

WSR 23-23-173  
PROPOSED RULES  
OFFICE OF THE  
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2023-08—Filed November 22, 2023, 9:25 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-20-124.

Title of Rule and Other Identifying Information: Life insurance riders and disclosure requirements, WAC 284-23-650.

Hearing Location(s): On Wednesday, December 27, 2023, at 9:00 a.m., virtually via Zoom meetings. Please visit this website for the Zoom meeting registration and link <https://www.insurance.wa.gov/life-insurance-disclosure-requirements-r-2023-08>. Written comments can be submitted to the office of the insurance commissioner (OIC) via email to [RulesCoordinator@oic.wa.gov](mailto:RulesCoordinator@oic.wa.gov) by close of business (COB) (5 p.m. PST) on Thursday, December 28, 2023.

Date of Intended Adoption: December 29, 2023.

Submit Written Comments to: Michael Walker, Senior Policy Analyst, P.O. Box 40260, Olympia, WA 98504-0260, email [RulesCoordinator@oic.wa.gov](mailto:RulesCoordinator@oic.wa.gov), fax 360-586-3109, by COB (5 p.m. PST) Thursday, December 28, 2023.

Assistance for Persons with Disabilities: Contact Katie Bennett, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email [Katie.Bennett@oic.wa.gov](mailto:Katie.Bennett@oic.wa.gov), by Tuesday, December 26, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is attempting to resolve misalignment identified between rules and laws in the insurance code. The rules in chapter 284-23 WAC do not align with the laws in chapter 48.83 RCW, as applied to life insurance with long-term care insurance (LTCi) riders and accelerated benefits. The rules currently prohibit life insurers from offering life insurance policies with riders that have accelerated benefits for LTCi and require disclosure statements communicating this prohibition. This contradicts current law that allows life insurance policies with riders to fund LTCi benefits through the acceleration of the policy's death benefits under certain conditions (see WAC 284-23-650, RCW 48.83.010(3), 48.83.020(5)(a), and 48.83.080).

Reasons Supporting Proposal: The misalignment of authorities causes complications for all affected parties, including insurers, consumers, and regulators. The effective rules cause complications for insurers who submit product filings for life insurance policies with accelerated death benefits to fund LTCi. Currently, insurers are experiencing difficulty in filing and marketing the policies as such to consumers due to the misalignment in rules, as identified above. This rule making will attempt to achieve alignment between the life insurance disclosure requirements in WAC and the statutory provisions provided by chapter 48.83 RCW.

Statutory Authority for Adoption: RCW 48.02.060 and 48.83.170.

Statute Being Implemented: RCW 48.83.010, 48.83.020, and 48.83.080.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Walker, 302 Sid Snyder Avenue S.W., Suite 200, Olympia, WA 98501,

360-725-7036; Implementation: Ned Gaines, 5000 Capitol Boulevard S.E., Tumwater, WA 98501, 360-725-7000; and Enforcement: Charles Malone, 5000 Capitol Boulevard S.E., Tumwater, WA 98501, 360-725-7000.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Simon Casson, P.O. Box 40260, Olympia, WA 98504, phone 360-725-7038, fax 360-586-3109, email Simon.Casson@oic.wa.gov.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

November 22, 2023  
Mike Kreidler  
Insurance Commissioner

## OTS-5077.1

AMENDATORY SECTION (Amending WSR 08-24-023, filed 11/24/08, effective 12/25/08)

**WAC 284-23-650 Disclosure statement.** (1) For purposes of this section, "policy" includes any agreement, amendment, certificate, contract, endorsement, plan, or statement of coverage that provides for life insurance benefits.

(2) The words "accelerated benefit" must be included in the required title of every life insurance policy or rider that includes a provision for accelerated benefits. Accelerated benefits that do not meet the definition of long-term care insurance in RCW 48.83.020(5), shall not be described, advertised, marketed, or sold as either long-term care insurance or as providing long-term care benefits.

~~((2))~~ (3) Possible tax consequences and possible consequences on eligibility for receipt of medicare, medicaid, Social Security, supplemental security income (SSI), or other sources of public funding shall be included in every disclosure statement.

(a) The disclosure form shall include a disclosure statement. The disclosure statement shall be prominently displayed on the first page of the policy, rider, or certificate. The disclosure statement shall contain substantially the following: "If you receive payment of accelerated benefits from a life insurance policy, you may lose your right to receive certain public funds, such as medicare, medicaid, Social Security, Supplemental Security, supplemental security income (SSI), and possibly others. Also, receiving accelerated benefits from a life insurance policy may have tax consequences for you. We cannot give you advice about this. You may wish to obtain advice from a tax professional or an attorney before you decide to receive accelerated benefits from a life insurance policy."

(b) For accelerated benefits that do not meet the definition of long-term care insurance in RCW 48.83.020(5), the disclosure statement must begin with the following statement: "This accelerated life bene-

fit does not and is not intended to qualify as long-term care insurance under Washington state law. Washington state law prevents this accelerated life benefit from being marketed or sold as long-term care insurance or as providing long-term care benefits.

(c) The disclosure form must be provided (i) to the applicant for an individual or group life insurance policy at the time application is made for the policy or rider; and (ii) (A) to the individual insured at the time the owner of an individual life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid, or (B) to the individual certificate holder at the time an individual certificate holder of a group life insurance policy submits a request for payment of the accelerated benefit, and before the accelerated benefit is paid. It is not sufficient to provide this required disclosure statement only to the holder of a group policy.

~~((3))~~ (4) The disclosure form shall give a brief and clear description of the accelerated benefit. It shall define all qualifying events which can trigger payment of the accelerated benefit. It shall also describe any effect of payment of accelerated benefits upon the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens.

(a) In the case of insurance solicited by an insurance producer, the insurance producer shall provide the disclosure form to the applicant before or at the time the application is signed. Written ~~((acknowledgement))~~ acknowledgment of receipt of the disclosure statement shall be signed by the applicant and the insurance producer.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the disclosure form to the applicant at the time the policy is delivered, with a written notice that a full premium refund shall be made if the policy is returned to the insurer within the free look period.

(c) In the case of group life insurance policies, the disclosure form shall be contained in the certificate of coverage, and may be contained in any other related document furnished by the insurer to the certificate holder.

~~((4))~~ (5) If there is a premium or cost of insurance charge for the accelerated benefit, the insurer shall give the applicant a generic illustration numerically demonstrating any effect of the payment of an accelerated benefit upon the policy's cash value, accumulation account, death benefit, premium, policy loans, or policy liens.

(a) In the case of agent solicited insurance, the agent shall provide the illustration to the applicant either before or at the time the application is signed.

(b) In the case of a solicitation by direct response methods, the insurer shall provide the illustration to the applicant concurrently with delivery of the policy to the applicant.

(c) In the case of group life insurance policies, the disclosure form shall be included in the certificate of insurance or any related document furnished by the insurer to the certificate holder.

~~((5))~~ (6) (a) Insurers with financing options other than as described in WAC 284-23-690 (1) (b) and (c) of this regulation, shall disclose to the policyowner any premium or cost of insurance charge for the accelerated benefit. Insurers shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any premium or cost of insurance charge for the accelerated benefits, if he or she is required to pay all or any part of such a premium or cost of insurance charge.

(b) Insurers shall furnish an actuarial demonstration to the Insurance Commissioner when filing an individual or group life insurance policy or rider form that provides accelerated benefits, showing the method used to calculate the cost for the accelerated benefit.

~~((6))~~ (7) Insurers shall disclose to the policyholder any administrative expense charge. The insurer shall make a reasonable effort to assure that the certificate holder on a group policy is made aware of any administrative expense charge if he or she is required to pay all or any part of any such charge.

~~((7))~~ (8) When the owner of an individual policy or the certificate holder of a group policy requests payment of an accelerated benefit, within ~~(twenty)~~ 20 days of receiving the request the insurer shall send a statement to that person, and to any irrevocable beneficiary, showing any effect that payment of an accelerated benefit will have on the policy's cash value, accumulation account, death benefit, premium, policy loans, and policy liens. This statement shall disclose that receipt of accelerated benefit payments may adversely affect the recipient's eligibility for medicaid or other government benefits or entitlements. When the insurer pays the accelerated benefit, it shall issue an amended schedule page to the owner of an individual policy, or to the certificate holder of a group policy, showing any new, reduced in-force amount of the policy. When more than one payment of accelerated benefit is permitted under the policy or rider, the insurer shall send a revised statement to the owner of an individual policy, or to the certificate holder of a group policy, when a previous statement has become invalid due to payment of accelerated benefits.