

**Agenda Item 2. Review public comments received by the Management Committee regarding amendments to Uniform Standards under Phase 5 of the 5 Year review.**

Mary Mealer, Missouri, Chair of the Product Standards Committee (PSC) noted that although there were eight sets of uniform standards that were the subject of Phase 5 of the 5 Year Review, the Management Committee only received comments on the proposed amendments to the Guaranteed Living Benefits Standards both for variable and non-variable annuities, so the discussion would center on those uniform standards. Comments were received from Jackson National Life Insurance Company and the Utah Insurance Department.

The PSC reviewed and discussed the comments from Jackson National in which they stated that Filing Information Notice (FIN) 2012-2 characterized the GLB rider as an annuity without explanation, and that they believe that a rider benefit must first be studied to determine if it qualifies as an additional benefit before it can be determined how the rider charges should be accounted for in the calculation of minimum nonforfeiture amounts. The company's analysis concluded that a Guaranteed Minimum Withdrawal Benefit does qualify as an additional benefit and should thus be disregarded within the scope of Section 4(A) of the SNFLA.

The PSC discussed the history of FIN 2012-2 and the Actuarial Working Group's conclusion at that time that States viewed Guaranteed Living Benefits as annuity benefits and agreed that therefore that the charges could not be disregarded when determining the SNLFA minimum nonforfeiture amounts. The Chair asked if any member had a differing view. Hearing none, the PSC agreed that they did not recommend the change suggested by Jackson National.

The PSC then heard a summary of the comments received from the Utah Department of Insurance that they believe that some of the benefit triggers that act to allow the contract holder to be eligible to receive additional withdrawal amounts that can be used for any purpose may cause such products to come under the definition of Long-term Care found in Model #640 – the Long-Term Care Model Law. Utah noted that there is no exemption for this type of annuity product under the Model.

IIPRC staff summarized the Industry Advisory Committee response to Utah's comments, generally expressing the view that the IIPRC correctly reflected the intent of the Model Act's definition of long-term care in the Accelerated Death Benefit standards and the Waiver of Surrender Charges standards. The IAC does not believe that these benefit triggers meet the requirements of the first sentence of the definition, "provide directly or supplement long-term care insurance," and notes that "neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care."

IIPRC staff noted that the 2008 adopted standards include a reference to how the guaranteed period withdrawal percentage or the guaranteed lifetime withdrawal percentage might increase under specified conditions, giving examples of when the covered life is receiving care from a health care facility or is unable to perform a specified number of activities of daily living. However, the standards did not provide the needed guidance for such increased calculations, and this was a reason that the changes were suggested during the 5 Year Review. Because of the lack of guidance in the Standards, products had to be filed state by state, where they are now

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approved, increasing Mix and Match. Staff also noted that there are recommendations to amend the definition in the Long-term Care Standards during the upcoming 5 Year Review to address this issue and make it clear that such products are not long-term care products.

The Chair noted that she is aware that these products are being approved in the marketplace and that in her state they are annuity products and do not view them as providing long-term care benefits. She reminded the Committee of the prior discussion of this matter during several calls of the PSC in 2015. When members were asked for their view, a majority wished to review the matter further and discuss internally.

Pennsylvania noted that they had questions about how the added Scope language saying that the benefit can't be contingent on receipt of long-term care services or supports can be reconciled with the first Qualifying Event, which appears to be in essence, receiving long-term care services or supports (receiving care from a health care facility) and suggested deleting that Qualifying Event. They also suggested that concerns about whether the products could be considered long-term care may be eliminated if there were limits on the amount of additional benefit that could be received when the covered person meets a qualifying event trigger.

The PSC agreed to review their state filings to see if these products are approved in their states as annuity benefits and discuss internally whether any revisions to the previously agreed upon amendments to the standards should be considered.

### **Agenda Item 3. Any other matters.**

The Chair noted that because the PSC had not finalized its recommendations on this call, the overview of the draft Report and Recommendation for Phase 6 of the 5 Year Review (Long-term Care) would not take place March 15<sup>th</sup>, rather the PSC would meet to finalize its recommendations to the Management Committee. The recommendations would be vetted in a Public Call prior to final consideration by the Management Committee.

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