

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Accelerated Death Benefits
Definition of Qualifying Event

Proposed Amendments: N.J.A.C. 11:4-30.3

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1C-6(e), 17B:17-3, 17B:25-18 and 17B:27-25.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal: PRN 2002 - 324

Submit comments by November 15, 2002 to:

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The agency proposal follows:

Summary

Accelerated death benefit provisions provide the owner of an insurance policy with the option of electing to have all or part of the death benefit paid prior to the death of the insured if the insured experiences a qualifying event. The definition of a “qualifying event” defined by N.J.A.C. 11:4-30.3 includes terminal illness, confinement in an institution that is expected to continue until death of the insured, and “any other qualifying events which the Commissioner may approve.” The Department proposes to expand the definition of “qualifying event” to include chronic illness.

This proposed amendment is derived from an insurer seeking that the Department treat chronic illness as a qualifying event. “Chronic illness “ is defined in the proposed amendment as the permanent inability to perform two of the six activities of daily living (bathing, continence, dressing, eating, toileting and transferring) or the presence of a debilitating cognitive impairment. The Department agrees that these permanent medical conditions may at the option of the insurer be considered “qualifying events” for purposes of payment of an accelerated death benefit.

This rule provides for a comment period of 60 days, and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars

Social Impact

Expanding the definition of a qualifying event to include chronic illness should positively affect consumers. Policy owners would have additional money available to them for occurrences other than terminal illness and institutionalization, and they will be better able to manage home health care maintenance of a debilitating condition. Insurers should benefit since policyholders now have more flexibility in accelerating a portion of their life insurance rather than exercising other life settlement options.

Economic Impact

The proposed expansion of the definition of a qualifying event for accelerated death benefit provisions does not have a negative impact on insurers. The general public would benefit

from the proposed amendment, because they would have access to the proceeds of their life insurance benefits at the time of need to cover medical and other expenses.

Federal Standards Statement

A Federal standard analysis is required when any State agency proposes to adopt, readopt, or amend State rules that exceed any Federal standards or requirements, and must include in the rulemaking document a comparison with the Federal law.

The Department notes that the subject of these amendments deals with private life insurance coverage in New Jersey, which is exclusively subject to the laws of this State and is not subject to any Federal standards or requirements. Thus, the Department concludes that no Federal standards analysis is required.

Jobs Impact

The Department does not anticipate that any jobs will be created, increased or lost as a consequence of the proposed amendment. The Department invites commenters to submit any data or studies regarding the jobs impact of this amended rule together with any written comments on other aspects of the proposal.

Agriculture Statement

The Department does not anticipate any impact on agriculture from the proposed amendment.

Regulatory Flexibility Analysis

The Department believes that few, if any, insurers subject to the proposed amendment are “small businesses” as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Additionally, the amendment imposes no undue burden or adverse economic impact upon insurers, which may qualify as “small businesses.”

There are no additional compliance requirements with the proposed amendments. The amendment requires no additional reporting and should impose little or no change in the companies’ present operations. Insurers presently maintain, or otherwise provide, for all services, which may be required in order to comply with the amendment.

Because the cost of compliance with the proposed amendment is minimal and presents no adverse economic impact upon small businesses, no exceptions for compliance by small insurers have been incorporated into the rules. The Department does not anticipate that outside professional services will be required for compliance.

Smart Growth Impact

The proposed amendment has no impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

11: 4-30.3 Definitions

The following terms, when used in this subchapter, shall have the following meanings:

“Qualifying event” means a medical condition which is reasonably expected to result in a drastically limited life span for the insured, such limitation to be specified in the contract; for example, a remaining life span of 24 months. [A qualifying event also includes those conditions] **At the option of the insurer, the contract may also define**

qualifying events to include:

1. **Those medical conditions** which result in a limited life span and which are reasonably expected to require continuous confinement in an eligible institution as defined in the contract, until the death of the insured;
2. **Chronic illness defined as either the permanent inability to perform two of the six activities of daily living (bathing, continence, dressing, eating, toileting and transferring) or the presence of a debilitating cognitive impairment;** and
3. Any other qualifying events which the Commissioner may approve.