

11 NCAC 12 .1206 DISCLOSURES

(a) **Descriptive Title.** The term "accelerated benefit" shall be included in the descriptive title printed on the first page of the policy or rider. Products regulated under this Section shall not be described or marketed as long-term care insurance or as providing long-term care benefits.

(b) **Tax Consequences.** A disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted, which statement shall advise that receipt of accelerated benefits may be taxable and that assistance should be sought from a personal tax advisor. The statement shall be prominently displayed on the first page of the policy or rider and on any other related documents.

(c) **Solicitation:**

- (1) A written disclosure including, but not limited to, a brief description of the accelerated benefit and definitions of the conditions or occurrences triggering payment of the benefits shall be given to the applicant. The description shall include an explanation of any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens:
 - (A) In the case of agent solicited insurance, the agent shall provide the disclosure form to the applicant prior to or concurrently with the application. Acknowledgement of the disclosure shall be signed by the applicant and writing agent.
 - (B) In the case of a solicitation by direct response methods, the insurer shall incorporate the disclosure in the application or attach a disclosure form thereto.
 - (C) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificate holder.
- (2) If there is a premium or cost of insurance charge, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of a benefit on the policy's cash value, accumulation account, death benefit, premium, policy loans and policy liens:
 - (A) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant prior to or concurrently with the application.
 - (B) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant at the time the policy is delivered.
 - (C) In the case of group insurance policies, the disclosure form shall be contained as part of the certificate of coverage or any related document furnished by the insurer for the certificate holder.
- (3) **Disclosure of Premium Charge:**
 - (A) Insurers with financing options other than those described in 11 NCAC 12 .1210(a)(2) shall disclose to the policy owner any premium or cost of insurance charge for the accelerated benefit. Each insurer shall make a reasonable effort to assure that the certificate holder is aware of any additional premium or cost of insurance charge if the certificate holder is required to pay such charge.
 - (B) Each insurer shall furnish an actuarial demonstration to the Department when filing a policy form containing an accelerated benefit, which demonstration shall disclose the method of arriving at the insurer's cost for the accelerated benefit.
- (4) **Disclosure of Administrative Expense Charge.** Each insurer shall disclose to each policy owner any administrative expense charge. Each insurer shall make a reasonable effort to assure that each certificate holder is aware of any administrative expense charge if the certificate holder is required to pay such charge.

(d) **Effect of the Benefit Payment.** When a policy owner or certificate holder requests an acceleration, the insurer shall send a statement to the policy owner or certificate holder 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 that:

- (1) receipt of accelerated benefit payments may adversely affect the recipient's eligibility for Medicaid or other government benefits or entitlement; and that
- (2) receipt of an accelerated benefit payment may be taxable and assistance should be sought from a personal tax advisor.

Each time an accelerated benefit option is exercised the policy owner and certificate holder shall be given an endorsement, rider or schedule page that reflects any revisions to cash values, death benefits, accumulation accounts, premiums, policy loans, policy liens and any other values that change as a result of the payment or payments. 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 policy owner or certificate holder and irrevocable beneficiary. When the insurer agrees to accelerate death benefits, the insurer shall issue an amended schedule page to the policyholder or notify the certificate holder under a group policy to reflect any new, reduced in-force face amount of the contract.

History Note: Authority G.S. 58-2-40; 58-3-150; 58-7-15(1); 58-58-1;
Eff. March 1, 1992;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.