

## ADDITIONAL STANDARDS FOR WAIVER OF SURRENDER CHARGE BENEFIT FOR LIFE INSURANCE

**Scope:** These standards apply to waiver of surrender charge benefits (“waiver benefits” or “waiver benefit”) that are built into individual variable and non-variable life insurance policies or added to such policies by rider, endorsement or amendment. The waiver benefits are triggered by **becoming totally disabled or experiencing** a qualifying event associated with the insured or other circumstances as specified in the policy or waiver benefit form. **The waiver can include waiver benefits for one or more benefit triggers and is not required to provide waiver for both total disability and all qualifying events. Products subject to these standards shall not be described as long-term care insurance or as providing long-term care benefits. If the payment of waiver of premium benefits is contingent upon receipt of long-term care services or supports, these standards shall not apply, and such benefit will be subject to the Interstate Insurance Product Regulation Commission standards for individual long-term care insurance.**

**Mix and Match:** These standards are available to be used in combination with State Product Components as described in § 111(b) of the *Operating Procedure for the Filing and Approval of Product Filings*.

**Self-Certification:** These standards are not available to be filed on a self-certification basis in accordance with the *Rule for the Self-Certification of Products Filed with the Interstate Insurance Product Regulation Commission*.

As used in these standards, the following definitions apply:

The term “waiver benefit form” refers to waiver of surrender charge benefit that is either built into the policy or added by rider, endorsement or amendment.

“Benefit ineligibility period” **is means** the initial period of time during which the insured is ineligible to receive the waiver benefit, whether or not there is a qualifying event. A benefit ineligibility period is only allowed if there is no identifiable charge for the waiver benefit.

“Benefit eligibility date” ~~is~~ **means** the date the benefit ineligibility period ends. If there is no benefit ineligibility period, the benefit eligibility date is the waiver benefit issue date.

“Preexisting condition” **is means** an injury or sickness beginning, commencing, originating, occurring, sustained or manifesting or first manifesting itself before the waiver benefit issue date, which may or may not be the cause of a qualifying event.

“Qualifying event” means any of the following, as long as the event meets the requirements of this standard:

- (1) Diagnosis of limited life expectancy or life-threatening condition;
- (2) Diagnosis of cognitive impairment;
- (3) Assessment by a qualified professional establishing inability to perform certain activities of daily living;
- (4) Receipt of care from a health care facility;
- (5) Disability **other than total disability**; or
- (6) Unemployment.

“Waiting period” is the period of time that must elapse after a qualifying event before the insured can receive the waiver benefit. If the qualifying event occurs during the benefit ineligibility period, the waiting period may begin on the benefit eligibility date.

**Drafting Note:** Other terms may be used in the form provided they are consistent.

**In addition to the applicable policy Uniform Standards, the following provisions, as applicable apply:**

## **§ 1 ADDITIONAL SUBMISSION REQUIREMENTS**

### **A. GENERAL**

The following additional filing submission requirements apply:

- (1) If a waiver benefit is provided by attachment to the policy by rider, endorsement or amendment, the following shall be included:
  - (a) A listing by filing jurisdiction of the types of policies with which the waiver benefit form will be used, including the policy form numbers, the corresponding approval date for these policies and any filing identification number.
  - (b) A statement as to whether the waiver benefit form will be made part of the policy at issue or is intended for use after the date of issue of the policy or both.
  - (c) A statement as to whether the waiver benefit form is intended for use with new issues and/or in force business.
  - (d) A description of the waiver benefit for all types of forms with which the benefit will be used.
- (2) If a waiver benefit is contingent on a declared interest rate, the company shall provide a certification by an officer that the owner will be provided a timely notification each time the declared interest rate declines to a point at which the waiver benefit becomes available.
- (3) If a waiver benefit is based on a specific condition or situation subject to underwriting, a statement that the application shall include pertinent questions to determine if the condition or situation is present at the time of application.

### **B. VARIABILITY OF INFORMATION**

- (1) The following items shall only be changed upon prior approval:
  - (a) Definition of health care facility; and
  - (b) Exclusions applicable to qualifying events.

- (2) The company may also identify waiver benefit specifications that may be changed without prior notice or approval, as long as the Statement of Variability presents reasonable and realistic ranges for the item. These items include:
- (a) Amount/percent of account value or surrender charge available under the waiver benefit;
  - (b) Life expectancy (no less than six months);
  - (c) Period of time required to meet the definition of total and permanent disability or to meet the definition of any other disability allowed under the standards (no greater than 12 months);
  - (d) Number of “activities of daily living” (no more than ~~three~~ two);
  - (e) Period of time for which surrender charges are waived;
  - (f) Benefit ineligibility period if no identifiable charge (no greater than one year from the waiver benefit issue date);
  - (g) Maximum age for initial eligibility for the waiver benefit, if no identifiable charge;
  - (h) Period of time within which the insured must enter a health care facility after discharge from an institutional confinement (no less than 30 days) and period of original confinement (no greater than three days);
  - (i) Period of time for which confinement in a health care facility is required to be eligible for a waiver benefit for home care or hospice care (no greater than 30 days);
  - (j) Waiting period **for other than total disability** (no greater than 90 days);
  - (k) Period of time before application of new waiting period to recurrent condition (no less than 30 days after receiving services/treatment or disability);
  - (l) Period of time for company to provide claim forms (no greater than ten days);
  - (m) Period of time for submitting proof of claim (no less than 90 days after receiving services or treatment, or after unemployment or disability begins);
  - (n) Interest rates applicable for waiver benefit contingent on a declared interest rate;
  - (o) Period of time within which to apply for waiver benefit contingent on a declared interest rate;
  - (p) Specified ages or policy years at which penalty-free withdrawals can be made;
  - (q) Expiry age for termination of the waiver benefit; and

- (r) Identifiable charge, if any.
- (3) A zero entry in a range for any benefit or credit is unacceptable, and any change to a range requires a refiling for prior approval.

## **§ 2 GENERAL REQUIREMENTS**

### **A. COVER PAGE**

- (1) If a waiver benefit is provided by attachment to the policy by rider, endorsement or amendment, the following shall be included on the cover page:
  - (a) At least one signature of a company officer if the waiver benefit form is added after the date of issue of a policy.
  - (b) A statement to the effect that the waiver benefit form is made a part of the policy and that its provisions apply in lieu of any policy provisions to the contrary.

### **B. SPECIFICATIONS PAGE**

- (1) The specifications page of the policy or waiver benefit form shall include the following information, when applicable, and the respective waiver benefit provisions shall direct the insured to the specifications page:
  - (a) The name, age, sex and premium class for each insured;
  - (b) The amount/percent of account value or surrender charge available under the waiver benefit (including any maximum benefit amount);
  - (c) Any applicable identifiable charges. In this regard, an identifiable charge is recognized as a separate premium charge or an administrative fee or charge deducted from the account value;
  - (d) The benefit eligibility date; and
  - (e) The expiry date or age, if any, for the termination of the waiver benefit.

These items may be considered as variable items and marked to denote variability.

### **C. FAIRNESS**

- 1) **The form shall not contain provisions that unfairly discriminate among insureds with differing qualifying events covered under the form, or among insureds with similar qualifying events covered under the form.**

### **§ 3 BENEFIT PROVISIONS**

#### **A. WAIVER BENEFIT PROVISIONS**

~~(1) A waiver benefit form that includes an active employment requirement with respect to disability shall comply with the following:~~

~~(a) The definition of employment may refer to the insured's own occupation or one for which he or she is suited or becomes suited by reason of education, training or experience. The waiver benefit form shall not define employment as an occupation that he or she could or may become suited for in the future.~~

~~(b) The waiver benefit form may include homemakers or students in the definition of employment. If included, the definition shall provide that the homemaker is unable to perform the customary duties of a homemaker or that the student is unable to attend regularly scheduled classes, including online, if applicable.~~

(21) A waiver benefit may be provided in the following situations:

- (a) Upon surrender of amounts totaling up to X% of the policy value or policy premiums;
- (b) Upon surrender when a declared interest rate declines to a specified amount or by a specified percentage;
- (c) Upon withdrawals of interest only; and
- (d) Upon withdrawals made at specified ages or after a specified number of years.

(32) A waiver benefit may be triggered by the occurrence of a qualifying event. The qualifying event shall be described in the waiver benefit form and may include:

- (a) The insured is receiving care from a health care facility designated in the waiver benefit form. A health care facility may include, but is not limited to the following facilities: skilled nursing, extended care, intermediate care, convalescent care, personal care, home care or hospice care.
- (b) Due to any medical condition insured's life expectancy is expected to be less than or equal to a limited period of time. The period of time shall not be restricted to a period of less than six months.
- (c) The insured has any medical condition that would in the absence of treatment result in death within a limited period of time. The period of time shall not be restricted to a period of less than six months.

~~(d) The insured is determined to have a total and permanent disability that prevents the insured from performing any work for pay or profit for a period of time. The period~~

~~of time shall not be longer than twelve (12) months. The waiver benefit form shall not include a requirement that the insured be eligible for Social Security benefits.~~

- (e d) The insured is determined to have a disability that prevents him or her from engaging in the substantial and material duties of an occupation for which he or she is or becomes qualified by reason of education or training for a period of time. The period of time shall not be longer than twelve (12) months. The waiver benefit form shall not include a requirement that the insured be eligible for Social Security benefits.
  - (f e) The insured is unable to perform a certain number of “activities of daily living” as defined in Items (i) through (vi). Requirements for the qualifying event shall not be more restrictive than the insured’s inability to perform not more than ~~three~~ **two** of the activities of daily living.
    - (i) “Bathing” means washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower.
    - (ii) “Continence” means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag).
    - (iii) “Dressing” means putting on and taking off all items of clothing and any necessary braces, fasteners or artificial limbs.
    - (iv) “Eating” means feeding oneself by food into the body from a receptacle (such as a plate, cup or table) or by a feeding tube or intravenously.
    - (v) “Toileting” means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.
    - (vi) “Transferring” means moving into or out of a bed, chair or wheelchair.
  - (g f) The insured is determined to have a cognitive impairment, **requiring substantial supervision**. “Cognitive impairment” is defined as a deficiency in a person’s short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness.
  - (h g) The insured becomes involuntarily or voluntarily unemployed.
- (4) A waiver benefit form shall specify the period of time for which the surrender charges are waived.
- (5) A waiver benefit form may specify more than one qualifying event. The waiver benefit form shall not require that a waiver will be provided only if all qualifying events specified are satisfied.

- (6) A waiver benefit form shall clearly describe the amount of the account value available for the penalty-free withdrawal or surrender under the waiver benefit and shall disclose any limitations on the amount.
- (7) A waiver benefit form shall specify when the policy value used in the calculation of the penalty free withdrawal or surrender amount is determined.
- (8) A waiver benefit form shall not restrict the qualifying event to one or more specific medical conditions.
- (9) A waiver benefit form shall not limit a qualifying event to sickness only or injury only; it shall provide for both.
- (10) A waiver benefit form shall specify the status of the waiver benefit should the insured become eligible for additional occurrences of the same qualifying event.
- (11) A waiver benefit form shall uniquely define the terms used. For example, if a waiver benefit provision requires that the care from a health care facility must be medically necessary, the waiver benefit provision shall define “medically necessary.”
- (12) A waiver benefit that is contingent on a declared interest rate falling below a specified rate shall specify the rate or rates applicable to the waiver benefit for the duration of the waiver benefit.
- (13) If a waiver benefit built into the policy is not described in a separate appropriately captioned provision of the policy, then the reference to the waiver benefit by name in the policy and any specified time period restrictions or limitations shall be in prominent print.

**B. CONDITIONS FOR WAIVER BENEFIT ELIGIBILITY**

- (1) If there is an identifiable charge for the waiver benefit:
  - (a) A benefit ineligibility period shall not be required; and
  - (b) The insured shall not be required to be younger than a specified age in order to be initially eligible for the waiver benefit.
- (2) If there is no identifiable charge for the waiver benefit:
  - (a) The waiver benefit form may require a benefit ineligibility period, that shall not exceed one year;
  - (b) The insured may be required to be younger than a specified age in order to be initially eligible for the waiver benefit; and
  - (c) A disclosure describing the benefit ineligibility period or the initial age limit shall be included at the top or beginning of the conditions for waiver benefit eligibility.

- (3) A waiver benefit form may include a requirement that the health care services be provided, or the diagnosis of limited life expectancy, impairment, disability, or unemployment occur, after the waiver benefit issue date. Such waiver benefit form shall not require that the qualifying event occur after the benefit eligibility date.
- (4) If a waiver benefit form requires that the insured enter a health care facility within a period of time from discharge from an institutional confinement, the period of time from discharge shall be at least thirty (30) days. The original institutional confinement shall not be required to be greater than three days.
- (5) If there is a waiver benefit for home health care or hospice care, and the waiver benefit requires that the insured be confined in a health care facility to establish eligibility for the home health care or hospice care, the period of confinement shall not be required to be greater than thirty (30) days.
- (6) If a waiver benefit form requires the insured to receive services, receive treatment, be disabled or be unemployed for a period of time (waiting period) prior to the waiver of surrender charge, the waiting period shall not exceed ninety (90) days. For qualifying events that occur during the benefit ineligibility period, the ninety (90) days may be measured from the later of the date of the qualifying event or the benefit eligibility date. The waiver benefit form shall not require that a new waiting period be applied to services received, treatment received or disability due to the same cause as a previously-covered service, treatment or disability, or due to a cause related to the cause of a previously-covered service, treatment or disability, unless the services received, treatment received or disability occurs at least thirty (30) days after the previously-covered service, treatment or disability.
- (7) A waiver benefit for **imminent death limited life expectancy** shall not require that the condition causing the limited life expectancy be diagnosed after the waiver benefit issue date.
- (8) A waiver benefit for health care facility confinement shall not require that the confinement begin after the benefit eligibility date or exclude confinements beginning during the benefit ineligibility period. Confinements that begin before the benefit issue date may be excluded.
- (9) A waiver benefit form shall not provide for the accumulation or pooling of values or the aggregation of policies or values in the determination of a waiver benefit.

### **C. PREEXISTING CONDITIONS**

- (1) A waiver benefit form shall not exclude disability, services, treatment or diagnosis caused by a preexisting condition. Therefore, the waiver benefit form shall not require that disability or need for services, treatment or diagnosis be caused by injury or sickness beginning, commencing, originating, occurring, sustained or manifesting or first manifesting itself after the waiver benefit issue date.

**D. DENIALS OF WAIVER CLAIMS**

- (1) A waiver benefit form shall state that if the waiver claim is denied by the company the surrender proceeds shall not be disbursed until the insured is notified of the denial and provided with the opportunity to accept or reject the surrender proceeds, including any surrender charges.
- (2) A waiver benefit form shall not include the following exclusions and restrictions as a basis of waiver claim denial by the company:
  - (a) Denial due to the insured's financial resources, income or need;
  - (b) Denial if there is not a reasonable expectation that a significant improvement will occur in the insured's condition;
  - (c) Denial if services are provided by a health care facility for the insured less often than on a daily basis;
  - (d) Denial if services are not provided in the least costly setting;
  - (e) Denial if the health care facility does not accommodate a minimum number of persons;
  - (f) Denial if services are provided by a health care facility that predominantly provides care and treatment of the mentally ill or drug addicts;
  - (g) Denial if services are provided by a health care facility that does not have surgical facilities or access to such facilities;
  - (h) Denial if reimbursement for services is provided by another company; or
  - (i) Denial if the insured is not confined to a health care facility with the expectation that he or she will remain in the facility for a lifetime (until death).

**E. FILING OF CLAIM**

- (1) A waiver benefit form shall disclose any claim requirements for filing a claim. The waiver benefit form shall not include requirements more restrictive than the following:
  - (a) If the waiver benefit form requires the filing of a proof of claim form, the waiver benefit form shall state that the claim form shall be provided by the company within ten working days of the surrender request by the insured. If the claim form is not furnished within ten working days, it is considered that the insured complied with the claim requirements if the insured submits written proof covering the occurrence, the character and the extent of the occurrence for which claim is made.
  - (b) If the company requires that proof of claim be provided within a certain time frame, the waiver benefit form shall state that the proof will not be required to be supplied sooner than ninety (90) days after receiving services or treatment, or after unemployment or disability

begins. Provision shall be made for the situation where it can be shown that it was not reasonably possible to provide proof within the required period of time and that the proof was given as soon as possible; however, in no event, except in the absence of legal capacity may the required proof be provided later than one year after proof is otherwise required. For a limited life expectancy waiver benefit, the waiver benefit form shall not require a time frame within which proof of claim must be provided.

- (c) The waiver benefit form shall state if the company has the right to require a physical exam as proof of claim.
- (d) The waiver benefit form shall state that any requirements for a second or third medical opinion to confirm proof of claim shall be at the company's expense. The waiver benefit form shall state which opinion rules in the event of conflict.
- (e) If the waiver benefit is contingent on a declared interest rate declining to a specified amount or by a specified percentage, then the waiver benefit form shall specify the period of time within which to apply for the waiver benefit.

#### **F. PROOF OF UNEMPLOYMENT**

- (1) If a waiver benefit form provides for unemployment (voluntary or involuntary) as a qualifying event and if there is an identifiable charge for the waiver benefit, the waiver benefit form shall specify a means for an insured who is self-employed or otherwise could not qualify for unemployment compensation to prove unemployment as an alternative to unemployment compensation qualification.

#### **G. RETROACTIVE ASSESSMENT**

- (1) A waiver benefit form shall not provide for retroactive assessment of a surrender charge to recover any prior surrender charge that was waived by the company.

#### **H. TERMINATION**

- (1) A waiver benefit form shall include the following termination conditions:
  - (a) Upon written request from the owner;
  - (b) Upon termination of the policy; or
  - (c) Upon nonpayment of any identifiable charge.
- (2) A waiver benefit form may also include the following termination conditions:
  - (a) The date that the total amount of surrender charges waived equals the maximum waiver benefit amount; or
  - (b) The policy anniversary on which the insured attains a specified age.

- (3) A waiver benefit form shall state that termination shall not prejudice the waiver of any surrender charge while the waiver benefit was in force.