

Product Standards Committee
Call Summary
July 13, 2021

Agenda Item 2. Receive referral from Governance Committee to address two meaningful conflicts in Colorado. Colorado has a state statute that limits the exclusion from policy benefits because of death by suicide to one year and a state statute that prohibits gender as a rating characteristic for individual long-term care insurance rate schedules.

Karen Schutter discussed the referral. She said that the Governance Committee wants to minimize conflict and Colorado is the only state with a concern today. She said there are examples in other uniform standards such as Legal Action where the standard requires that it follow state law. The uniform standard can set a standard but if the state law is more stringent, the state law applies as is the case with the right to examine upon replacement provision. The Chair asked if there were any comments from the members. There were no comments. The Compact Office will provide drafts for the PSC to review.

Agenda Item 3. Discuss Remaining Items From the 2018 Prioritization List and Any Comments on the Process to Request New Items for Uniform Standards Development for

The Compact Office summarized the requests that were received. The Chair asked if there were any comments. Vermont asked about the request for the standard for non-employer groups and the status of the survey conducted by the Rulemaking Committee. Karen Schutter said that the committee met in June and approved an outline of a recommendation. She said the states would retain authority to approve the groups. The New York Life request was for group whole life where there are no group uniform standards. Vermont said that it was moving to a more focused approach to approving groups, and this would need to be addressed in developing the uniform standards for non-employer groups. Maryland commented that it had not seen any recent state filings for group whole life products. Maryland also had questions about the request for index-linked death benefits for whole life insurance. The Compact Office will get more clarification for these two requests.

Agenda Item 4. Discuss ACLI comment letter dated May 21, 2021, regarding *Additional Standards for Qualifying Events for Waiver of Premium Benefits for Total Disability and Other Qualifying Events*

The Compact Office explained that the purpose of the amendment is to add additional qualifying triggers beyond the existing total disability trigger. The intent of adding qualifying events was not to make the definition of total disability more restrictive. The original draft for qualifying events came from the annuity standards which uses a different definition of disability than the life standards. The section in question is only supposed to add qualifying event triggers, not to change the total disability trigger. The

Compact Office recommended deleting the following as it conflicts with the existing definition of disability in the standard:

- (d) The annuitant or owner is determined to have a disability that prevents him or her from engaging in the substantial and material duties of an occupation for which he or she is or becomes qualified by reason of education or training for a period of time. The period of time shall not be longer than 12 months. The waiver benefit form shall not include a requirement that the annuitant or owner be eligible for Social Security benefits.

The ACLI comment on Preexisting Conditions was already considered by the PSC in 2019 as recorded in the 7/11/2019 Call Summary.

C. PREEXISTING CONDITIONS

- (1) A waiver benefit form shall not exclude disability, services, treatment, or diagnosis caused by a preexisting condition. Therefore, the waiver benefit form shall not require that disability or need for services, treatment or diagnosis be caused by injury or sickness beginning, commencing, originating, occurring, sustained, or manifesting or first manifesting itself after the waiver benefit issue date.

Comments from Pacific Life Insurance dated 7/11/2019: What is the purpose of adding this new requirement? This appears to limit who can get the Waiver vs. the past when we could have issued the rider but excluded their preexisting conditions. Does this encourage anti-selective behavior?

Insurance Compact Office update following the 8/27/2019 member call: The PSC noted that the purpose of Uniform Standards is to provide clear, concise standards for form review and eliminate inconsistent application of requirements and “desk drawer rules.”

Insurance Compact staff noted that contrary to the company’s assertion, under the current waiver of premium standards, a company would not have been permitted to exclude a condition unless it was for “Total disability caused or contributed to by any condition disclosed in the application and explicitly excluded in a form attached to the policy.” The current standards also allow exclusion for “Any condition disclosed in the application and explicitly excluded in a form attached to the policy.”

The PSC agreed that no further change was warranted.

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The Chair asked if there were comments. Oregon said that the pre-existing condition language should be removed and asked about the loss ratio. Jeanne Daharsh, the Compact actuary, explained that the waiver of premium does not undergo an actuarial review and that loss ratio does not apply to the waiver benefit. The PSC Chair noted that the issue was addressed in 2019 and the language is redundant if anything. Removing the language would not change anything. Maryland said that the insurer is expected to underwrite the coverage and that it cannot deny a waiver benefit for a pre-existing condition.

Oregon raised an additional question that was not part of the ACLI request. There was some confusion about the question as it appeared Oregon was asking to change the wording, so the waiver benefit required both total disability and a qualifying event to be eligible for the waiver. Maryland said that the trigger for the benefits is either total disability or the qualifying events. The Chair asked Oregon to submit the request in writing. The Compact Office will provide the PSC with a revised draft.

Agenda Item 5. Continue discussion of the Draft Report of Five-Year Review Changes for Group Term Life and Incidental Guaranteed Minimum Death Benefits for Individual Deferred Non-Variable Annuities

The Chair noted that the PSC is waiting for the response from the Actuarial Working Group on the request to increase the percentage of the cash value from 125% to 150%. The Compact Office noted that Texas has withdrawn its request regarding accelerated death benefits. The PSC members were asked to review the draft in preparation for the public call.

Agenda Item 6. Any Other Matters

The Chair noted that the next meeting of the PSC would be on July 27. There were no other matters.