

**Kansas Administrative Regulations
Agency 40. Insurance Department
Article 4. Accident and Health Insurance**

40-4-37d Long-term care insurance; benefits; medical condition; activities of daily living; definitions; requirements.

(a) A long-term care policy may require a recommendation by a physician that the services are necessary due to illness, injury, or functional impairment but shall not condition benefits on medical necessity.

(b)(1) In addition to or in lieu of a recommendation by a physician as described in section (a) of this regulation, group long-term care insurance policies covering employees, dependents and retirees of a single employer may include provisions which condition the payment of benefits on an assessment of the insured's ability to perform activities of daily living or cognitive impairment.

(2) As used in this section, activities of daily living consist of the following defined activities and performance criteria:

(A) "Bathing" means the ability to get into and out of the tub or shower, turn on the water, get the soap or other cleansing product, and bathe the entire body including back and feet. A person is dependent if the person cannot bathe in a bathtub or shower without the assistance of another person or is able to participate only minimally, such as washing face and hands only.

(B) "Dressing" means the ability to get clothes from closets or drawers and put them on or take them off, including undergarments and outer-garments, as well as fasteners and braces, if worn. Dressing includes the ability to fasten one's shoes. A person is dependent if the person can dress only with the assistance of another person or is able to participate only minimally, such as putting on outer-garments only.

(C) "Eating" means the ability to bring food to the mouth or hold a glass to the mouth, and chew and swallow food. A person is dependent if the person is fed by hand, is being fed intravenously or through a feeding tube, is unable to bring food to the mouth or is unable to chew and swallow the food.

(D) "Maintaining continence" means the ability to maintain control of urination or bowel movement. A person is dependent if the person loses bladder control three times per week or more, loses bowel control two times per week or more, or needs assistance in maintaining a catheter or colostomy bag.

(E) "Toileting" means the ability to get to and from the toilet, onto and off the toilet, clean oneself after elimination, and adjust clothes after toileting. A person is dependent if the person needs help with one or more of these tasks, maintaining balance, or caring for a catheter or colostomy bag.

(F) "Transferring from bed to chair" means the ability to get into or out of bed or a chair. A person is dependent if the person is unable to get into or out of bed or a chair without human assistance.

(G) "Mobility" means the ability to walk or move from one place to another. A person is dependent if the person requires assistance or supervision from another person to safely walk

or if the person needs to be wheeled from one place to another.

(3) "Cognitive impairment" means a deficiency in the ability to think, perceive, reason, remember or otherwise routinely display an ability to take care of oneself without the ongoing assistance of or supervision by another person.

(4) Any determination of impairment shall not be more restrictive than requiring either a deficiency in the ability to perform three of the activities of daily living or the presence of cognitive impairment.

(5) Only properly credentialed, experienced, trained professionals, such as physicians, registered nurses or licensed specialist social workers shall perform assessments of activities of daily living and cognitive impairment.

(6) Group long-term care insurance policies which condition the payment of benefits on an assessment of the insured's ability to perform activities of daily living or cognitive impairment shall include a clear and understandable description of the method for resolving insured grievances.

(Authorized by K.S.A. 40-103, 40-2228; implementing K.S.A. 40-2228; effective, T-40-9-25-92, Sept. 25, 1992; effective Feb. 8, 1993; amended Feb. 9, 1996.)