

*Regulations of Connecticut State Agencies*

TITLE 38a. Insurance Department

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*Agency*

**Insurance Department**

*Subject*

**Accelerated Benefits of Life Insurance**

*Inclusive Sections*

**§§ 38a-457-1—38a-457-11**

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**Accelerated Benefits of Life Insurance**

**Sec. 38a-457-1. Definitions**

As used in Sections 38a-457-1 to 38a-457-11, inclusive of the Regulations of Connecticut State Agencies:

(a) “Accelerated Benefits” means benefits payable under a life insurance policy sold in this state:

(1) during the lifetime of the insured, in a lump sum or in periodic payments, as specified in the policy, provided, upon the occurrence of a qualifying event as defined in subdivision (3) of subsection (c) of this section, no such benefits shall be payable in periodic payments;

(2) upon the occurrence of a qualifying event, as specified in the policy, and certified by a physician who is licensed under the laws of a state or territory of the United States, or such other foreign or domestic jurisdiction as the Commissioner may approve; and

(3) which reduce the death benefits otherwise payable under the life insurance policy.

(b) “Commissioner” means the Insurance Commissioner of the State of Connecticut.

(c) “Insurance policy” or “policy” means an insurance policy or certificate or rider or endorsement thereto.

(d) “Qualifying event” means:

(1) a medically determinable condition suffered by the insured which can be expected to result in death in a relatively short period of time, such as twelve (12) months and may include, but is not limited to, coronary artery disease, myocardial infarction, stroke, kidney failure or liver disease; or

(2) a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in death in a relatively short period of time, such as twelve (12) months; or

(3) a medically determinable condition suffered by the insured which has caused the insured to be confined for at least six months in the insured’s place of residence or in an institution which provides necessary care or treatment of an injury, illness or loss of functional capacity rendered by a certified or licensed health care provider in a setting other than an acute care hospital, and it has been medically determined that such insured is expected to remain confined in such institution or place of residence until death.

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

**Sec. 38a-457-2. Type of product**

(a) The risks insured under accelerated benefit riders and life insurance policies with accelerated benefit provisions shall be considered primarily mortality risks rather than morbidity risks; therefore, such riders and policies are considered to provide life insurance benefits.

(b) An accelerated benefits life insurance policy shall not include a policy providing for disability income protection coverage, or long term care coverage, as defined in Sections 38a-501 and 38a-528 of the General Statutes. For purposes of this subsection, disability income protection consisting of no more than \$20 per \$1,000 of coverage shall not constitute

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“a policy providing for disability income protection coverage.”

(c) Death benefits may not be reduced more than the amount of the accelerated benefits paid plus any applicable actuarial discount appropriate to the policy design for policies without additional premium payments. When an accelerated benefit is paid, the amount paid may be considered as (1) a pro-rata reduction in cash value or death benefits, or both, or (2) a lien against the death benefit of the contract and the access to the cash value shall be restricted to any excess of the cash value over the sum of other outstanding loans and the lien.

(d) The company may set a minimum benefit amount, but in no case shall it be more than 25 percent of the face value of the policy.

(e) The accidental death benefit, if any, in the policy shall not be affected by the payment of the accelerated benefit.

(Effective October 23, 1992)

**Sec. 38a-457-3. Assignee beneficiary**

Prior to the payment of the accelerated benefit, the insurer shall receive from any assignee or irrevocable beneficiary a signed acknowledgement of concurrence for payout.

(Effective October 23, 1992)

**Sec. 38a-457-4. Criteria for payment**

No restriction shall be permitted on the use of the proceeds payable under an accelerated benefits policy.

(Effective October 23, 1992)

**Sec. 38a-457-5. Disclosures**

(a) **Descriptive title.** The face of every accelerated benefits policy shall contain the following:

(1) a description of coverage which uses the terminology “accelerated”;

(2) the following statement: “Benefits as specified under this policy will be reduced upon receipt of an accelerated benefit.”

Accelerated benefits products shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

(b) **Tax consequences.** Disclosure is required, at the time of application and at the time the accelerated 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 accelerated benefits may be taxable and that the insured should seek assistance from his personal tax advisor. Such disclosure shall be prominently displayed on the first page of the policy or rider in bold-face type or contrasting color.

(c) **Solicitations.**

(1) Prior to or concurrent with the application, the applicant shall be given a written disclosure including, but not limited to, a brief description of the accelerated benefit, the

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effect of the payment of an accelerated benefit on the policy's cash value, death benefit, premium, policy loans and policy liens, and definitions of the conditions or occurrences triggering payment of the accelerated benefits. In the event of direct mail solicitation, the disclosure shall be made upon acceptance of the application.

(2) The insurer shall disclose in its solicitation any separate identifiable premium for the accelerated benefit. Those insurers indicating that this accelerated benefit is offered without additional premium shall furnish a written explanation to the Commissioner when filing the product for approval.

(3) Prior to or concurrent with the request for accelerated death benefits, the applicant shall be given an illustration demonstrating the effect of the payment of an accelerated benefit on the policy's cash value, death benefit, premium, policy loans and policy liens.

(4) The insurer shall file with the Commissioner the information concerning the manner by which the actuarial discount and mortality charge, if any, is calculated for the accelerated benefit. The Commissioner, if he determines that such discount or mortality charge is excessive, shall hold a hearing to determine such reasonable charges.

(5) Any life insurance policy or any certificate, rider or endorsement thereto which provides accelerated benefits pursuant to the occurrence of a qualifying event as defined in section 38a-457-1 (c) (3) shall contain the following statement printed in a conspicuous and readily discernable manner: "This policy is not a long-term care policy as defined in Sections 38a-501 and 38a-528 of the Connecticut General Statutes."

(6) Ten-day free look. Any accelerated benefits rider which provides for any additional premium payments with an effective date subsequent to the effective date of the life insurance policy shall have printed thereon or attached thereto a notice stating, in substance, that the accelerated benefits rider may be returned by the insured for cancellation by delivering or mailing the rider to the insurer or to the producer through whom it was effected, at any time within ten days after receipt of the rider by the insured, and that upon the delivery or mailing the rider shall be void ab initio.

(7) Effect of the benefit payment. When a policyowner or certificateholder requests an acceleration, the insurer shall send a statement to the policyowner or certificateholder, assignee and irrevocable beneficiary showing any effect that the payment of the accelerated benefit 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 accelerated benefit 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 an acceleration of the death benefit, the insurer shall send a revised disclosure statement to the policyowner or certificateholder, assignee and irrevocable beneficiary. When the insurer agrees to accelerate death 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 October 23, 1992; Amended September 9, 2013)

**Sec. 38a-457-6. Effective date of the accelerated benefits**

The accelerated benefit provision for accidents shall be effective on the effective date of the policy or rider. The accelerated benefit provision in the case of illness shall be effective no more than thirty (30) days following the effective date of the policy or rider.

(Effective October 23, 1992)

**Sec. 38a-457-7. Waiver of premiums**

The accelerated benefit 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 the benefit is claimed, the insurer shall explain any continuing premium requirements to keep the policy in force.

(Effective October 23, 1992)

**Sec. 38a-457-8. Discrimination**

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

(Effective October 23, 1992)

**Sec. 38a-457-9. Actuarial standards**

**(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 less any reasonable administrative expense charge. 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 accelerated 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 an accelerated benefit is payable, there shall be no more than a pro-rata reduction in the cash value based on the percentage of benefits accelerated.
- (2) Alternatively, the payment of accelerated 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 accelerated death benefit payment.**

- (1) When payment of any accelerated benefit results in a pro-rata reduction in the cash value, the payment may first be applied toward repaying a pro-rata portion of any

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outstanding policy loan.

(2) If the lien approach is used, any accelerated death benefit payment may first be applied toward repaying the portion of any other outstanding policy loans which cause the sum of the accelerated death benefit and policy loans to exceed the cash value.

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

(Effective October 23, 1992)

**Sec. 38a-457-10. Reserves**

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

(Effective October 23, 1992)

**Sec. 38a-457-11. Separability**

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

(Effective October 23, 1992)