



Ohio Administrative Code Rule 3901-6-06 Accelerated death benefits.

Effective: November 17, 2022

(A) Purpose

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

(B) Authority

This rule is promulgated pursuant to the authority vested in the superintendent under sections 3901.041 and 3915.24 of the Revised Code.

(C) Scope

This rule shall apply to all accelerated death benefit provisions of individual and group life insurance policies issued or delivered in this state on or after the effective date of this rule. This rule shall not apply to long-term care insurance or products providing long-term care benefits that are subject to sections 3923.41 to 3923.48 of the Revised Code and any rules promulgated thereunder.

(D) Definitions

(1) "Accelerated death benefits" covered under this rule are benefits payable under a life insurance contract:

(a) To a policyowner or certificateholder during the lifetime of the insured, at the time of a qualifying event; and

(b) Which reduce the death benefit otherwise payable under the life insurance contract; and

(c) Which are payable upon the occurrence of a single qualifying event in an amount fixed at the



time of acceleration.

(2) "Qualifying event" shall mean one or more of the following:

(a) A medical condition which would result in a drastically limited life span; or

(b) A medical condition which has required or requires extraordinary medical intervention, such as, but not limited to, major organ transplant or continuous artificial life support, without which the insured would die; or

(c) Any condition which 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 the insured's life; or

(d) A medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span. Such conditions may include, "but are not limited to," one or more of the following:

(i) Coronary artery disease resulting in an acute infarction or requiring surgery;

(ii) Permanent neurological deficit resulting from cerebral vascular accident;

(iii) End stage renal failure;

(iv) Acquired immune deficiency syndrome (AIDS); or

(v) Other medical conditions which the superintendent shall approve for any particular filing; or

(e) Other qualifying events which the superintendent shall approve for any particular filing. This includes, but is not limited to, chronic illness which is a permanent inability to perform, without substantial assistance from another individual, a specified number of activities of daily living (bathing, continence, dressing, eating, toileting and transferring), and/or permanent severe cognitive impairment and similar forms of dementia.



(3) "Drastically limited life span" shall mean a projected life span of a minimum of six months or less and a maximum of twenty-four months or less.

(E) Type of product

Accelerated death benefit riders and life insurance policies with accelerated death benefit provisions are primarily mortality risks rather than morbidity risks. They are life insurance benefits subject to Chapter 3915. of the Revised Code.

(F) Assignee/beneficiary

Prior to the payment of the accelerated death benefit, the insurer is required to obtain from an assignee or irrevocable beneficiary a signed acknowledgment of concurrence for payout. If the insurer making the accelerated death benefit is itself the assignee under the policy, no such acknowledgment is required.

(G) Payment procedures

(1) The payment options shall include the option to receive the benefit in a lump sum and may include an option to receive the benefit in periodic payments for a period certain only. Periodic payments based on the continued survival or institutional confinement of the insured are prohibited.

(2) The policy or rider shall state that payment of the accelerated death benefit is due immediately upon receipt of the due written proof of eligibility. If the insurer requires filing of a claim form, the company shall provide the claim form within fifteen calendar days of the acceleration request. If the insurer does not timely provide the claim form, then written proof of eligibility is deemed sufficient.

(H) Accidental death benefit provision

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



(I) Disclosures

(1) Descriptive title

The term "accelerated death benefit" shall be included in the descriptive title. Products regulated under this rule shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

(2) Tax consequences

A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated death benefit payment request is submitted that receipt of these benefits may be a taxable event and that the owner should seek additional information about the tax status of the payment from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents.

(3) Solicitations

(a) A written disclosure including, but not necessarily limited to, a brief description of the accelerated death benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation and a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, account value, death benefit, premium, policy loans and policy liens.

(i) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgment of the disclosure shall be signed by the applicant and writing agent.

(ii) In the case of a solicitation by direct response methods, 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 company within the free look period.

(iii) In the case of group insurance policies, the disclosure form shall be contained as part of the



certificate of coverage or any related document furnished by the insurer for the certificateholder.

(b) Disclosure of premium charge

(i) Insurers with financing options other than as described in paragraphs (O)(1)(b) and (O)(1)(c) of this rule shall disclose to the policyowner any premium or cost of insurance charge for the accelerated death benefit. These insurers shall make a reasonable effort to assure that the certificateholder is aware of any additional premium or cost of insurance charge if the certificateholder is required to pay such charge.

(ii) Insurers shall furnish an actuarial demonstration to the state insurance department when filing the product disclosing the method of arriving at their cost for the accelerated death benefit.

(c) The insurer shall disclose to the policyowner any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificateholder is aware of any administrative expense charge if the certificateholder is required to pay such charge.

(4) Effect of the benefit payment

When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder and irrevocable beneficiary showing any effect that the payment of the accelerated death benefit will have on the policy's cash value, account value, death benefit, premium, policy loans and policy liens. The statement shall disclose that receipt of accelerated death benefit payments may adversely affect the recipient's eligibility for medicaid or other government benefits or entitlements. In addition, receipt of an accelerated death benefit payment may be taxable and assistance should be sought from a personal tax advisor. 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 policyowner or certificateholder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyowner or notify the certificateholder under a group policy to reflect any new, reduced in-force face amount of the contract.

(J) Effective date of accelerated death benefits



The accelerated death benefit provision shall be effective on the effective date of the policy or rider.

(K) Waiver of premiums

The insurer may offer a waiver of premium for the accelerated death benefit provision in the absence of a regular waiver of premium provision being in effect. At the time the benefit is claimed, the insurer shall explain any continuing premium requirement to keep the policy in force.

(L) Discrimination

Insurers shall not unfairly discriminate among insureds with differing qualifying events covered under the policy or among insureds with similar qualifying events covered under the policy. Insurers shall not apply further conditions on the payment of the accelerated death benefits other than those conditions specified in the policy or rider.

(M) Prohibited provisions

The following provisions are prohibited in accelerated death benefit policy provisions or rider:

- (1) A requirement that the cause of the qualifying event first manifest itself or be diagnosed after issuance of the underlying policy or form, and
- (2) A waiting period requirement, and
- (3) A requirement that the underlying policy or rider be in force past the incontestable period, and
- (4) A provision that, upon acceleration of part of the policy death benefit, the insured forfeits the remainder of the policy death benefit, and
- (5) Exclusions or restrictions for an accelerated death benefit that are not also exclusions or restrictions in the underlying policy, and



(6) A time frame within which proof of eligibility must be provided, and

(7) Restrictions on the use of the accelerated death benefit proceeds.

(N) Incontestability

The form shall be incontestable on the same, or more favorable basis, as the underlying policy.

(O) Actuarial standards

(1) Financing options

(a) The insurer may require a premium charge or cost of insurance charge for the accelerated death benefit. These charges shall be based on sound actuarial principles. In the case of group insurance, the additional cost may also be reflected in the experience rating.

(b) The insurer may pay a present value of the face amount. The calculation shall be based on any applicable actuarial discount appropriate to the policy design. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum Interest rate used shall be no greater than the greater of:

(i) The current yield on ninety day treasury bills; or

(ii) The current maximum statutory adjustable policy loan interest rate; or

(iii) The policy loan interest rate stated in the contract.

(c) The insurer may accrue an interest charge on the amount of the accelerated death benefits. The interest rate or interest rate methodology used in the calculation shall be based on sound actuarial principles and disclosed in the contract or actuarial memorandum. The maximum interest rate used shall be no greater than the greater of:



- (i) The current yield on ninety day treasury bills; or
- (ii) The current maximum statutory adjustable policy loan interest rate; or
- (iii) The policy loan interest rate stated in the contract.

The interest rate accrued on the portion of the lien which 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.

(2) Effect on cash value

(a) Except as provided in paragraph (O)(2)(b) of this rule, when an accelerated death 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 death benefit payment.

(b) Alternatively, the payment of accelerated death benefits, any administrative expense charge, any future premiums and any accrued interest can be considered a lien against the death benefit of the policy or rider and the access to the cash value may be restricted to any excess of the cash value over the sum of any other outstanding loans and the lien. Future access to additional policy loans could also be limited to any excess of the cash value over the sum of the lien and any other outstanding policy loans.

(3) Effect of any outstanding policy loans on accelerated death benefit payment

When payment of an accelerated death 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.

(P) Actuarial disclosure and reserves

(1) Actuarial memorandum



A qualified actuary should describe the accelerated death benefits, the risks, the expected costs and the calculation of statutory reserves in an actuarial memorandum accompanying each state filing. The insurer shall maintain in its files descriptions of the bases and procedures used to calculate benefits payable under these provisions. These descriptions shall be made available for examination by the superintendent upon request.

(2) Reserves

(a) When benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy Reserves shall be determined in accordance with sections 3903.72 to 3903.7211 of the Revised Code and any other appropriate rules. All valuation assumptions used in constructing the reserves shall be determined as appropriate for statutory valuation purposes by a member in good standing of the American academy of actuaries. Mortality tables and interest approved for life insurance reserves by the superintendent may be used as well as appropriate assumptions for the other provisions incorporated in the policy form. The actuary must follow both actuarial standards and certification for good and sufficient reserves. Reserves in the aggregate should be sufficient to cover:

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

(ii) Policies upon which an accelerated claim has arisen.

(b) For policies and certificates which provide actuarially equivalent benefits, no additional reserves need to be established.

(c) Policy liens and policy loans, including accrued interest, represent assets of the company for statutory reporting purposes. For any policy on which the policy lien exceeds the policy's statutory reserve liability such excess must be held as a non-admitted asset.

(Q) Severability

If any paragraph, term or provision of this rule is adjudged invalid for any reason, the judgment shall not affect, impair or invalidate any other paragraph, term or provision of this rule, but the remaining



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paragraphs, terms and provisions shall be and continue in full force and effect.