



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: November 22, 2023
TIME: 9:25 AM

WSR 23-23-173

Agency: Office of the Insurance Commissioner

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 23-20-124 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) Life Insurance Riders and Disclosure Requirements – WAC 284-23-650

Insurance Commissioner Matter R2023-08

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
Wednesday, December 27, 2023	9:00 AM	Virtually via Zoom Meetings: Please visit this website for the Zoom Meeting registration and link: https://www.insurance.wa.gov/life-insurance-disclosure-requirements-r-2023-08	Written comments can be submitted to OIC via email to RulesCoordinator@oic.wa.gov by close of business (5 PM PST) on Thursday, December 28, 2023.

Date of intended adoption: December 29, 2023 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Michael Walker, Sr. Policy Analyst
 Address: PO Box 40260, Olympia, WA 98504-0260
 Email: RulesCoordinator@oic.wa.gov
 Fax: 360-586-3109
 Other:
 By (date) COB (5 PM PST) Thursday, December 28, 2023

Assistance for persons with disabilities:

Contact [Katie Bennett](mailto:Katie.Bennett@oic.wa.gov)
 Phone: 360-725-7013
 Fax: 360-586-2023
 TTY: 360-586-0241
 Email: Katie.Bennett@oic.wa.gov
 Other:
 By (date) Tuesday, December 26, 2023

Purpose of the proposal and its anticipated effects, including any changes in existing rules: This rulemaking is attempting to resolve misalignment identified between rules and laws in the Insurance Code. The rules in Chapter 284-23 WAC do not align with the laws in Chapter 48.83 RCW, as applied to life insurance with long-term care insurance (LTCi) riders and accelerated benefits. The rules currently prohibit life insurers from offering life insurance policies with riders that have accelerated benefits for LTCi and require disclosure statements communicating this prohibition. This contradicts current law that allows life insurance policies with riders to fund LTCi benefits through the acceleration of the policy's death benefits under certain conditions (see WAC 284-23-650, RCW 48.83.010(3), 48.83.020(5)(a), and 48.83.080).

Reasons supporting proposal: The misalignment of authorities causes complications for all affected parties including insurers, consumers, and regulators. The effective rules cause complications for insurers who submit product filings for life insurance policies with accelerated death benefits to fund LTCi. Currently insurers are experiencing difficulty in filing and marketing the policies as such to consumers, due to the misalignment in rules, as identified above. This rulemaking will attempt to achieve alignment between the life insurance disclosure requirements in the Washington Administrative Code and the statutory provisions provided by Chapter 48.83 RCW.

Statutory authority for adoption: RCW 48.02.060 and 48.83.170.

Statute being implemented: RCW 48.83.010, 48.83.020, and 48.83.080

Is rule necessary because of a:

Federal Law? Yes No

Federal Court Decision? Yes No

State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None.

Type of proponent: Private Public Governmental
Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Michael Walker	302 Sid Snyder Ave SW (Suite 200) Olympia, WA 98501	360-725-7036
Implementation:	Ned Gaines	5000 Capitol Blvd SE Tumwater, WA 98501	360-725-7000
Enforcement:	Charles Malone	5000 Capitol Blvd SE Tumwater, WA 98501	360-725-7000

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Simon Casson
Address: PO Box 40260 Olympia, WA 98504
Phone: 360-725-7038
Fax: 360-586-3109
TTY:
Email: Simon.Casson@oic.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570](#)(2) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: November 22, 2023

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:



WAC 284-23-650 Disclosure statement. (1) For purposes of this section, "policy" includes any agreement, amendment, certificate, contract, endorsement, plan, or statement of coverage that provides for life insurance benefits.

(2) The words "accelerated benefit" must be included in the required title of every life insurance policy or rider that includes a provision for accelerated benefits. Accelerated benefits that do not meet the definition of long-term care insurance in RCW 48.83.020(5), shall not be described, advertised, marketed, or sold as either long-term care insurance or as providing long-term care benefits.

~~((2))~~ (3) Possible tax consequences and possible consequences on eligibility for receipt of medicare, medicaid, Social Security, supplemental security income (SSI), or other sources of public funding shall be included in every disclosure statement.

(a) The disclosure form shall include a disclosure statement. The disclosure statement shall be prominently displayed on the first page of the policy, rider, or certificate. The disclosure statement shall contain substantially the following: "If you receive payment of accelerated benefits from a life insurance policy, you may lose your right to receive certain public funds, such as medicare, medicaid, Social Security, Supplemental Security, supplemental security income (SSI), and possibly others. Also, receiving accelerated benefits from a life insurance policy may have tax consequences for you. We cannot give you advice about this. You may wish to obtain advice from a tax professional or an attorney before you decide to receive accelerated benefits from a life insurance policy."

(b) For accelerated benefits that do not meet the definition of long-term care insurance in RCW 48.83.020(5), the disclosure statement must begin with the following statement: "This accelerated life benefit does not and is not intended to qualify as long-term care insurance under Washington state law. Washington state law prevents this accelerated life benefit from being marketed or sold as long-term care insurance or as providing long-term care benefits.

(c) The disclosure form must be provided (i) to the applicant for an individual or group life insurance policy at the time application is made for the policy or rider; and (ii) (A) to the individual insured at the time the owner of an individual life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid, or (B) to the individual certificate holder at the time an individual certificate holder of a group life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid. It is not sufficient to provide this required disclosure statement only to the holder of a group policy.

~~((3))~~ (4) The disclosure form shall give a brief and clear description of the accelerated benefit. It shall define all qualifying events which can trigger payment of the accelerated benefit. It shall also describe any effect of payment of accelerated benefits upon the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(a) In the case of insurance solicited by an insurance producer, the insurance producer shall provide the disclosure form to the applicant before or at the time the application is signed. Written ~~((ae-~~

knowledge)) acknowledgment of receipt of the disclosure statement shall be signed by the applicant and the insurance producer.

(b) 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 written notice that a full premium refund shall be made if the policy is returned to the insurer within the free look period.

(c) In the case of group life insurance policies, the disclosure form shall be contained in the certificate of coverage, and may be contained in any other related document furnished by the insurer to the certificate holder.

~~((4))~~ (5) If there is a premium or cost of insurance charge for the accelerated benefit, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of an accelerated benefit upon the policy's cash value, accumulation account, death benefit, premium, policy loans, or policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant either before or at the time the application is signed.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant concurrently with delivery of the policy to the applicant.

(c) In the case of group life insurance policies, the disclosure form shall be included in the certificate of insurance or any related document furnished by the insurer to the certificate holder.

~~((5))~~ (6)(a) Insurers with financing options other than as described in WAC 284-23-690 (1)(b) and (c) of this regulation, shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. Insurers shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any premium or cost of insurance charge for the accelerated benefits, if he or she is required to pay all or any part of such a premium or cost of insurance charge.

(b) Insurers shall furnish an actuarial demonstration to the Insurance Commissioner when filing an individual or group life insurance policy or rider form that provides accelerated benefits, showing the method used to calculate the cost for the accelerated benefit.

~~((6))~~ (7) Insurers shall disclose to the policyholder any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any administrative expense charge if he or she is required to pay all or any part of any such charge.

~~((7))~~ (8) When the owner of an individual policy or the certificate holder of a group policy requests payment of an accelerated benefit, within ~~((twenty))~~ 20 days of receiving the request the insurer shall send a statement to that person, and to any irrevocable beneficiary, showing any effect that payment of an accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. This statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for medicaid or other government benefits or entitlements. When the insurer pays the accelerated benefit, it shall issue an amended schedule page to the owner of an individual policy, or to the certificate holder of a group policy, showing any new, reduced in-force amount of the policy. When more than one payment of accelerated benefit is permitted under the policy or rider, the insurer shall send a revised statement to the owner of an individual policy,

or to the certificate holder of a group policy, when a previous statement has become invalid due to payment of accelerated benefits.