

Regulations of Connecticut State Agencies

TITLE 38a. Insurance Department

Agency

Insurance Department

Subject

Life Insurance Providing Long-Term Care Benefits

Inclusive Sections

§§ 38a-458-1—38a-458-12

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Life Insurance Providing Long-Term Care Benefits

Sec. 38a-458-1. Definitions

As used in Sections 38a-458-1 to 38a-458-12, inclusive of the Regulations of Connecticut State Agencies:

(a) “Long-term care benefits” mean:

(1) benefits as defined under Sections 38a-501 and 38a-528 of the Connecticut General Statutes;

(2) which reduce the death benefit otherwise payable under the life insurance policy or the account value under the annuity contract; and

(3) which are payable in periodic payments or a lump sum payment to either a provider or the insured upon confinement.

(b) “Insurance policy” or “policy” means an insurance policy, annuity contract, or certificate or rider or endorsement thereto.

(Effective April 27, 1992; Amended April 23, 2015; Amended October 13, 2016)

Sec. 38a-458-2. Type of product

The risks insured under long-term care benefits riders, life insurance policies and annuity contracts with long-term care benefits provisions shall be considered primarily mortality risks rather than morbidity risks; therefore, such riders and policies are considered to provide life insurance benefits. In the absence of a contractual provision within the policy that payment of long-term care benefits will cease upon the termination of the policy, the long-term care benefits shall continue to be paid.

(Effective April 27, 1992; Amended April 23, 2015)

Sec. 38a-458-3. Assignee/beneficiary

Prior to the payment of the long-term care benefits, the insurer shall receive from any assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout.

(Effective April 27, 1992)

Sec. 38a-458-4. Restrictions on use of proceeds

No restrictions shall be permitted on the use of the long-term care benefits proceeds.

(Effective April 27, 1992)

Sec. 38a-458-5. Disclosures

(a) **Descriptive title.** The face of a policy providing long-term care benefits shall contain the following:

(1) a description of coverage which uses the terminology “long-term care benefits”;

(2) the following statement: “Benefits as specified under this life insurance policy or annuity contract will be reduced upon receipt of long-term care benefits.”

(b) **Tax consequences.** Disclosure is required, at the time of application and at the time

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the long-term care benefits payment request is submitted, of the potential tax implications of receiving this payout. The disclosure statement shall indicate the extent to which the receipt of long-term care benefits may be taxable and that the insured should seek assistance from his personal tax advisor. Such disclosure shall be prominently displayed in bold-face type on the first page of the policy or rider and any other related documents.

(c) Solicitations.

(1) Prior to or concurrently with the application, the applicant shall be given a written disclosure including, but not necessarily limited to, a brief description of the long-term care benefits and an explanation of any effect of the payment of the benefits on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. In the event of direct mail solicitations, the disclosure shall be made upon acceptance of the application.

(2) In addition, if there is a premium or cost of insurance charge, the applicant shall also be given a generic illustration numerically demonstrating any effect the payment of benefits will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. In the event of direct mail solicitations, the disclosure shall be made at the time of solicitation or upon acceptance of the application.

(d) Effect of the benefits payment. When a policyowner or certificate holder requests long-term care benefits, the insurer shall send a statement to the policyowner, certificate holder, assignee and irrevocable beneficiary showing any effect that the payment of the long-term care benefits will have on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens. The statement shall disclose what adverse affect, if any, the actual or constructive receipt of the long-term care benefits payments may have on the recipient's eligibility for Medicaid or other government benefits or entitlements. When a previous disclosure statement becomes invalid as a result of a long-term care benefits payment, the insurer shall send a revised disclosure statement to the policyowner, certificate holder, assignee and irrevocable beneficiary. When the insurer agrees to pay long-term care benefits, the insurer shall issue a new or amended schedule page to the policy to reflect any new, reduced in-force face amount of the contract.

(Effective April 27, 1992; Amended April 23, 2015)

Sec. 38a-458-6. Effective date of the long-term care benefits

The long-term care benefits provision shall be effective on the effective date of the rider or policy.

(Effective April 27, 1992)

Sec. 38a-458-7. Waiver of premium

The long-term care benefits provision may or may not provide for the waiver of premium in the absence of a regular waiver of premium provision being in effect. At the time that the benefits are claimed, the insurer shall explain any continuing premium requirement to keep

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the policy in force.

(Effective April 27, 1992)

Sec. 38a-458-8. Discrimination

Insurers shall not unfairly discriminate among insureds with respect to the eligibility for long-term care benefits. Insurers shall not apply further conditions on the payment of the long-term care benefits other than those conditions specified in the policy or rider. Insurers shall not apply preexisting condition limitations to the underlying life insurance policy, except as permitted under Sections 38a-501-11(b) and 38a-528-4(b) of the Regulations of Connecticut State Agencies for attached long-term care benefits.

(Effective April 27, 1992; Amended October 13, 2016)

Sec. 38a-458-9. Financing options; cash values; policy loans; death benefits

(a) Financing options.

- (1) The insurer may require a premium charge or cost of insurance charge; or
- (2) 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 calculation shall be no greater than the maximum loan rate specified on currently issued policies; or
- (3) The insurer may accrue an interest charge on the amount of the long-term care benefits at an interest rate no greater than the loan rate on currently issued policies.

(b) Effect on cash value.

- (1) Except as provided in subdivision (2) of this subsection, when long-term care benefits are payable, there shall be no more than a pro-rata reduction in the cash value based on the percentage of benefits payments.
- (2) Alternatively, the payment of long-term care benefits, any administrative expense charges, 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 would also be limited to the 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 long-term care benefits payment.

- (1) When a payment of long-term care benefits results in a pro-rata reduction in the cash value, the payment may first be applied toward repaying a pro-rata portion of any outstanding policy loan.
- (2) If the lien approach is used, any long-term care benefits payment may first be applied toward repaying the portion of any other outstanding policy loans which cause the sum of the long-term care benefits and policy loans to exceed the cash value.

(d) The death benefit may not be reduced more than the amount of the long-term care benefits adjusted for any applicable actuarial discount or accrued interest appropriate to the policy design plus any administrative expense charge for policies without additional

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payments. The accidental death benefit provision, if any, shall not be affected by the payment of the long-term care benefits.

(Effective April 27, 1992)

Sec. 38a-458-10. Reserves

At the time of filing of the policy form, the valuation method and assumptions shall be filed with the Insurance Department. The assumptions should reflect the statutory mortality and interest rate assumptions for life insurance policies and appropriate assumptions for the other provisions incorporated in the policy form.

(Effective April 27, 1992)

Sec. 38a-458-11. Other requirements

In addition to the preceding and where not inconsistent with the preceding, long-term care benefits riders and life insurance policies with long-term care benefits provisions shall comply with the requirements of the regulations promulgated under Sections 38a-501 and 38a-528 of the General Statutes.

(Effective April 27, 1992)

Sec. 38a-458-12. Separability

If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(Effective April 27, 1992)