INFORMATION AND GUIDANCE ON LONG-TERM CARE PARTNERSHIP POLICIES

What is a Partnership Plan?

A Partnership Policy is a tax qualified long-term care insurance policy (including a certificate issued under a group insurance contract) which would result in an asset disregard equal to the amount of long term care benefits received under a Partnership Policy for the purpose of determining the policyholder's eligibility for Medicaid after the policy benefits are exhausted. A partnership policy satisfies all of the following requirements:

- **Qualified under federal tax law.** The policy must be a tax qualified long-term care insurance contract, as defined in Section 7702B(b) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)). Thus, a qualified long-term care insurance contract that provides insurance benefits on a reimbursement, cash benefit basis, indemnity insurance basis, or on a "per diem or other periodic basis without regard to the expenses incurred during the period to which the payments relate," within the meaning of Section 7702B(b)(2)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 7702B(b)(2)(A)), will be a Partnership Policy if it satisfies the Deficit Reduction Act's (DRA) other requirements applicable to Partnership Policies, as described herein.

- **Issue date.** The policy must have been issued after July 1, 2006, the effective date of the Nebraska Long Term Care Partnership Program. The issue date is the effective date of coverage under the policy. A non-partnership long term care policy may be exchanged for a Partnership Policy. The Partnership Policy is treated as newly issued and thus is eligible for Partnership Policy status. Be advised that if an exchange occurs, the new Partnership Policy may be subject to underwriting criteria and the premium for the policy may be increased as opposed to the previously issued long-term care policy. The addition of a rider, endorsement, or change in schedule page, for the purpose of meeting Long Term Care Partnership requirements, for a policy issued prior to the effective date of the Nebraska Long Term Care Partnership Program, may be treated as giving rise to an exchange.

- **State of residence.** The policy must cover an insured who was a resident of Nebraska when coverage first became effective under the policy. In the case of an exchange, this requirement shall be applied based on the coverage of the first long-term care insurance policy that was exchanged. A certificate covering an insured who is a resident of Nebraska may qualify as a Partnership Policy even if the situs of the group insurance contract under which such certificate is issued in another state. Additionally, Nebraska may recognize a Partnership Policy issued in another state dependent upon certain circumstances.

- **Consumer protection requirements.** The Federal consumer protection requirements of Section 191 7(b)(1)(C)(iii)(III) of the Social Security Act (42 U.S.C. 1396p(b)(1)(C)(iii)(IH)) must be met with respect to the policy.

- **Inflation protection.** With respect to inflation protection, if the policy is sold to an individual who has not attained age 61 as of the date of purchase, the policy must provide compound annual inflation protection. If the policy is sold to an individual who has attained age 61 but has not attained age 76 as of the date of purchase, the policy must provide some level of inflation protection. If the policy is sold to an individual who has attained the age of 76 as of the date of purchase, no inflation protection is required. For purposes of applying this inflation protection requirement, the date of purchase means the effective date of coverage under the policy. Thus, for example, the date of purchase of a certificate issued under a group insurance contract means the effective date of coverage under such certificate. Nebraska requires that an offer of 5% inflation coverage must be offered, however, a lesser level may be purchased. (In the case of an exchange, the date of purchase is the effective date of coverage under the new policy, i.e. the determination is made without regard to any predecessor policy. If the insured and the policyholder or certificate holder under a policy is different, the insured should be considered the individual to whom a policy is sold for purposes of applying the inflation protection requirements.)

Additional Information and Requirements for Partnership Plans

Once a submitted long-term care policy form has been certified by a company as a Partnership Plan, other issues and requirements arise. For example:

- **Notice of Partnership Policy Status.** The issuer shall provide a Notice Regarding Long-Term Care Insurance Partnership Status, to the insured at the issuance of a policy that is intended to be a Partnership Policy. A template for the notice can be found at http://www.doi.ne.gov/ltcare/. In determining whether to provide the Notice Regarding Long-Term Care Insurance Partnership Status with respect to a policy, the issuer of the policy may rely upon a statement by the policyholder, certificate holder or insured that the insured is a resident of Nebraska.

- **Notice of Certification to the Nebraska Department of Health and Human Services.** Once a company certifies that a policy form satisfies the requirements for a Partnership Plan, the Nebraska Department of Insurance will certify to the Nebraska Department of Health and Human Services that, based upon the information submitted by the insurer, that the policy forms and accompanying riders and endorsements comply with the requirements of a Partnership Plan.

- **Limitation on Partnership Policy Specific Rules.** No requirements affecting the terms or benefits of a Partnership Policy may be imposed by the Nebraska Department of Insurance unless such requirement is imposed on all long-term care insurance policies without regard to whether the policy is a Partnership Policy. This limitation does not affect the ability of Nebraska to generally regulate the terms, marketing and sale of long-term care insurance policies where the state of Nebraska imposes requirements without regard to whether policies are Partnership Policies.

- **Interim Reporting Requirements.** Issuers of Partnership Policies must provide regular reports to the Centers for Medicare and Medicaid Services (CMS) in accordance with any regulations or guidance the federal government may require. For more information, issuers should contact CMS.

- **Reciprocity.** Under the Deficit Reduction Act and pending further guidance from the federal government, the Nebraska Long Term Care Partnership Program shall provide reciprocity with respect to long-term care insurance partnership policies covered under other state long-term care insurance partnership program. With reciprocity, the amount of the asset disregard provided with respect to a partnership policy purchased under the state long-term care insurance partnership of another state shall equal the asset disregard that would apply to a Partnership Policy covered directly by the Long Term Care Partnership Program of Nebraska. Such reciprocity shall be provided to all states that maintain a state long-term care insurance partnership program that provides similar reciprocity for Partnership Policies issued under the Nebraska Long Term Care

Partnership Program. The provision of reciprocity under the Nebraska Long Term Care Partnership Program does not affect eligibility requirements for Medicaid benefits that apply apart from those pertaining to permissible assets and resources.

- **Asset Disregard.** Asset Disregard means that an amount of the policyholder's assets equal to the amount of long term care benefits received under a qualified Partnership Policy will be disregarded for the purpose of determining the policyholder's eligibility for Medicaid after the policy benefits are exhausted. This allows a person to keep assets equal to the amounts received under a qualified Partnership Policy without affecting the person's eligibility for Medicaid. All other Medicaid eligibility criteria will apply and special rules may apply to persons whose home equity exceeds $750,000. Asset Disregard is **not** available under a long term care insurance policy that is not a Partnership Policy. Therefore, if you are considering buying a long term care insurance policy and Asset Disregard is important to you, you should determine whether the policy qualifies as a Partnership Policy.

DISCLAIMER FOR PURCHASERS OF A PARTNERSHIP PLAN

A person wishing to purchase a Partnership Plan should remember that the Medicaid program is not guaranteed. Medicaid is authorized by the federal government and, as such, the federal government, in the future, may opt not to fund this program and Medicaid may cease.

One should carefully consider all options when purchasing this product and consult with a financial advisor if so desired.

While the Department of Insurance cannot and will not endorse any products, producers or companies, the Department of Insurance is available to answer general questions about insurance matters regarding the Long Term Care Partnership Program. Please contact the Department of Insurance at (402) 471-2201. Questions about Medicaid issues should be addressed to the Nebraska Department of Health and Human Services at (402) 471-3121.