating Consumer to provide certain information about yourself to your Participating Insurer and to the Partnership. You may not enroll in the Partnership as a Participating Consumer and become eligible for Medicaid Extended Coverage unless you consent to supply this information.

All individually identified information will be held in the strictest confidence and will not be shared with anyone except the Partnership program office at the NYS Department of Health.

You are required to provide the following information to facilitate administration of the Partnership program:

Your Name (Please print): _____

Social Security Number: _____ - _____ - _____

Your Insurance Company's Name: _____

Group Policy/Certificate: Yes _____ No _____

Your Address:

Street: _____

City or Town: _____

State: _____

Zip Code: _____

G. GOVERNING LAW

This agreement is governed by the laws of the State of New York.

I have read this Agreement and understand the terms and conditions of participation in the New York State Partnership for Long Term Care. I choose to enroll in the Partnership as a Participating Consumer. In addition, I hereby give my permission to my Participating Insurer under the Partnership to share pertinent information regarding me and my insurance coverage with the Partnership program office at the NYS Department of Health.

Date Signed

September 17, 2001
Date Signed

Signature of Participating Consumer

New York State Department of Health

By: 

Kathryn Kuhmerker
Print Name

Deputy Commissioner, Office of Medicaid Management
Title

Date Signed

Signature of Agent

License Number

ATTACHMENT 1**EQUIVALENT BENEFITS**

For purposes of qualifying for Medicaid Extended Coverage, a Participating Consumer must receive at least 36 months of paid nursing home benefits or its equivalent under the Partnership policy/certificate. The following coverage and benefits paid under a Partnership policy/certificate can be substituted as equivalent to nursing home benefits:

1. Home care, in a ratio of two home care days for one nursing home day;
2. Respite care, in a ratio of one respite care day for one nursing home day, up to a maximum of 14 days annually;
3. Alternate care in a hospital setting, in a ratio of one alternate care day for one nursing home day;
4. Hospice care, in a ratio of one hospice care day for one nursing home day if such hospice care is provided in an inpatient setting, and in a ratio of two hospice care days for one nursing home day otherwise;
5. Reserved bed days, in a ratio of one reserved bed day for one nursing home day, up to a maximum of 20 days annually; and
6. Care management benefits, equal in value to nursing home benefits, up to two days annually.