

CHAPTER 2745
DEPARTMENT OF COMMERCE
LONG-TERM CARE INSURANCE

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2745.0010 PURPOSE.

Parts 2745.0010 to 2745.0050 are authorized and adopted pursuant to Minnesota Statutes, section 62A.56, subdivision 2. Their purpose is to establish general standards to ensure that assessments used in prescribing long-term care are reliable, valid, and clinically appropriate. Parts 2745.0010 to 2745.0050 apply exclusively to insurance and subscriber contracts that determine benefit entitlement based on an assessment of the insured's ability to perform the activities of daily living and to perform basic cognitive functions. Assessments satisfying the general standards in parts 2745.0010 to 2745.0050 are considered reliable, valid, and clinically appropriate.

Statutory Authority: *MS s 45.023; 62A.56*

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2745.0020 ACTIVITIES OF DAILY LIVING.

General standards for determining coverage of long-term care based on an assessment of the insured's inability to perform activities of daily living include the following activities with definitions of performance not more restrictive than those shown in items A to E.

A. "Bathing" means washing oneself in either a tub or shower, including getting into and out of the tub or shower, or by sponge bath without the aid of another person.

B. "Dressing" means getting clothes from the closet or drawers, putting on clothes, and attaching any necessary braces or prosthesis without the aid of another person.

C. "Toileting" means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene without the aid of another person.

D. "Transferring" means moving in and out of a bed, chair, or wheelchair without the aid of another person.

E. "Eating" means feeding oneself by any means without the aid of another person.

In addition to the activities in items A to E, other reasonable activities of daily living such as continence, walking, and wheeling may be taken into account if specified in the insurance contract.

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2745.0030 COGNITIVE IMPAIRMENT.

General standards for determining coverage of long-term care based on cognitive impairment shall be based on an assessment of the insured's ability to perform basic cognitive functions. The definition of cognitive impairment shall not be more restrictive than the definition in this part. "Cognitive impairment" means deficiency in the ability to think, perceive, reason, and/or remember that results in the inability to take care of oneself without the ongoing assistance of or supervision by another person.

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2745.0040 USE OF ASSESSMENTS.

A long-term care insurance policy may use activities of daily living and cognitive impairment assessments as a basis for defining when a service, type of care, or procedure could not be omitted without adversely affecting the patient's illness or condition.

Determining impairment under the insurance contract shall not be more restrictive than requiring either a deficiency in three of the above activities of daily living or the presence of cognitive impairment. An insurer may, by contract, require less restrictive criteria than the above determining benefit eligibility.

The determination of physical or cognitive impairment shall be based on generally accepted tests that use objective measures and produce verifiable results such as, but not limited to, the most recently adopted Minnesota Department of Human Services Preadmission Screening Assessment Form.

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2745.0050 ALTERNATIVE STANDARDS AND CERTIFICATION.

If an insurer proposes standards other than those described in parts 2745.0020, 2745.0030, and 2745.0040, upon request the insurer shall provide to the department a detailed description of the proposed assessment methodology explaining how the assessment would reasonably be expected to produce reliable, valid, and clinically appropriate results. The insurer is responsible for demonstrating that the assessment is reliable, valid, and clinically appropriate and not less beneficial to the policyholder than the standards described in parts 2745.0020, 2745.0030, and 2745.0040. An officer of the insurance company shall provide a certification that, to the best of the officer's knowledge, the assessment methodology is reliable, valid, and clinically appropriate.

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