

**DATE:** September 13, 2013  
**TO:** IIPRC Product Standards Committee  
**FROM:** Industry Advisory Committee  
**SUBJECT:** 5 Year Review of Individual Life Standards (Phase 1)

***Question Regarding Implementation of 5 Year Review Changes***

Companies are asking what the implementation process would involve:

- How soon after the IIPRC adopts the changes will companies be required to amend forms previously approved?
- Would companies be required to resubmit previously approved forms as new filings (new form numbers), or will there be an expedited process for updating what has already been approved under the same form number?
- With regard to the previously approved forms, for how long after the IIPRC adoption date can these continue to be used? The concern is market interruption.

***RE: SUBSTANTIVE CHANGES***

***Item 1. GRACE PERIOD, Page 12, Item (5)***

We submitted our comments on January 7, 2013, and the comments document the issues.

On August 13, we reiterated our concerns with item (5) of the Grace Period standards which prohibits companies from requiring that the premium be “received” during the grace period. We have confirmed with companies that file with the IIPRC that the language in item (5) is not required to be included in a form, and that its purpose is to merely prohibit a company from filing language that says that the premium must be “received” during the grace period.

We encourage the PSC to consider the following:

1. No state other than New Jersey requires this today when a filing is reviewed/approved, nor do these states have a statute or regulation requiring the language of item (5).
2. If we allow one state variation to determine what a national standard should be, then we should open the door for all 43 states to submit theirs. But we all know that this is *not* how we have developed standards for the IIPRC, and that ***the standards are based on the regulatory and/or statutory requirements of the majority of the states.***

3. If one argues that the NJ requirement is a higher standard, we would respond “no, it is not.” An insured/owner is required to pay the premium on a specified due date. If the premium is not received by that due date, a second opportunity to pay the premium is provided in a grace period. ***Note that what triggers a grace period is that the premium was not “received” by the due date – not “postmarked”.*** The national regulatory intent was to provide an additional 31 days for the premium to be paid, and not to make this additional period an “open – ended” one.
4. Companies do not keep the envelopes used to submit premium payments, so the “postmarked” requirement is a non-realistic one in today’s business world. In most cases premiums are directed to a “lock-box” location where the envelopes are discarded and the checks are deposited.
5. Item (3) of the standards says that “***the coverage shall continue in force during the grace period.***” This means that on the 32<sup>nd</sup>, 33<sup>rd</sup>, 34<sup>th</sup> and the days that follow, coverage is no longer in force, and the coverage has lapsed for nonpayment of premium. An insurance company cannot be expected to indefinitely extend the grace period in the chance that someone postmarked a grace period premium during the grace period.
6. If payment is received after a grace period expires, the coverage may be reinstated subject to the reinstatement requirements. A company has to administer all reinstatements in a non-discriminatory manner, so a reinstatement after 10 days, 30 days, 3 months or 2 years is handled in the same way, and consequently, evidence of insurability may be required to reinstate coverage.
7. There is a growing availability to owners/insureds to pay premiums electronically via their bank accounts or ACH. Several insurance companies’ websites allow the payment of premiums electronically. The use of the on-line bill payment continues to grow and the need to accommodate those that “pay late” will fast become irrelevant as owners/insureds do have better options to avoid lapse.
8. The consumer representatives have expressed concern about the elderly who do not use electronic means, who may live in rural areas where mail is picked up or dropped off at a post office, and who may have no one to help manage their bill payments. While we are sympathetic to this, we are being asked to indulge a “postmarked” process ***for all insureds, not just the elderly.*** When we recently met with these representatives and asked “how long should a company wait to lapse a policy after the grace period expires”, there was no answer other than “possibly forever”. This is not a realistic business practice for the insurance industry, nor would it be realistic for any other industry.
9. The companies advise that at least 4 states (California, Florida, New Jersey and Vermont) require that a secondary addressee reminder be provided with the annual policyholder notices and that some companies do this in all states. Additionally, anyone wishing to designate a secondary addressee may do so at any time. Of course, there is no guarantee that a secondary addressee will always mail the premium on time, so this is a potential solution but not an absolute one.

10. Companies have historically made allowances in situations where there have been regional disasters (power outages, fires, earthquakes, flooding, hurricane, tornadoes, superstorms, etc.) or national crises (such as 9/11) where normal business and government operations may be suspended for some time. Companies also make allowances for late premium payments when people can prove that they had been hospitalized or otherwise prevented from receiving mail or sending it, their bank accounts are frozen, etc. We don't need standards to require this.

11. If the PSC decides to allow item (5) to remain a standard, then it should also consider adding a caveat that if the premium is not received by the end of the grace period, that coverage will lapse and will be subject to the reinstatement requirements. Consumers who wish to mail their premiums close to the end of the grace period should be aware of the lapse consequences.

***Item 2. DEATH BENEFIT PROCEEDS, Pre-Emption Issues: KY, MI, WI***

We wish to withdraw this item from future consideration. Upon further research, we have determined that the IIPRC standards for the interest formula would result in an equal to or better than situation than what is required by the three states, so pre-emption has become a non-issue for the companies using the IIPRC for their filings.

***Item 4: NONFORFEITURE VALUES, POLICY PROVISIONS, Item (10), as applicable to a Flexible Premium Adjustable Life Policies ("UL")***

We draw your attention to an inconsistency between what is proposed here for UL and what is being proposed in CLARIFICATION item #6 for UL.

We note that current items (10) and (11) of the standards are grammatically incorrect in that each should begin with "The policy shall contain...".

Upon further review, we believe that item (10) could have been (9)(g) and item (11) could have been (9)(h) in which case the lead-in suggested is not needed.

For (9)(g), we suggest stopping the item with "at any time" as previously suggested.

For (9)(h), we suggest that the item say:

" A provision that any cash surrender value and any paid up nonforfeiture benefit, available under the policy at any time other than on a monthiversary, shall be calculated with allowance for lapse of time from the last preceding monthiversary."

The problem with the IIPRC suggested language is that it is too specific about what would be added or deducted, and flexibility is needed since some companies would credit interest for mid-month surrenders, some would keep partial month charges for coverage that was increased on day 2 and the policy is surrendered on day 28, etc. We believe that there are enough guidelines

in the UL Model Regulation (#585) to handle what would be required of the companies.

***Item 5. ACCELERATED DEATH BENEFIT: Effect of Benefit Payment on Other Benefit Provisions, Page 6, Item (1)***

To address the issue of third parties using coercion to get insureds to accelerate death benefits, we suggest that the PSC consider adding the following sentence at the end of this item:

“The disclosure may also state that that an insured cannot be coerced to apply for the accelerated death benefit before qualifying for Medicaid, or be coerced by creditors to apply for the accelerated death benefit.”

The applications used to apply for the accelerated death benefit are considered administrative and are not subject to prior approval by the IIPRC, but New York suggests adding language that may be helpful to consumers, and the PSC may want to consider referring to this in a Drafting Note, as follows:

“***Drafting Note:*** At the company’s option, the application for the accelerated death benefit, and administrative form which is not subject to prior approval by the Interstate Insurance Product Regulation Commission, may also include a statement by the insured that such application is voluntary and without coercion on the part of any third party.”

***Item 6. ACCELERATED DEATH BENEFITS: EXCLUSION/ RESTRICTIONS, Page 7***

***Item 7: ACCELERATED DEATH BENEFITS: AGGREGATE LIMIT, Page 6 Item (8)***

***Item 9: WAIVER OF PREMIUM: EXCLUSIONS, Item (1)(g), Page 4 AGE 65 PARAMETERS***

Our January 7, 2013 comments pertaining to Item 6 were included on page 8; comments pertaining to Item 7 were included on page 10; comments pertaining to Item 9 were included on page 12.

What is common to these three is that these are examples where the companies report that the standards are more restrictive than what is permitted today in the majority of the states when the companies file directly with the states. If the exclusions/restrictions/limitations remain as is, they will provide a disincentive for some companies to use the IIPRC.

***With regard to Item 7***, the aggregate limit prohibition, we offer the following additional arguments:

Fairness

To accommodate the disparate needs of owners, companies allow them to split insurance coverage on an insured across multiple policies. It seems unfair to treat an ADB claim differently for an owner with one \$5 million face amount policy, than an owner with ten \$500,000 policies on the same insured. For example, if the maximum amount that a company will accelerate on the life of any insured is \$500,000 and the company is not able to aggregate

maximum ADB limits across multiple policies, the owner with one policy could accelerate a maximum of \$500,000 while the owner with ten policies could accelerate a maximum of \$500,000 on each policy, or \$5 million. If an aggregate limit is not permitted, companies would not be able to allow “splitting”.

### Actuarial Risk

The risk to companies is magnified if the accelerated benefits are requested on multiple policies for the same insured. For each accelerated death benefit payment the companies make they risk losing the time value of money if the insured does not die within the timeframe specified. Additionally, the companies risk that the owner may terminate the policy(ies) before the insured dies. In this latter instance the companies would never be reimbursed by the reinsurer for the advancement they paid out on potentially several policies if the companies are not allowed to aggregate the policies to determine the maximum limit.

It is administratively more difficult for the company to restrict the inclusion of the ADB on a new policy based on prior issue of ADB on an existing policy than to limit the amount of the acceleration for ADB at claim time. Further, by allowing the ADB to be included on multiple policies, the owner may choose which policy to use to accelerate benefits. It may not be in the owner’s best interest to have the company determine which policy may have the ADB option when multiple policies are issued on the same insured.

### ***RE: CLARIFICATION ITEMS***

#### ***Item 2. EXCLUSIONS, Item (2)***

For reference, here is an example of a limitation of liability statute in Arizona § 20-1226, which might help:

“A policy that contains any exclusion or restriction pursuant to this section shall also provide that in the event of death under the circumstances to which the exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioners reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits, or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy, with adjustment for indebtedness or dividend credit.”

***Item 4. LEGAL ACTION***

This is a “may” standard and to clarify this, we suggest replacing the proposed language with the following:

“A policy may include a legal action provision. If included, the provision shall state that a legal cause of action related to the policy shall comply with the laws of the state where the policy was delivered or issued for delivery.”

***Item 7. LOANS***

The proposed language omits a sentence which was included in the previous standards: “The owner has the option to take less than the loan value, subject to a reasonable company minimum loan requirement.” We believe this was inadvertent and should be corrected.

Companies have been filing Loan provisions for indexed products and the language reflected in the standards does not fully accommodate what is needed. The IIPRC has been approving such Loan provisions because the intent was never not to accommodate “indexed” product loans.

We recommend that the PSC take this opportunity to add what is needed to accommodate “indexed” product loan provisions.

***Item 12. SPECIFICATIONS PAGE, Page 17, Item (2)***

We had previously submitted comments and wish to replace those with these. We suggest leaving the first sentence as is and replacing the second sentence with the following:

“However, if the company will not credit dividends, the specifications page shall state that dividends are not expected to be paid.”

This clarifies that if dividends will be paid, the specifications page will include the “not guaranteed” statement. If dividends will not be paid, the “not expected” statement will be made.

***Item 15. PAYMENT OF PREMIUM, Item (3)(a)***

We suggest that this change also be made to the Flexible Premium Adjustable Life Policy standards.

***Item 16. REINSTATEMENT PROVISION, Item (4)***

The grace period is 31 days, so saying “payment of no more than one month’s premium” is incorrect. We suggest changing this to say “payment of no more than *what is required* to cover the grace period may be required...”.

This change also affects the Individual Term Life Insurance Policy standards.

***Item 18. TERM LIFE BENEFIT PROVISIONS/ADDITIONAL TERM LIFE INSURANCE & WAIVER OF PREMIUM FOR CHILD’S INSURANCE IN THE EVENT OF PAYOR’S TOTAL DISABILITY OR DEATH***

The explanation provided by the IIPRC on page 21 is a bit confusing – not clear what precedes (iv) nor what (4) follows.

A member company has noted that they allow conversion to an individual life policy, which is not accommodated in the current standards. Is it possible to take this opportunity to add this option?

***Item 20. ACCELERATED DEATH BENEFITS: Definition of Qualifying Event***

***Item 21. ACCELERATED DEATH BENEFITS: Chronic Illness 101(g)***

The group standards dated August 6 that were discussed on August 13 include some changes to the definition of “qualifying event” (pages 1-2) and we suggest that the individual standards be changed to reflect these. If this is done, the inclusion of the chronic illness 101(g) language would also be affected.

***Item 25. FAIRNESS: APPLICATION QUESTIONS***

We wish to advise that the current application standards for individual life, annuity DI and LTC, as well as the group term life statement of insurability, do allow some “ever been” questions, such as “ever been diagnosed by” and “ever been a member of”, and we seek confirmation that these not a problem.

***NEW ITEM: ACCELERATED DEATH BENEFITS***

***Individual: ADDITIONAL SUBMISSION REQUIREMENTS, Item (3)(i), Page 4***

***Group: ADDITIONAL SUBMISSION REQUIREMENTS, Item (1)(i), Page 4***

The language describing the incidentality rule should be clarified to say “a certification that the premium for the accelerated death benefit is incidental to the premium for the life coverage.”

***RE: TECHNICAL ITEMS***

***Item 11. CORRECT NAIC MODEL REFERENCE***

We suggest that the reference to the Model is incorrect – it should say:

“Section **4C(6)** of the NAIC Variable Life Insurance Regulation, Model #270 using Actuarial Guideline XXIV for all ages, rate classes, and durations at which the policy is available.”

Submitted by:

IIPRC Industry Advisory Committee:

Bill Anderson, NAIFA  
Jason Berkowitz, IRI  
Joe Muratore, New York Life  
Mary Keim, State Farm Insurance Company  
Miriam Krol, ACLI  
Amanda Matthiesen, AHIP  
Jill Morgan, Symetra  
Marie Roche, John Hancock