1) ADB and Medicaid Eligibility

It is perhaps universal that carriers include language in their forms that ADB will not be available if the claim to accelerate is due to the policyholder attempting to meet the requirements of creditors or a government agency in order to apply for, keep, or obtain Medicaid benefits. Leaving aside the public policy debate, this has a couple of problems for compact filings.

First, companies employ different methods for including this language. Some refer to it as a “disclosure” while others include it in the “Conditions” section of a policy or rider. While states may have certain flexibility for allowing this kind of language, it seems that for Compact filings there should be a uniform standard for this if it is to be included at all. This is particularly true since companies use these criteria for establishing eligibility for the benefit. Furthermore, it seems to be a misnomer to refer to this a “disclosure” when it is actually establishing conditions to receive the ADB.

Second, it is not clear upon what specific basis companies include the Medicaid eligibility language. Kansas insurance law limits the claims creditors have with respect to death benefit proceeds, so that seems like a useful point of reference for ADB since ADB is merely granting early access to the death benefit.

This falls within Substantive Change 5.

2) Notice of Effect of Benefit at the Time of Acceleration and at the Time of Application

Currently, ADB Uniform Standards requires the notice be given at the time of acceleration. However, some states (Kansas being one) may also have requirements that an ADB notice be provided at or before the time the application is completed. This potentially creates a compliance conundrum for both companies and regulators.

In order to comply with the prior approval requirements some states have for these types of disclosure forms, companies may file this notice with these states while filing the policy form with the IIPRC. Under these circumstances, state forms examiners are charged with reviewing a form (Notice) which reflects a policy form not subject to that state’s requirements or review.

In order to resolve this, it seems worth consideration to amend Substantive Change 5 to include a requirement that a Notice of Effect of Benefit be provide at the time of application. NAIC Model 620 could be used as a template.

This also falls within Substantive Change 5.

3) Individual Life Insurance Application Standards, Section 3 Application Sections, Subsection K Agreements

Section 3, Subsection K(1) states that “The application shall include the statements agreed to by each proposed insurance, such as:”
This appears to suggest that there could be agreements included in a form that are not enumerated in the Uniform Standards, Section 3 K(1)(a) through K(1)(d)(ii). Is this a correct interpretation? If so, was the intent to leave it open ended? On what basis would the IIPRC object to a particular item in the agreements section of an application form that was not one of those enumerated?

Does this warrant being added to the Clarification Items list?