

WAC 284-83-135 Standards for benefit triggers. (1) A long-term care insurance policy must condition the payment of benefits on a determination of the insured's ability to perform activities of daily living or on cognitive impairment of the insured. Eligibility for the payment of benefits must not be more restrictive than requiring either a deficiency in the ability to perform not more than three of the activities of daily living or the presence of cognitive impairment.

(2)(a) Activities of daily living must include at least the following, as defined in WAC 284-83-015, and must be defined in the policy:

- (i) Bathing;
- (ii) Continence;
- (iii) Dressing;
- (iv) Eating;
- (v) Toileting; and
- (vi) Transferring;

(b) Issuers may use activities of daily living to trigger covered benefits in addition to those contained in subsection (1)(a) of this section only if they are defined in the policy.

(3) The issuer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions must not restrict, and must not be in lieu of, the requirements contained in subsections (1) and (2) of this section.

(4) For purposes of this section the determination of a deficiency must not be more restrictive than:

(a) Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or

(b) If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

(5) Assessments of activities of daily living and cognitive impairment must be performed by licensed or certified professionals, such as physicians, nurses or social workers.

(6) Long-term care insurance policies must include a clear description of the process for appealing and resolving benefit determinations.

(7)(a) Except as provided in (b) of this subsection, the provisions of this section apply to a long-term care policy issued in this state on or after January 1, 2009.

(b) The provisions of this section do not apply to certificates issued on or after the effective date of this section under a group long-term care insurance policy as defined in RCW 48.83.020 (6)(a) that were in force on January 1, 2009.

[Statutory Authority: RCW 48.02.060, 48.83.070, 48.83.110, 48.83.120, 48.83.130(1), and 48.83.140 (4)(a). WSR 08-24-019 (Matter No. R 2008-09), § 284-83-135, filed 11/24/08, effective 12/25/08.]