

John Mangan, Vice President & Deputy, State Relations

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October 20, 2023

To: Michael Walker, OIC Rules Coordinator

Subject: CR-101 – R2023-08 Life insurance Disclosure Agreements

Dear Mr. Walker:

Thank you for the opportunity to discuss with you and comment upon your Pre-proposal Notice of Rulemaking on Life Insurance Disclosure Agreements. The notice states that the intent of the potential rulemaking is to resolve a conflict identified between Chapter 284-23 WAC regulating accelerated benefits as defined WAC 284-23-620(1), and Chapter 48.83 RCW, regulating long-term care (LTC) insurance funded through life insurance as defined in RCW 48.83.020(5).

We do understand the potential for confusion between descriptions of accelerated life insurance benefits that are payable upon terminal or chronic illness, and accelerated benefits that are specifically used to fund long-term care benefits. However, after carefully reviewing the current regulations applicable to accelerated benefits as defined in Chapter 284-23 WAC, and the long-term care products regulated under Chapter 48.83 RCW, we believe there is no conflict between the regulation and statute. Specifically:

- The disclosure required under WAC 284-23-650(a) does not “prohibit life insurers from offering life insurance policies with riders that have accelerated benefits for LTC” but simply prohibits those accelerated benefits as specifically defined in Chapter 284-23-620(1) to be “described, advertised, marketed, or sold as either long-term care insurance or as providing long-term care benefits”.
- Benefits funded through a life insurance policy that are intended to qualify as long-term care and that can be marketed or sold as LTC are regulated under Chapter 48.83 RCW and must comply with the provisions of that chapter.

A side-by-side comparison of each product as defined in Washington law, is provided in the table below.

Accelerated Benefits Regulated under Chapter 284-23 WAC	Long-Term Care Benefits Funded Through Life Insurance Policies as Regulated Under Chapter 48.83 RCW
Benefits payable in anticipation of death, or upon the occurrence of certain specified life-threatening, terminal, or catastrophic conditions upon a qualifying event.	Long-term care insurance does not include life insurance policies that: <u>Accelerate the death benefit specifically for one or more of the qualifying events of</u>

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

Qualifying event is defined as one or more of the following:

a) A medical condition which a physician has certified is reasonably expected to result in death twenty-four months or less after the date of certification;

b) A medical condition which has required or requires extraordinary medical intervention; for example, major organ transplants or the use of continuous life support, without which the insured would die;

c) Any condition which usually requires continuous confinement in any eligible institution as defined in the policy or rider, if the insured is expected to remain there for the rest of his or her life;

d) Any medical condition which, in the absence of extensive or extraordinary medical treatment, would result in a drastically limited life span of the insured.

Payment options may include the option of taking the benefit as a lump sum.

Insurers may not restrict the use of the proceeds from the payment of accelerated benefits.

terminal illness, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement;

provide the option of a lump sum payment for those benefits; and

do not condition the benefits or the eligibility for the benefits upon the receipt of long-term care.

We would be happy to work with you to develop possible language that would clarify disclosures related to the two types of accelerated benefits. Please call on us if you would like to convene a discussion with our ACLI team and our member companies.

Sincerely,

John W. Mangan

John Mangan

cc:Christine Brewer & Kris Tefft, Brewer Public Affairs