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Correspondence Memorandum

Date: August 5, 2024

To: Group Insurance Board (Board)

From: Jessica Rossner, Data and Compliance Unit Director
 Douglas Wendt, Supplemental Plans Program Manager
 Office of Strategic Health Policy

Subject: Long-term Care Insurance Contract Recommendation

The Department of Employee Trust Funds (ETF) recommends the Board approve the recommended contract term with HealthChoice (as agent) and Mutual of Omaha (as insurer) for Long-Term Care (LTC) insurance, starting January 1, 2025.

Background

LTC insurance is an authorized supplemental benefit offering as provided in [Wis. Stat. § 40.55](#) passed in 1987. Due to the agent and insurer relationship, the LTC insurance contract has historically been a three-party agreement between ETF, agent, and insurer.

LTC insurance is offered outside of the standard new hire/open enrollment benefit elections. ETF lists the approved LTC agent/insurer contact information on the agency website, and it is up to interested members to contact the agent for information about the plan benefits and how to apply. ETF provides the agent with limited data for marketing purposes, which includes only member names and addresses. No protected health information (PHI) is provided by ETF. Through the application and underwriting process, only the member and/or provider provides PHI data directly to the insurer.

Interested members apply for the insurance directly with the approved insurer, with assistance from the approved agent. Applicants must complete a health screening, and issuance is not guaranteed. Due to the individual underwriting approval, the coverage is issued to approved members as individual plans, not a group plan. The member has a direct contract with the LTC insurer. ETF or the employer (if applicable) are not involved in the enrollment or premium payment process. All enrollment and premium transactions and data are shared directly between the member, the agent, and the insurer. ETF does not have access to any individual enrollment or premium information. As individual plans, members retain their coverage with the approving insurer, even if the Board chooses a new insurer.

Reviewed and approved by Renee Walk, Director, Office of Strategic Health Policy
 Electronically Signed 08/08/2024

Board	Mtg Date	Item #
GIB	08.14.24	12

The popularity of long-term care insurance has greatly declined since the 1980s, and the benefit has drawn little interest from ETF members in recent years. Table 1 shows the number of member inquiries to HealthChoice and number of policies sold over the last three years, as reported by HealthChoice.

Table 1 – Long-term Care Insurance Inquiries and Policies Sold

Year	Inquiries	Policies Sold
2021	2,502	80
2022	1,625	82
2023	2,922	149
Average	2,350	104

Process

An Invitation to Negotiate was published in the ETF website and State of Wisconsin eSupplier Portal on November 27, 2023, with a due date of January 31, 2024.

ETF received an inquiry on January 18, 2024, from an independent agent working with an insurer partner that expressed a desire to be the vendor but work outside of the procurement process. They were instructed to submit a proposal by the due date and include any special exceptions/considerations they might need, but they did not submit a proposal.

Only one proposal was received this cycle. The proposal was submitted by the current approved agent/insurer pairing of HealthChoice and Mutual of Omaha.

As part of the proposal review process, inquiries were sent to the Department of Agriculture, Trade, and Consumer Protection (DATCP) and the Office of the Commissioner of Insurance (OCI) regarding any complaints they may have received related to HealthChoice and/or Mutual of Omaha. DATCP reported one complaint for Mutual of Omaha over the last three to four years, with no complaints for HealthChoice. Any complaint received by DATCP would span Mutual of Omaha's Wisconsin book of business and is not specific to ETF membership. OCI reported six complaints against Mutual of Omaha for the years 2020 to 2023. This also spanned their total Wisconsin book of business and is not specific to ETF membership. ETF Ombudsperson Services has not heard from a member with an LTC issue since 2021. During the vendor evaluation process, the procurement team conducts reference checks with contacts provided by the proposer, and all reference checks were positive.

Contract Requirements

The LTC contract incorporates the LTC standards (ET-7423) approved by the Board in November 2023 ([Ref. GIB | 11.15.23 | 13](#)). These standards reflect the Board's decision to require SOC 2 Type II reports from all vendors for contracts starting after December 31, 2025. Since this contract's effective date starts January 1, 2025 (before the

requirement date), this contract term (January 1, 2025 to December 31, 2027) did not include the SOC 2 Type II requirement. Instead, this contract states the following:

The Board voted on November 15, 2023, to require a SOC 2 Type II as part of all vendor contracts that are effective on or after January 1, 2026. A SOC 2 Type II will be an insurer requirement in the next version of the Long-Term Care Standards (ET-7423) to be published in the fall of 2026 for the contract effective January 1, 2028.

At the May 2024 Board meeting, the Board voted to temporarily suspend their November 2023 motion to require SOC-2, Type II reports of all vendors contracting with the Board. The Board asked that ETF return with alternatives to the SOC-2 in case a vendor was not able to provide a SOC-2, Type II and no adequate vendor alternatives were available. At the August 2024 Board meeting, ETF will present a new process that ETF will implement at the agency level to determine the reporting needed from vendors and how the output from that process will be incorporated into contract negotiations going forward. The memo also discusses how ETF will provide guidance to the Board in instances when a vendor cannot or will not comply with the reporting requirements, as well as when vendors who do report are deemed to be at high risk.

Since this contract was already underway amid the Board's initial SOC 2 decision and the establishment of the new security framework, the Board will need to determine how to proceed with this contract concerning the assurance necessary to get insights on the vendor's security controls.

Potential Risks

The current contract with HealthChoice and Mutual of Omaha's does not have a SOC 2 Type II contract requirement. However, HealthChoice has been working with ETF in good faith and provided ETF with Mutual of Omaha's Information Security program summary document. This documentation did not provide the needed transparency and documentation so that ETF can accurately assess the existing security posture.

On August 5, 2024, ETF met with HealthChoice to discuss the lack of documentation to be able to assess the safeguards effectively. HealthChoice understands the value of data security and is working to obtain the needed transparency and documentation so that ETF can accurately assess their existing security posture.

Contractual Provisions and Protections

In the LTC Standards (ET-7423), the insurer and, if applicable, the agent, shall comply with all applicable state and federal laws and regulations concerning the confidentiality, privacy, or security of personally identifiable information created, received, or otherwise accessed by the insurer. The insurance offering must also be approved by the Office of the Commissioner of Insurance. The LTC Standards are incorporated into the contract.

Contracting Options

Given the above, ETF provides the following two contracting options for the Board's consideration:

- Contract Option 1: Approve a three-year contract with HealthChoice and Mutual of Omaha for LTC insurance for the term from January 1, 2025 to December 31, 2027, as specified in the Board's November 2023 LTC standards (ET-7423). Over the course of the contract, ETF will work with the vendor to obtain documentation to assess their existing security posture using the new security framework.
- Contract Option 2: Approve a one-year contract from January 1 to December 31, 2025, according to the Board's November 2023 LTC standards (ET-7423) and work to negotiate a contract extension from January 1, 2026 to December 31, 2027 that incorporates the new security framework into the contract.

Recommendation

Based on the uniqueness of the program, the contractual provisions and protections in place, and the good faith effort from the vendor to date, ETF recommends that the Board choose Option 1 to contract with HealthChoice and Mutual of Omaha for a three-year contract starting January 1, 2025, as specified in the Board's November 2023 LTC standards (ET-7423). Throughout the course of the contract, ETF will work with HealthChoice and Mutual of Omaha to obtain information and documentation, complete the full assessment, and work together to address any findings. The security framework will be added to the LTC standards and included in the next contract.

Staff will be at the Board meeting to answer any questions.