

# **Title 31 MARYLAND INSURANCE ADMINISTRATION**

## **Subtitle 09 LIFE INSURANCE AND ANNUITIES**

### **Chapter 16 Accelerated Benefits**

*Authority: Insurance Article, §§2-109, 5-301, 12-205(b)(4) and (8), and 27-202, Annotated Code of Maryland*

#### **.01 Purpose.**

*The purpose of this chapter is to regulate accelerated benefit provisions in individual and group life insurance policies and to provide required standards of disclosure.*

#### **.02 Scope.**

*This chapter shall apply to all accelerated benefit provisions of individual and group life insurance policies issued or delivered in Maryland except those subject to Insurance Article, Title 18, Annotated Code of Maryland.*

#### **.03 Definitions.**

*A. In this chapter, the following terms have the meanings indicated.*

*B. Terms Defined.*

*(1) "Accelerated benefits" means benefits payable under a life insurance contract that:*

*(a) Are payable during the lifetime of the insured in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions as defined by the policy or rider, to a policy owner or certificate holder;*

*(b) Reduce the death benefit otherwise payable under the life insurance contract; and*

*(c) Are payable upon the occurrence of a single qualifying event that results in the payment of a benefit amount fixed at the time of acceleration.*

*(2) "Activities of daily living" has the meaning stated in COMAR 31.14.01.02 B(1).*

*(3) "Chronic illness" means:*

*(a) The permanent inability to perform, without substantial assistance from another individual, a specified number of activities of daily living; or*

*(b) Permanent severe cognitive impairment and similar forms of dementia requiring substantial supervision of the insured.*

*(4) "Qualifying event" means one or more of the following:*

*(a) A medical condition that would result in a drastically limited life span as specified in the contract;*

*(b) A medical condition that requires extraordinary medical intervention without which the insured would die;*

*(c) A medical condition that usually requires continuous confinement in an eligible institution as defined in the contract if the insured is expected to remain there for the rest of his or her life;*

*(d) A medical condition that would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span;*

*(e) A chronic illness; or*

*(f) Any other qualifying event that the Commissioner may approve.*

#### **.04 Type of Product.**

*Accelerated benefit riders and life insurance policies with accelerated benefit provisions are primarily mortality risks rather than morbidity risks.*

#### **.05 Assignee or Irrevocable Beneficiary.**

*Prior to the payment of the accelerated benefit, the insurer shall obtain from an assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout. If the insurer is the assignee under the policy, no acknowledgement is required.*

#### **.06 Criteria for Payment.**

*A. Lump Sum Settlement Option.*

*(1) The insurer shall include the option to take the benefit as a lump sum in the contract payment options.*

*(2) The benefit may not be made available as an annuity contingent upon the life of the insured.*

*B. No restrictions are permitted on the use of the proceeds.*

*C. If any death benefit remains after payment of an accelerated benefit, the accidental death benefit provision, if any, in the policy or rider may not be affected by the payment of the accelerated benefit.*

#### **.07 Disclosures.**

*A. Descriptive Title.*

*(1) The insurer shall include the term "accelerated benefit" in the policy or rider's title.*

(2) An accelerated benefit product being offered under this chapter may not be described or marketed as long-term care insurance or as providing long-term care benefits.

**B. Disclosure of Tax Consequences.**

(1) A written disclosure stating that receipt of the accelerated benefits may be taxable and assistance should be sought from a personal tax advisor shall be provided by the insurer at the time of application for the policy or rider, and at the time the accelerated benefit payment request is submitted.

(2) The disclosure statement issued by the insurer required by § B(1) of this Regulation shall be prominently displayed on the first page of the policy or rider and on the first page of any other related documents.

**C. Solicitations.**

(1) A written disclosure including, but not limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant.

(a) The description shall include an explanation of any effect the payment of a benefit would have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(b) For agent solicited insurance, the agent shall provide the disclosure form to the applicant.

(i) This form shall be provided by the agent prior to or concurrently with the application; and

(i) The acknowledgment of the disclosure form shall be signed by the applicant and writing agent.

(c) For solicitations by direct response, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a notice that a full premium refund shall be received if the policy is returned to the insurer within the free look period.

(d) For group insurance, the disclosure form shall be contained as part of the certificate of coverage or any other related document furnished by the insurer for the certificate holder.

(2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens.

(a) For agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.

(b) For solicitations by direct response, the insurer shall provide the illustration to the applicant at the time the policy is delivered.

**(3) Disclosure of Premium Charge.**

(a) The insurer with financing options other than as described in Regulation .11A(2) and (3) of this chapter shall disclose to the policy owner any premium or cost of insurance charge for the accelerated benefit. The insurer shall make a reasonable effort to assure that the certificate holder is aware of any additional premium or cost of insurance charge if the certificate holder is required to pay a charge.

(b) The insurer shall furnish an actuarial demonstration to the Commissioner when filing the product which discloses the method the insurer used to arrive at the cost for the accelerated benefit.

**(4) Disclosure of Administrative Expense Charge.**

(a) The insurer shall disclose to the policy owner any administrative expense charge provided in the policy. The administrative expense charge shall be disclosed in the written disclosure required by § C(1) of this Regulation and in the statement required by § D(1) of this Regulation.

(b) The insurer shall make a reasonable effort to assure that the certificate holder is aware of any administrative expense charge if the certificate holder is required to pay this charge.

**D. Effect of the Benefit Payment.**

(1) When a policy owner or certificate holder requests an acceleration, the insurer shall send a statement to the policy owner or certificate holder and irrevocable beneficiary that:

(a) Illustrates any effect that the payment of the accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens;

(b) Discloses that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlements; and

(c) Discloses that receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor.

(2) When a previous disclosure statement becomes invalid as a result of an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policy owner or certificate holder and irrevocable beneficiary.

(3) When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policy holder or notify the certificate holder under a group policy to reflect any new, reduced in-force face amount of the contract.

**.08 Effective Date of the Accelerated Benefits.**

A. The accelerated benefit provision shall be effective for accidents on the effective date of the policy or rider.

B. The accelerated benefit provision shall be effective for illness no more than 30 days following the effective date of the policy or rider.

**.09 Waiver of Premiums.**

A. The insurer may offer a waiver of premium for the accelerated benefit provision in the absence of a waiver of premium provision for the policy being in effect.

B. At the time the benefit is claimed, the insurer shall explain to the policy holder or certificate holder any continuing premium requirements to keep the policy in force.

**.10 Discrimination.**

An insurer may not:

A. Unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy;

B. Apply further conditions on the payment of the accelerated benefits other than those conditions specified in the policy or rider.

**.11 Actuarial Standards.**

A. Financing Options

(1) The insurer may require a premium charge or cost of insurance charge for the accelerated benefit.

(a) The insurer shall base the charge on sound actuarial principles.

(b) For group insurance, the insurer may reflect the additional cost in experience rating.

(2) The insurer may pay a present value of the face amount.

(a) The present value calculation shall be based on any applicable actuarial discount appropriate to the policy design.

(b) The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles.

(c) The insurer shall disclose the interest rate or interest rate methodology in the contract or actuarial memorandum.

(d) The maximum interest rate used shall be no more than the greater of:

(i) The current yield on 90 day Treasury bills; or

(ii) The current maximum adjustable policy loan interest rate as set forth in accordance with Insurance Article, § 16-208, Annotated Code of Maryland.

(3) The insurer may accrue an interest charge on the amount of the accelerated benefits.

(a) The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles.

(b) The insurer shall disclose the interest rate or interest rate methodology in the contract or actuarial memorandum.

(c) The maximum interest rate used shall be no more than the greater of:

(i) The current yield on 90 day Treasury bills; or

(ii) The current maximum adjustable policy loan interest rate as set forth in accordance with Insurance Article, § 16-208, Annotated Code of Maryland.

(d) The interest rate accrued on the portion of the lien that is equal in amount to the cash value of the contract at the time of the benefit acceleration shall be no more than the policy loan interest rate stated in the contract.

B. Effect on Cash Value.

(1) Except as provided in § B(2) of this regulation, when an accelerated benefit is payable, there shall be no more than a pro rata reduction in the cash value based on the percentage of death benefits accelerated to produce the accelerated benefit payment or;

(2) The payment of accelerated benefits, any administrative expense charges, any future premiums and any accrued interest may be considered a lien against the death benefit of the policy or rider and the access to the cash value may be:

(a) Restricted to any excess of the cash value over the sum of any other outstanding loans and the lien, and

(b) Future access to additional policy loans may be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

C. Effect of Any Outstanding Policy Loans on Accelerated Death Benefit Payment. When payment of an accelerated benefit results in a pro rata reduction in the cash value, the payment may not be applied toward repaying an amount greater than a pro rata portion of any outstanding policy loans.

**.12 Actuarial Disclosure and Reserves.**

A. Actuarial Memorandum.

(1) A qualified actuary shall describe the accelerated benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each filing.

(2) The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under this Chapter. The descriptions shall be made available for examination by the Commissioner upon request.

B. Reserves

*(1) When benefits are provided through the acceleration of benefits under a group or individual life policy or a rider to such policies, an actuary shall determine policy reserves in accordance with the Standard Valuation Law referenced in Insurance Article §§ 5-301 – 5-317, Annotated Code of Maryland.*

*(2) A member in good standing of the American Academy of Actuaries shall determine all valuation assumptions used in constructing the reserves as appropriate for statutory valuation purposes.*

*(3) Mortality tables and interest currently recognized for life insurance reserves by the National Association of Insurance Commissioners may be used by the actuary as appropriate assumptions for other provisions incorporated in the policy form.*

*(4) The actuary shall follow both actuarial standards and certification for good and sufficient reserves.*

*(5) Reserves in the aggregate shall be sufficient to cover:*

*(a) Policies upon which no claim has yet arisen; and*

*(b) Policies upon which an accelerated claim has arisen.*

*(6) The actuary is not required to establish additional reserves for policies and certificates that provide actuarially equivalent benefits.*

*(7) The insurer shall include policy liens and policy loans, including accrued interest, as assets of the company for reporting purposes as stated in Insurance Article § 5-101(3) – (7), Annotated Code of Maryland.*

*(8) For a policy on which the policy lien exceeds the policy's statutory reserve liability, the insurer shall hold the excess as a non-admitted asset.*