

**DATE:** October 22, 2014  
**TO:** IIPRC Product Standards Committee  
**FROM:** Industry Advisory Committee  
**SUBJECT:** Group Disability Income Standards  
Draft Distributed for the October 21, 2014 PSC Public Call

The following document the comments we provided on October 21:

*Page 1, Scope*

We advised that “employer” is used in scope because it is referring to permissible groups as specified in the NAIC Group Health Insurance Standards, Model #100 Section 4.A. As was done if GTL, the preference is to use the term “policyholder” since the entity to which the policy may be issued may be an employer or a single employer trust.

For this reason, it should be noted that on *page 7, item (21) “Job”*, we did not include “policyholder” since the term could have referred to a trust and would then not make sense. E don’t believe that the clarification “employer” is needed.

For consistency with the standards, “policyholder” should not be used where appropriate.

**§3. TERMS AND CONCEPTS**

*Page 2, Preamble*

We strongly recommend that you re-consider leaving the preamble alone, as it was in the GTL standards, and not delete the yellow highlighted text below.

The policy and the certificate shall define certain terms or describe concepts that, as used, will have specific meanings. If the policy or certificate includes the terms and concepts set forth below, the policy and certificate shall define the terms or describe the concepts **in a manner consistent with the policyholder’s plan and the insurance company’s underwriting guidelines.** The terms and concepts included below reflect the parameters that are common in the group disability income market today, but may vary from insurance company to insurance company and policyholder to policyholder. Consequently, the terms included below are examples of language used in group disability income filings today, but are not intended to prescribe how each insurance company and each policyholder should define their terms or describe their **concepts.** The insurance company may identify defined terms or concepts by initial capitalization, italicizing, bolding or other form of highlighting. The plural use of terms defined in the singular shall share the same meaning.

The group carriers developing the GTL standards had significant concerns that since this was the first set of “group” standards for the IIPRC and group is so different from individual, and they wanted to clearly convey in the standards that there needs to be a basic understanding /agreement that variability and flexibility is needed to accommodate employer requests, and recognizing that employers have unique requirements and preferences. For these reasons, language highlighted in yellow was included regarding the impact that policyholder/employer plan specifications and company underwriting guidelines will have on what type of benefits are included which would then impact what terms/concepts need to be defined and how.

To set the record straight, the language in this preamble was thoroughly vetted by the regulators just a few years ago and it was deemed acceptable. For decades, what was included in the GTL preamble has been deemed acceptable parameters, reflected in the terms/concepts in use today with the related Explanations of Variable Material. Once the regulators understood the issue, they were OK with the preamble. In fact, some of the yellow highlighted text was their final preferences to several earlier drafts.

We thought it would be helpful to recap some of the GTL discussions:

**Re: First Yellow Highlighted Phrase:** in a manner consistent with the policyholder’s plan and the insurance company’s underwriting guidelines.

What is meant here is that if the policyholder will provide Total and Presumptive Disability, that the appropriate terms/concepts needed for these benefits will be included and these will be subject to the insurance company underwriting guidelines – so a definition of Total Disability will include the triggers that the underwriting guidelines would permit for a policyholder with x number of employees located in specified work locations and engaged in specified jobs, such as engineers, miners, salespersons, etc.

**Second Highlighted Sentence:** The terms and concepts included below reflect the parameters that are common in the group disability income market today, but may vary from insurance company to insurance company and policyholder to policyholder.

This just underscores the reality that what is included is what is predominant in today’s GDI marketplace but there is no intent to use the standards to *prescribe exactly* how terms/concepts will be filed, and that, although most terms/concepts are common, there may be variations by policyholder or insurance company preference. This is not to say that the IIPRC won’t see any of these terms/concepts but instead see a whole bunch of other terms/concepts. If one reviews the remaining standards, one can see that the terms and concepts are key to the remaining standards and this is because what we have included is fairly common in the way products are developed, filed, sold and issued.

***Third Sentence Highlighted:*** Consequently, the terms included below are examples of language used in group disability income filings today, but are not intended to prescribe how each insurance company and each policyholder should define their terms or describe their concepts.

Maybe this sentence is overkill and not needed, but it was intended to reinforce the fear that someone (IIPRC examiner or state) may presume that the terms/concepts filed need to be exactly as shown in Section 3.

In the past year, the group insurance industry has met with 15 DOI staff who have advised that the volume of variability filed for group insurance is overwhelming, confusing, not organized, not mapped well, and reviewing this is a time consuming process. The comments we frequently get is that when a 10 page policy is filed with a 30 page explanation of variable material this is problematic. In addition, companies are constantly filing updates to the explanation. ACLI and the group companies explained that since the DOI should know how language filed would vary and needs to know all the possibilities, that a 30 page explanation is exactly what has to be filed, as well as updates as needed. If a company brackets the beginning of a page and the end of the page, states complain that they are approving a blank page. And yet when the company details all the variable material, this is also a problem.

This is why industry is “nervous” about “minimum standards”. There has to be an understanding, appreciation and acceptance of the fact that group insurance does not work like individual insurance – in group insurance the policyholder/employer dictates what he wants to provide, and the bigger he is the bigger are the demands. While a group insurance company has past experience and can fairly well anticipate what product features are needed in most cases, it is impossible to anticipate all requests – this is why in today’s state filings you see many single case filings. The single case filings are a time consuming and thankless process for the insurance companies and DOI staff, but it is what the marketplace demands.

The reality is that concern with variability and flexibility is an everyday reality for the insurance companies, and they wanted to help develop standards that are equal to or better than what exists in some states today with respect to specificity, reflect the dynamics of the GDI marketplace, and allow variability and flexibility not so that employers and insurance companies can have a free for all, but that we end up with standards that serve the needs of the regulators, the policyholders/employers, the third party beneficiaries, and the insurance companies.

The way we understand the IIPRC filing process, companies can file forms based on the standards and submit an explanation of variable material where a standard is permitted to vary. If a company anticipates the needs to include a definition of “Participant” or “Associate” for use in lieu of “Covered Person”, a company would address this intent in the explanation of variable material for “Covered Person”. The IIPRC would then use their judgment to determine if this is within the permitted variability, which it should be. If a company develops a new disability concept, other than Total, Presumptive or Partial/Residual, the IAC would need to request to amend the standards to include the concept. If a company decides to add a new benefit trigger, the IAC industry this would also need to request to update the standards, as was done for accelerated death benefits to add the IRS Section 101(g) chronic illness triggers.

***Page 2, Item (1), “Actively at Work”, Deletion of “Full-Time”***

We have concerns about the need to deviate from the GTL standards.

It is common in all group coverages to link actively at work and full-time. One term is usually defined by reference to the other, as the GTL and GDI reflect. They go hand in hand. The term “full-time” may be defined to have different hourly requirements for regular employees and part-time employees, different hourly requirements for different full-time eligible classes, different employer locations, etc. Alternatively, an employer may want two separate definitions, one for “full-time” and one for “part-time”. This is all handled in the Explanation of Variable Material that is submitted for “full-time”.

It should be noted that Group Life and Group DI are sometimes sold as a package, and one certificate will be issued to show both coverages. And even if the employer requests 2 separate certificates, it is preferable to have one standard for all group lines since it works exactly the same way – there is no need to change the standards now operational for GTL, and there is no reason to change the GDI term/concept.

We asked how the IIPRC would respond if a company submitted a filing with this Item (1) reading “on a full-time basis” and if the answer is that this would be allowed, then there is no need to make the proposed PSC changes.

***Page 2, Item (1), “Actively at Work”, Deletion of “The concept may state”***

There is no statutory or regulatory requirement that this be mandatory, as far as we know. While this may be what most policyholders include, the language here may need to vary to reflect how the policyholder/employer prefers to handle situations like business closures, especially when there are seasonal employees involved.

Our preference is to allow the variability for GTL and GDI.

***Page 5, Item (10), “Covered Person”***

We recommend that in order to simplify what is shown, that this term/concept be subject to Model #100 Section 4.A.(1) (a) and (b).

Item (a) includes the “all the employees of the employer.

Item (b) defines “employees” to include the employees, individual proprietors and partners of one or more affiliated corporations, proprietorships or partnerships if the business of the employer and of the affiliated corporation, proprietorship or partnership is under common control. Also included are retired employees, former employees and directors of a corporate employer, as well as elected or appointed officials if the policy insures employees of a public body.

There is no need to refer to what is not included. The standards as per the Model are clear.

***Page 5, Item (12) “Disability” or “Disabled”***

Need to delete the word “to” in the first line.

***Page 6, Item (14), “Elimination Period”***

We think the intent here was to say “but *shall* not require the ...” . However, some policyholders/employers may want to integrate with paid vacation time. The purpose of disability income insurance is to provide some benefit while disabled, but not provide close to, equal to or greater than pre-disability earnings so that there is some incentive to get back to work. If a person can collect GDI benefits with salary continuation, sick leave and paid vacation time, this would defeat the GDI purpose.

We also advised that, in line with the “purpose” explained above, under the federal FLMA (“family leave act”), a person is required to use up vacation days before clocking FLMA days.

***Page 9, Comments Following Item (25), “Partial or Residual Disability”***

***Page 17, Comments Following Item (44), “Total Disability”***

***First and Second Bullets:***

Sub-items (a) and (b) are the predominant ones in the marketplace today – note “and” which means that when they appear they will appear together.

Triggers (c) – (j) may be either alternatives to (a) and (b), or may be in addition to these. While potentially (a) through (j) may be included, this is not likely since this may be quite expensive – more potential for a claim. The addition of one or more triggers (c) – (j) are intended to permit a “shortcut” to benefits in that some of these triggers are not as strict as (a) and (b).

***Third Bullet:***

The companies have noted that in the past few years there is a trend for more policyholders/employers asking about the availability of the chronic illness triggers. The market has seen more interest for chronic illness triggers with accelerated death benefits, guaranteed living benefits, waiver of surrender charges, etc. Perhaps this is an outgrowth of coverage in the press regarding the fact that most people are not adequately pre-funding for the care needed for chronic illness.

We advised that a disability benefit will never be issued with only triggers (d), (e), (f) and (g), and if a company wants to sell this type of benefit the industry would have to request to amend the current GDI standards to do this, and it is possible that such a benefit may need to also be subject to all or some of the LTC standards of the IIPRC.

***Fourth Bullet:***

We advised that if a plan has only short term benefits, these would be itemized in the specifications page of the certificate where the applicable benefit details would be specified.

We advised that if a plan has only long term benefits, these would be itemized in the specifications page of the certificate where the applicable benefit details would be specified.

We advised that if a plan has both short and long term benefits, these would be itemized in the specifications page, usually under separate sub-headings of ‘SHORT TERM BENEFIT’ and ‘LONG TERM BENEFITS’.

Since the plan parameters would be specified in the specifications page, there is no need to define what is meant by “short term” or “long term” benefits.

***Fifth Bullet:***

We advised that on page 15, item (44) sub-item (b) should be changed to say “is not engaged in any *work* for wage or profit.”

We noted that the Partial/Residual and Total Disability concepts rely on inability to perform substantial and material duties of the work-related tests prescribed in the terms/concepts Regular Job, Regular Occupation, Regular Specialty, and that substantial and material duties are defined to mean the important tasks, functions and operations generally required...”. Accordingly, we don’t believe that “work” needs to be defined.

***Sixth/Last Bullet:***

There needs to be an understanding that the product works differently from individual and group. The folks who developed the individual standards were not group product experts and the group product experts are not individual DI experts – some companies sell one product and not the other. When the group DI experts reviewed what was done for IDI, they made the changes needed to better reflect how group works. For example, the IDI specified periods shown are from the A&S Model which does not apply to group insurance, so this individual standard is inapplicable to group.

***Page 10, Item (29), “Post Disability Earnings”***

We confirmed that the term “Post-Disability Earnings” is not needed in these standards.

***Page 11, Item (31), “Preexisting Conditions”***

We advised that the language in question is based on NAIC Model #171, Regulation to Implement the Accident & Sickness Minimum Standards Model Act #170, page 5, Item K.

***Pages 11-12, Item (33), “Presumptive Disability”***

The companies advised that in group insurance, the Presumptive benefit is a shortcut to disability benefits under the certificate in those cases where someone meets the triggers – more easy to meet this trigger since there is no work test and it removes a burden of proof of disability. Benefits are usually for the same amounts and durations as Total Disability.

***Page 12, Item (35), “Recurrent Disability”***

As stated earlier, the product works differently from individual and group. The folks who developed the individual standards were not group product experts and the group product experts are not individual DI experts – some companies sell one product and not the other. The individual DI definition/concept was subject to the A&S Model whereas the group definition/concept is not.

***Page 15, Item (43) “Substantial and material duties”***

The PSC has questioned if the “national economy or marketplace” is intended to supersede how the policyholder/employer defines Regular Job, Regular Occupation, and Regular Specialty.

We responded as follows (more information than was provided on 10/21 is also included):

For the Job and Specialty test, the duties required by the policyholder/employer would be considered the substantial and material duties. However, for Occupation, “the national economy or marketplace” does make sense and should supersede the specific tasks required by a particular policyholder/employer. Otherwise, there is not a distinction between job and occupation. This is why we included “as applicable”.

Occupation is typically defined as a group of jobs that share similar characteristics. However, each particular policyholder/employer may require those jobs to be performed slightly differently. To determine which tasks are important to all the jobs in an occupation, and therefore substantial and material duties, a national economy or marketplace standard is standard in the industry. The national economy or marketplace standard is used because the vocational resources that analyze occupational duties collect data about occupations on a national level. For example, a receptionist in a particular medical office may be expected to spend a small part of the day filing documents. A receptionist in a law office might have no filing duties. To determine whether filing is a material duty of a receptionist, the industry typically uses vocational resources like the Department of Labor's Dictionary of Occupational Titles (DOT) or Occupational Information Network (O\*Net). These resources have analyzed jobs on a national level or marketplace and provide information about the types of skills, tasks and

demands are common to all of the jobs in that occupation on a nationwide basis.

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