



SECOND TRANSMITTAL MEMORANDUM

TO: Insurance Compact Management Committee

FROM: Product Standards Committee

DATE: March 23, 2021

SUBJECT: Suggested Response to Comments Submitted During Rulemaking Notice and Comment Period for:
Additional Standards for Qualifying Events for Waiver of Premium Benefits;
Additional Standards for Qualifying Events for Waiver of Monthly Deduction Benefits;
Additional Standards for Waiver of Surrender Charge Benefit for Life Insurance

The Product Standards Committee (“PSC”) transmits its recommendation to the Management Committee for further changes to the above-referenced Uniform Standards.

In December 2019, the PSC recommended amendments to two existing Uniform Standards for the purpose of adding additional benefit triggers. See [Original Transmittal Letter](#). These Uniform Standards include: 1) Additional Standards for Qualifying Events for Waiver of Premium Benefits; and 2) Additional Standards for Qualifying Events for Waiver of Monthly Deduction Benefits. The PSC also recommended a new Uniform Standard: Additional Standards for Waiver of Surrender Charge Benefit for Life Insurance.

The Management Committee held a 60-day notice and comment period as well as a public hearing. In February 2020, the Management Committee requested the PSC review comments submitted during the rulemaking notice and comment period to address if the comments had already been discussed during the drafting of the initial recommendation and if not, how they would suggest responding.

Upon review of the comments and further discussion, the PSC is recommending additional changes to all three Uniform Standards. The amendments in **red** and underlined are the original ones recommended by the PSC for the two existing Uniform Standards. Amendments in **blue** and **bold** are ones recommended by the PSC to all three Uniform Standards to respond to comments submitted.

The appendices to this memo provide a summary of each substantive comment along with identifying the provision of the Uniform Standard and the PSC’s recommended response to the

comment. Appendix A is a summary for the comments to the *Additional Standards for Waiver of Premium* and the *Additional Standards for Waiver of Monthly Deduction*. Appendix B is a summary for the comments to the *Additional Standards for Waiver of Surrender Charge Benefit for Life Insurance*.

The Product Standards Committee held seven regulator-only conference calls to discuss comments and proposed changes. The Product Standards Committee held a public call on September 22, 2020 to receive written and oral comments on its recommendation to the Management Committee for further amendments to these three Uniform Standards. The PSC addressed comments and suggested changes from several regulators including the [Oregon Division of Financial Services](#) and the [Hawaii Department of Commerce and Consumer Affairs](#). Comments from the following interested parties were also considered: [Yvonne Hunter, member of the Consumer Advisory Committee](#); American Council of Life Insurers ([2/18/2020](#) and [9/11/2020](#)); and [Pacific Life Insurance Company](#).

The PSC is available to respond to any questions or requests for information to assist the Management Committee.

APPENDIX A

SUMMARY OF THE PRODUCT STANDARDS COMMITTEE RESPONSE TO COMMENTS REGARDING THE ADDITIONAL STANDARDS FOR WAIVER OF PREMIUM BENEFITS FOR TOTAL DISABILITY AND OTHER QUALIFYING EVENTS and THE ADDITIONAL STANDARDS FOR WAIVER OF MONTHLY DEDUCTION BENEFITS FOR TOTAL DISABILITY AND OTHER QUALIFYING EVENTS CURRENTLY BEING CONSIDERED BY THE MANAGEMENT COMMITTEE

	Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1.	Technical edits throughout the document	ACLI suggested and PSC noted several technical edits for consistency with other Uniform Standards.	The PSC agreed consistency is important and recommends all suggested technical edits including moving provisions to other sections of the Uniform Standard.
2.	TITLE	ACLI commented that there was confusion between waiver of premium for total disability and waiver of premium for qualifying events.	The PSC recommends the following clarifying change: <u>ADDITIONAL STANDARDS FOR QUALIFYING EVENTS FOR WAIVER OF PREMIUM BENEFITS FOR TOTAL DISABILITY AND OTHER QUALIFYING EVENTS</u>
3.	SCOPE	ACLI commented that the standards should make clear that a rider is not required to have all benefit triggers, i.e., total disability and all the qualifying events.	The PSC agrees the intent of the amendments was not to require all benefit triggers and recommends adding the following sentence to the SCOPE: The waiver can include waiver benefits for one or more benefit triggers and is not required to provide waiver for both total disability and all qualifying events.
4.	SCOPE	The Pennsylvania Insurance Department commented that “and” should be replaced with “or”.	The PSC recommends revising the following sentence in the Scope to delete “and” and replace it with “or”: The waiver is for premiums due under an individual life insurance policy in the event that the insured becomes totally disabled and or experiences any

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			allowable qualifying event under the terms of the form.
5.	SCOPE	The Oregon Division of Financial Regulation expressed concern about confusion with long term care benefits in the title of the waiver.	<p>The PSC agreed these are individual life insurance benefit features and to add the standard language from other individual life insurance standards which have qualifying event triggers to the Scope section:</p> <p>Products subject to these standards shall not be described as long-term care insurance or as providing long-term care benefits. If the payment of waiver of premium benefits is contingent upon receipt of long-term care services or supports, these standards shall not apply and such benefit will be subject to the Interstate Insurance Product Regulation Commission standards for individual long-term care insurance.</p>
6.	SCOPE	ACLI comments several times with respect to the confusion between waiver of premium for total disability and waiver of premium for allowable qualifying events including disability. The Compact Office recommends amendments throughout to clarify total disability is not within the definition of qualifying events.	<p>The PSC recommends modifying the definition of “qualifying event” to make it clear that total disability is not within the definition of qualifying event:</p> <p>“Qualifying event” means any of the following, as long as the event meets the requirements of this standard:</p> <ul style="list-style-type: none"> (1) Diagnosis of limited life expectancy or life-threatening condition; (2) Diagnosis of cognitive impairment;

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			<p>(3) Assessment by qualified professional establishing inability to perform certain activities of daily living;</p> <p>(4) Receipt of care from a health care facility;</p> <p>(5) Disability other than total disability; or</p> <p>(6) Unemployment.</p>
7.	SCOPE	ACLI suggested that since these are Additional Standards, it should be clear these standards are in addition and applicable provisions in the policy Uniform Standards still apply.	<p>The PSC recommends adding the following sentence following the Definitions section clarifying that the provisions in the policy uniform standards still apply:</p> <p>In addition to the applicable policy Uniform Standards, the following provisions, as applicable apply:</p>
8.	ADDITIONAL SUBMISSION REQUIREMENTS § 1B. (2)(c)	ACLI points out the number of qualifying events (3) is different than the number of qualifying events (2) in the <i>Additional Standards for Accelerated Benefits</i> and could be confusing since these are both life benefit features.	<p>The PSC agrees the number of qualifying events to trigger the benefit should be consistent and recommends changing the number of qualifying events to two qualifying events in § 1 B.(2)(c):</p> <p>(c) Number of “activities of daily living” (no more than threetwo);</p>

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9.	ADDITIONAL SUBMISSION REQUIREMENTS § 1 B.(3)	ACLI states a zero entry is overly broad with respect to this benefit with an example an elimination period could range from 0 to 90 days with 0 days being beneficial to the policyholder.	The PSC states ACLI’s comment misunderstands the meaning and purpose of this provision which is the waiver benefit the policyholder is paying for. If \$0 premium is being waived, this is not considered a meaningful benefit. This restriction does not apply to the elimination period. The PSC does not recommend a change to this section.
10.	GENERAL REQUIREMENTS § 2 C. (1)	During PSC discussions, it was noted there might be issues with how qualifying events were treated and general fairness may apply. There is a Fairness provision in other standards that may address this concern.	The PSC recommends for clarity purposes adding a Fairness Provision that appears in other standards: to § 2 C. (1): C. FAIRNESS 1) The form shall not contain provisions that unfairly discriminate among insureds with differing qualifying events covered under the form, or among insureds with similar qualifying events covered under the form.
11..	BENEFIT PROVISIONS § 3 A.(2)	ACLI comments several times with respect to the confusion between waiver of premium for total disability and waiver of premium for allowable qualifying events.	The PSC recommends deleting A.(2)(a) and (b) (2) — A waiver benefit form that includes an active employment requirement with respect to disability shall comply with the following:

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		<p>This section was added as part of the recommended amendments to discern between total disability and disability other than total disability. The Compact Office recommends deleting it and clarifying the definition of qualifying events does not include total disability.</p>	<p>(a) The definition of employment may refer to the insured’s own occupation or one for which he or she is suited or becomes suited by reason of education, training or experience. The waiver benefit form shall not define employment as an occupation that he or she could or may become suited for in the future.</p> <p>(b) The waiver benefit form may include homemakers or students in the definition of employment. If included, the definition shall provide that the homemaker is unable to perform the customary duties of a homemaker or that the student is unable to attend regularly scheduled classes, including online, if applicable.</p>
12.	BENEFIT PROVISIONS § 3A.(2)(e)	<p>ACLI points out the number of qualifying events in (2)(e) is different than the number of qualifying events (2) in the <u>Additional Standards for Accelerated Benefits</u> and could be confusing since these are both life benefit features.</p>	<p>The PSC recommends the following clarification changing the number of qualifying events to two qualifying events in § 3. A(2)(e):</p> <p>(fe) The insured is unable to perform a certain number of “activities of daily living” as defined in Items (i) through (vi). Requirements for the qualifying event shall not be more restrictive than the insured’s inability to perform not more than three two of the activities of daily living.</p>

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13.	BENEFIT PROVISIONS § 3 A.(2)(f)	ACLI commented that the definition of “cognitive impairment” should be the same as the definition of “cognitive impairment” in the <i>Additional Standards for Accelerated Benefits</i> as these benefit riders are often sold together and different definitions could be confusing.	The PSC agrees the definition of a term should be similar across life Uniform Standards as applicable and recommends modifying (f) to add “requiring substantial supervision” as this is the same description used in the <i>Additional Standards for Accelerated Benefits</i> . (gf) The insured is determined to have a cognitive impairment, <u>requiring substantial supervision</u>.
14.	BENEFIT PROVISIONS § 3 A.(2)(i)	The Compact Office suggests deleting this provision to make it consistent with the amendments to the Waiver of Monthly Deduction and Waiver of Surrender Charge standards.	The PSC agrees that this language should be removed to minimize questions about the scope of what qualifying events are allowed under these Uniform Standards recommends the deletion of this sentence in § 3 A.2)(i). Other qualifying events as may be approved by the Interstate Insurance Product Regulation Commission.
15.	BENEFIT PROVISIONS § 3A.(3)	ACLI suggested that (3) be moved.	The PSC recommends that (3) remain in its current location.
16.	BENEFIT PROVISIONS § 3A.(10)	ACLI suggested an example of “total disability” is needed. The Compact Office points out that “total disability” is defined in A. (1) and is the same definition that is in the current standard. The amended standard addresses	The PSC recommends no change and that an example is not needed.

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		qualifying events and did not change the existing definition.	
17.	BENEFIT PROVISIONS § 3 B.(1)(b)	The PSC agreed to leave § 3C.(1)(b) to limit the requirement that an insured be younger than a specified age to total disability and not to qualifying events. This required a change to §3. B.(1)(b) which permitted the exclusion for a qualifying event as drafted.	The PSC recommends adding “other than total disability” to §3 B.(1) (b) (b) <u>Other than for total disability</u> , the insured shall not be required to be younger than a specified age in order to be initially eligible for the waiver benefit.
18.	BENEFIT PROVISIONS § 3 B.(2)(d)	The Compact Office suggests deleting this provision in this section on qualifying events as it refers to total disability to address the ACLI concern about the confusion between total disability and qualifying events	The PSC recommends deleting (d).
19.	BENEFIT PROVISIONS § 3 B.(2)(i)	The Compact Office suggests deleting this provision to make it consistent with the amendments to the Waiver of Monthly Deduction and Waiver of Surrender Charge standards. The Compact Office overlooked make this conforming deletion before the PSC recommended the amendments to this Standard	The PSC recommends deleting § 3 B.(2)(i) (i) Other qualifying events as may be approved by the Interstate Insurance Product Regulation Commission.

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20.	BENEFIT PROVISIONS § 3 B.(8)	ACLI commented the term “imminent death” should be changed to “limited life expectancy” to conform to definition of qualifying events.	The PSC recommends deleting imminent death and replace it with limited life expectancy in § 3 B.(8). (78) A waiver benefit for imminent death <u>limited life expectancy</u> shall not require that the condition causing the limited life expectancy be diagnosed after the waiver benefit issue date
21.	BENEFIT PROVISIONS § 3 C.(1)(a)	The PSC asked that the “and” be removed in the Exclusions section (1)(a).	The PSC recommends that the “and” be deleted in § 3 C.(1)(a) (a) Disability —Total disability and/or a qualifying event caused or contributed to by:
22.	BENEFIT PROVISIONS § 3 C.(1)(b)	ACLI pointed out that this subsection (b) contradicts § 3 B.(1)(b) as currently drafted. The Compact Office notes that this was a drafting error and suggests deleting “or qualifying event” in C.(1)(b).	The PSC recommends deleting “or qualifying event” in § 3 C.(1)(b). Total disability or qualifying event occurring before the insured reaches a specified age, such as age 5
23.	BENEFIT PROVISIONS § 3 C.(2)	This section (2) was added by the PSC when it added qualifying event triggers other than total disability to specify what limitations and exclusion are not allowed. These exclusions were taken from the Waiver of Surrender Charge Benefits for annuity products and added with	The PSC recommends § 3C.(2) apply to total disability and qualifying events. (24) A waiver benefit form <u>for qualifying events or total disability</u> shall not include the following exclusions and restrictions as a basis of waiver claim denial by the company

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		the amendments for qualifying events. The PSC reviewed and determined this section should apply to total disability even though not included in the original Waiver of Premium standard before these qualifying event amendments.	
24.	BENEFIT PROVISIONS § 3 D.	The Hawaii Department of Commerce and Consumer Affairs indicated it does not permit asking for continued proof of total disability at such frequency in the first three years if the period of total disability is permanent or probable period it will last is longer than two years.	After discussion, the PSC recommends no change to the current language as Hawaii’s provision focuses on the administration of a claim.
25.	BENEFIT PROVISIONS § 3 D.(1)(b)		The PSC recommends adding “or other qualifying event or total disability” to D.(1)(b) (b) If the company requires that proof of claim be provided within a certain time frame, the waiver benefit form shall state that the proof will not be required to be supplied sooner than 90 days after receiving services or treatment, or after unemployment or other qualifying event or total disability begins
26.	BENEFIT PROVISIONS § 3E. (1)	ACLI commented that the original language of “totally disabled” should be kept otherwise a policy	The PSC recommends going back to the original wording of “totally disabled” and agreed to add a statement regarding the statements in the waiver

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		<p>owner can be totally disabled but wait until after the 2-year period to make a claim for receipt of waiver benefits. A review of state-approved forms by the Compact Office show it is two-year incontestability except during the time there is total disability.</p>	<p>benefit application and its effect on the incontestability provision for the waiver benefit in § 3 E.(1):</p> <p>If the form is issued as an attachment to the policy, the form may state that the company shall not contest the form after it has been in force during the lifetime of the insured for two years from the date of issue of the form, excluding any period when the insured is totally disabled receiving waiver benefits, except for fraud in the procurement of the form, when permitted by applicable law in the state where the policy is delivered or issued for delivery. <u>With respect to statements made in an application for the waiver benefit, the waiver benefit is incontestable after it has been in force during the insured's lifetime for two years beginning with the day of issuance. The contestable period is based only on statements in the waiver benefit application, unless the original contestable period has not yet expired. The waiver benefit may include an exception to the incontestability provision for fraud in the procurement of the waiver benefit when permitted by applicable law in the state where the policy is delivered or issued for delivery</u></p>
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27.	BENEFIT PROVISIONS § 3 G.	ACLI asked PSC to review the Exclusions in § 3 C. to see if there are conflicts.	The PSC recommends no changes.
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APPENDIX B

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REGARDING THE ADDITIONAL STANDARDS FOR WAIVER OF SURRENDER
CHARGE BENEFIT FOR LIFE INSURANCE CURRENTLY BEING CONSIDERED BY THE
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	Standards Provision	Comment	Product Standards Committee (PSC) Response to Comments
1.	Technical edits throughout the document	ACLI suggested several technical edits for consistency with other Uniform Standards.	The PSC agreed consistency is important and recommends all suggested technical edits including moving provisions to other sections of the Uniform Standard.
2.	SCOPE	ACLI commented that the standard should make clear that a rider is not required to have all benefit triggers, i.e., total disability and all the qualifying events.	The PSC agrees the intent of the amendments was not to require all benefit triggers and recommends adding the following sentence to the SCOPE: <u>The waiver can include waiver benefits for one or more benefit triggers and is not required to provide waiver for both total disability and all qualifying events.</u>
3.	SCOPE	The Oregon Division of Financial Regulation expressed concern about confusion with long term care benefits in the title of the waiver.	The PSC agrees the intent of the amendments was not to require all benefit triggers and recommends adding the following sentences to the Scope section that is used in other standards: <u>Products subject to these standards shall not be described as long-term care insurance or as providing long-term care benefits. If the payment of waiver of premium benefits is contingent upon receipt of long-term care services or supports, these standards shall not apply and such benefit will be subject to the Interstate Insurance Product Regulation Commission standards for individual long-term care insurance.</u>

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4.	SCOPE	<p>ACLI comments several times with respect to the confusion between waiver of premium for total disability and waiver of premium for allowable qualifying events including disability. The Compact Office recommends amendments throughout to clarify total disability is not within the definition of qualifying events.</p>	<p>The PSC recommends modifying the definition of “qualifying event” to make it clear that total disability is not within the definition of qualifying event: “Qualifying event” means any of the following, as long as the event meets the requirements of this standard:</p> <ul style="list-style-type: none"> (1) Diagnosis of limited life expectancy or life-threatening condition; (2) Diagnosis of cognitive impairment; (3) Assessment by qualified professional establishing inability to perform certain activities of daily living; (4) Receipt of care from a health care facility; (5) Disability other than total disability; or (6) Unemployment.
5.	<p>ADDITIONAL SUBMISSIONS REQUIREMENTS § 1B.(2)</p>	<p>ACLI points out the number of qualifying events (3) is different than the number of qualifying events (2) in the <i>Additional Standards for Accelerated Benefits</i> and could be confusing since these are both life benefit features.</p>	<p>The PSC agrees the number of qualifying events to trigger the benefit should be consistent and recommends changing the number of qualifying events to two qualifying events in § 1 B.(2)(d):</p> <p>(d) Number of “activities of daily living” (no more than threetwo);</p>

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6.	ADDITIONAL SUBMISSIONS REQUIREMENTS § 1B.(3)	ACLI states a zero entry is overly broad with respect to this benefit with an example an elimination period could range from 0 to 90 days with 0 days being beneficial to the policyholder.	The PSC states the ACLI misunderstands the meaning and purpose of this provision which is the waiver benefit the policyholder is paying for. If \$0 waiver of surrender charge is being waived, this is not considered a meaningful benefit. This restriction does not apply to the elimination period. The PSC does not recommend a change to this section.
7.	GENERAL REQUIREMENTS § 2 C.(1)	During PSC discussions, it was noted there might be issues with how qualifying events were treated and general fairness may apply. There is a Fairness provision in other standards that may address this concern.	The PSC recommends for clarity purposes adding a Fairness Provision that appears in other standards: to § 2 C.(1): C. FAIRNESS 1) The form shall not contain provisions that unfairly discriminate among insureds with differing qualifying events covered under the form, or among insureds with similar qualifying events covered under the form.
8.	BENEFIT PROVISIONS § 3 A.	ACLI comments several times with respect to the confusion between waiver of premium for total disability and waiver of premium for allowable qualifying events. This section was added as part of the recommended amendments to discern between total disability and disability other than total disability. The Compact Office recommends	The PSC recommends deleting A.(2)(a) and (b) (2)—A waiver benefit form that includes an active employment requirement with respect to disability shall comply with the following: (a) The definition of employment may refer to the insured's own occupation or one for which he or she is suited or becomes suited by reason of education, training or

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		<p>deleting it and clarifying the definition of qualifying events does not include total disability.</p>	<p>experience. The waiver benefit form shall not define employment as an occupation that he or she could or may become suited for in the future.</p> <p>(b) The waiver benefit form may include homemakers or students in the definition of employment. If included, the definition shall provide that the homemaker is unable to perform the customary duties of a homemaker or that the student is unable to attend regularly scheduled classes, including online, if applicable.</p>
9.	<p>BENEFIT PROVISIONS § 3 A.(1)</p>	<p>ACLI commented that it is common in the bank-owned life insurance (BOLI) marketplace for insurers to waive the entire surrender charge for cash surrenders, but to only waive some or none of the surrender charge for I.R.C. Section 1035 exchanges. However, this requires the ability of the insurer to differentiate the percentage waived by type of qualifying event. ACLI asked that (a) be modified by adding “where X can vary by qualifying event” after “premiums”.</p>	<p>The PSC could not reach consensus on the change and does not recommend a change to this provision.</p>

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10.	BENEFIT PROVISIONS § 3 A.(2)(e)	ACLI points out the number of qualifying events in (2)(e) is different than the number of qualifying events (2) in the <i>Additional Standards for Accelerated Benefits</i> and could be confusing since these are both life benefit features.	The PSC recommends the following clarification changing the number of qualifying events to two qualifying events in § 3 A. (2)(e): (fe) The insured is unable to perform a certain number of “activities of daily living” as defined in Items (i) through (vi). Requirements for the qualifying event shall not be more restrictive than the insured’s inability to perform not more than three two of the activities of daily living.
11.	BENEFIT PROVISIONS § 3 A.(2)(f)	ACLI commented that the definition of “cognitive impairment” should be the same as the definition of “cognitive impairment” in the <i>Additional Standards for Accelerated Benefits</i> as these benefit riders are often sold together and different definitions could be confusing.	The PSC agrees the definition of a term should be similar across life Uniform Standards as applicable and recommends modifying (f) to add “requiring substantial supervision” as this is the same description used in the <i>Additional Standards for Accelerated Benefits</i> . (gf) The insured is determined to have a cognitive impairment, <u>requiring substantial supervision.</u>
12.	BENEFIT PROVISIONS § 3 B.(7)	ACLI commented the term “imminent death” should be changed to “limited life expectancy” to conform to definition of qualifying events.	The PSC recommends deleting imminent death and replace it with limited life expectancy in § 3.B(7). (7) A waiver benefit for imminent death <u>limited life expectancy</u> shall not require that the condition causing the limited life expectancy be diagnosed after the waiver benefit issue date