

From: [Steve Forman](#)
To: [OIC Rules Coordinator](#)
Subject: Life insurance disclosure requirements (R 2023-08)
Date: Monday, October 16, 2023 3:26:34 PM

External Email

Good afternoon,

If I understand the Department's concern correctly, it asks: Are the disclosures stipulated by **WAC 284-23-650** required *only* of ADBs for terminal illness, or are they required *also* of ADBs for long-term care?

It would seem they're required *only* of ADBs for terminal illness, since WAC 284-23 makes clear that its definitions apply only to such benefits (*see below). This generated the proposed rulemaking, which I trust will reconcile the requirements and make them consistent. Having said that, the proposal does not address the other issue which first surfaced during WA Cares' private insurance opt-out in 2021. Namely, RCW 48.83.020 **does not adequately define** for consumers or WA Cares staff what qualifies as LTC insurance **insofar as ADBs are concerned**.

Here's why:

- If a life insurance policy contains an ADB for terminal illness, the law says it is *not* long-term care insurance and cannot be marketed as such.
- If a life insurance policy contains an ADB for LTC, the law says it may be long-term care insurance and *can* be marketed as such.

Unlike when the laws and regs were given their last overhaul, the products filed today are more sophisticated. Many include more than one type of accelerated benefit. It wouldn't be unusual for a life insurance policy to include an **ADB for terminal, critical and chronic illness**. It wouldn't be unusual for a life insurance policy to include both an **ADB for terminal illness** and an **ADB for LTC**. They are not mutually exclusive and may appear in tandem.

When the rules conflict like this, which rule governs?

Thank you~~

Stephen

* The accelerated death benefits (ADB) covered under [WAC 284-23](#) are commonly called **ADB for Terminal Illness**, and which the regulation defines as:

- "payable to...the policyholder... during the lifetime of the insured, in anticipation of death, or upon the occurrence of certain **specified life-threatening, terminal or catastrophic conditions**; and which... are payable **upon the occurrence of a single qualifying event** which results in the payment of a benefit amount fixed at the time the benefit is paid."
 - Single qualifying event = terminal within 24-months; or requires extraordinary medical intervention; or requires permanent institutional confinement
- These may be paid as a **lump sum** (WAC 284-23-640), must be disclosed, and may **not** be marketed or sold as LTC insurance (WAC 284-23-650).
- Furthermore, "Terminal illness riders are **required** if a company submits an individual life insurance policy through the IIPRC." ([Society of Actuaries](#))

[RCW 48.83.020](#) concurs, and re-states the fact that **ADBs for Terminal Illness** are not allowable LTC insurance:

- “LTC insurance does not include life insurance policies that: accelerate the death benefit **specifically** for one or more of the **qualifying events of terminal illness**, medical conditions requiring extraordinary medical intervention, or permanent institutional confinement; **provide the option of a lump sum**... and do **not** condition the benefits or... eligibility... upon the receipt of LTC.”

Having said that, **other ADBs are allowed** as LTC insurance, as [RCW 48.83.010](#) makes clear: “this chapter is not intended to prohibit approval of LTC funded through life insurance.”

This is explained by RCW 48.83.020, which **affirmatively defines** as qualified LTC insurance “the **portion of a life insurance contract** that provides LTC insurance coverage by rider... and that satisfies the requirements of sections 7702B(b) and (e) of IRC code 1986.”

Stephen D. Forman, CLTC #0E40604

Senior Vice President

Long Term Care Associates, Inc. / LTCA Insurance Services, Inc. #0E08509

425.462.9500 ph

425.462.9839 fx

PRIVACY & SECURITY Your privacy matters to us. LTCA encrypts the transmission and storage of protected health information using Intermedia. Please “whitelist” or accept any communications from LTCA which have come from Intermedia, our secure messaging vendor.

STATEMENT OF CONFIDENTIALITY The information contained in this email message and any attachments may be confidential, legally privileged, and intended for the use of the addressee(s) only. If you are not an intended recipient, please (1) notify me immediately by replying to this message; (2) do not use, disseminate, distribute or reproduce any part of the message or any attachment; and (3) destroy all copies of this message and any attachments. If you are not an intended recipient, please be aware that any dissemination, distribution or copy of this email message is prohibited.