

**11 NCAC 12 .0405 LIFE INSURANCE: TOTAL AND PERMANENT DISABILITY BENEFITS**

Departmental policy with regard to total and permanent disability provisions of life insurance policies is as follows:

- (1) Total and permanent disability provisions of individual or group life insurance and individual or group annuities, whether contained in the policies or in supplementary contracts, shall satisfy in substance the requirements set forth below. In construing these requirements:
  - (a) Waiver of premium includes refund of waived premiums if paid;
  - (b) The term "income payments" means monthly payments made in addition to waiver of premium and all benefits otherwise provided by the contract;
  - (c) The term "disability benefits" means waiver of premium, or both waiver of premium and income payments, whichever may be specified in the provision;
  - (d) The term "maturity" means, in the case of endowment policies, the date at which the policy becomes payable as an endowment, and in the case of deferred annuities, the date on which payment of annuity commences;
  - (e) The term "age 60" means either actual or rated age 60 of the insured or the policy anniversary nearest thereto as may be specified in the provision, and the term "age 65" shall be similarly construed.
- (2) The following provisions or those more favorable to the insured are prescribed:
  - (a) Language defining total disability shall be included in the policy;
  - (b) That total disability which has been continuous for a period specified in the provisions (not less than four months nor more than one year) shall be presumed permanent;
  - (c) That written notice of claim must be given to the company:
    - (i) during the lifetime of the insured; and
    - (ii) during the period of disability; Failure to give notice within the time provided in the policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible;
  - (d) That if total and permanent disability is established pursuant to this Rule, any premium or installment thereof which fell due during such total continuous disability and during a period specified in the provision of the policy contract (not less than six months) immediately preceding notice of claim shall be waived;
  - (e) That if total and permanent disability is established pursuant to this Rule, which began after the due date of a premium or installment thereof in default, but not later than the last day of grace, provided such due date was within a period specified in the provision (not less than six months) immediately preceding notice of claim, disability benefits shall be allowed as if the default has not occurred, but the insured shall be liable for the premium in default with interest thereon, if any;
  - (f) That any dividends which would otherwise have become payable during disability shall be allowed as though the disability has not occurred, unless an annuity is provided as permitted by Subsection (3)(d) of this Rule;
  - (g) That upon recovery of the insured from total disability, disability benefits shall cease and premiums or installments thereof becoming due after such recovery shall be payable.
- (3) The following provisions are permitted:
  - (a) that the entire and irrecoverable loss of sight of both eyes or the severance of (or alternatively, the entire and irrecoverable loss of the use of) both hands or of both feet, or of one hand and one foot, shall be deemed total disability;
  - (b) that disability occasioned by certain risks or hazards specified in the provisions shall be excluded from the coverage;
  - (c) that disability benefits shall be payable either to the insured or to a beneficiary;
  - (d) that in lieu of income payments, there shall be payable an annuity certain for a period of not more than 10 years, the present value of which shall be equal to the amount of insurance, but that upon recovery such annuity shall cease, and the insurance shall be restored at a proportionate premium for an amount equal to the present value of the unpaid installments;
  - (e) that in the case of endowment policies or deferred annuities income payments shall be made during the continuance of disability, after maturity, provided disability occurred prior to maturity and prior to the insured's attaining age 62;

- (f) any other provision not inconsistent with these requirements which may be necessary to the efficient administration of the coverage provided and the protection of the interests of the insurer or the insured; The intention is to permit, among others, provisions such as the following:
  - (i) that proof of disability shall be made at the time and in the form and manner as specified in the provisions;
  - (ii) that the insurer may require proof of continuance of disability, including examination of the insured by the insurer at reasonable intervals;
  - (iii) that the insured may not convert the policy to a higher premium plan during continuance of disability;
  - (iv) that the insured may not change the mode of premium payment during the continuance of disability;
  - (v) that a proportionate reduction of income payments, accompanied by return of premiums paid on the amount of such reduction, may be made in case the aggregate monthly amount payable to the insured on account of disability exceeds the percentage specified in the provision (not to exceed 100 percent) of monthly earned income at date of disability, or alternatively at date of application.
- (4) The following provisions are prohibited:
  - (a) the requirement of house or room confinement in the definition of total disability;
  - (b) that the face amount of insurance shall be reduced by the amount of any disability benefits (except in accordance with Subsection (3)(d) of this Rule);
  - (c) that in the case of deferred annuities with maturity at age 70 or earlier the monthly disability income payment shall not exceed one-twelfth of the annual annuity or in the case of deferred annuities with maturity at a later age a monthly income disability payment shall be allowed.

*History Note: Authority G.S. 58-2-40; 58-51-1;  
Eff. February 1, 1976;  
Readopted Eff. September 26, 1978;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*