

**ALABAMA DEPARTMENT OF INSURANCE
ADMINISTRATIVE CODE**

**CHAPTER 482-1-091
LONG TERM CARE INSURANCE**

482-1-091-.25

Nonforfeiture Benefit Requirement.

(1) This rule does not apply to life insurance policies or riders containing accelerated long-term care benefits.

(2) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 27-19-107, Code of Ala. 1975:

(a) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefit described in Paragraph (5) of this rule.

(b) The offer shall be in writing if the nonforfeiture benefit is not otherwise described in the Outline of Coverage or other materials given to the prospective policyholder.

(3) If the offer required to be made under Section 27-19-107, Code of Ala. 1975, is rejected, the insurer shall provide the contingent benefit upon lapse described in this rule. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in Paragraph 4(d) shall still apply.

(4) (a) After rejection of the offer required under Section 27-19-107, Code of Ala. 1975, for individual and group policies without nonforfeiture benefits issued after the effective date of this rule, the insurer shall provide a contingent benefit upon lapse.

(b) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificateholder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.

(c) A contingent benefit on lapse shall be triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, and the policy or certificate lapses within 120 days of the due date of the premium so increased. Unless otherwise required,

policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase Over Initial Premium
29 and under	200%
30-34	190%
35-39	170%
40-44	150%
45-49	130%
50-54	110%
55-59	90%
60	70%
61	66%
62	62%
63	58%
64	54%
65	50%
66	48%
67	46%
68	44%
69	42%
70	40%
71	38%
72	36%
73	34%
74	32%
75	30%
76	28%
77	26%
78	24%
79	22%
80	20%
81	19%
82	18%
83	17%
84	16%
85	15%
86	14%
87	13%
88	12%
89	11%
90 and over	10%

(d) A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual

premium set forth below based on the insured's issue age, the policy or certificate lapses within 120 days of the due date of the premium so increased, and the ratio in Paragraph (f)(2) is forty percent (40%) or more. Unless otherwise required, policyholders shall be notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase	
Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision shall be in addition to the contingent benefit provided by Paragraph (c) above and where both are triggered, the benefit provided shall be at the option of the insured.

(e) On or before the effective date of a substantial premium increase as defined in Subparagraph (c) of this Paragraph (4), the insurer shall do all of the following:

1. Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased.
2. Offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Paragraph (5) of this rule. This option may be elected at any time during the 120-day period referenced in Subparagraph (c) of this Paragraph (4).
3. Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in Subparagraph (c) of this Paragraph (4) shall be deemed to be the election of the offer to convert in Subparagraph (2) above unless the automatic option in Paragraph(f)(3) applies.

(f) On or before the effective date of a substantial premium increase as defined in Paragraph (d) above, the insurer shall:

- (i) Offer to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that required premium payments are not increased:
- (ii) Offer to convert the coverage to a paid-up status where the amount payable for each benefit is ninety percent (90%) of the amount payable in effect immediately prior to lapse times the ratio of the number of completed

months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the 120-day period referenced in Paragraph 4(d); and

(iii) Notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in Paragraph 4(d) shall be deemed to be the election of the offer to convert in Paragraph (2) above if the ratio is forty percent (40%) or more.

(5) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with Paragraph 4(c) but not Paragraph 4(d), are described in this paragraph:

(a) For purposes of this Paragraph (5), attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50).

(b) For purposes of this Paragraph (5), the nonforfeiture benefit shall be of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in Subparagraph (c).

(c) The standard nonforfeiture credit will be equal to 100% of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit shall not be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Paragraph (6) of this rule.

(d) 1. The nonforfeiture benefit and the contingent benefit upon lapse shall begin not later than the end of the third year following the policy or certificate issue date.

2. Notwithstanding Subparagraph 2. of this Subparagraph (d), except that for a policy or certificate with a contingent benefit upon lapse or a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:

(i) The end of the tenth year following the policy or certificate issue date.

- (ii) The end of the second year following the date the policy or certificate is no longer subject to attained age rating.
- (e) Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate.
- (6) All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid up status will not exceed the maximum benefits which would payable if the policy or certificate had remained in premium paying status.
- (7) There shall be no difference in the minimum nonforfeiture benefits as required under this rule for group and individual policies.
- (8) The requirements set forth in this rule shall become effective January 1, 2002, and shall apply as follows:
 - (a) Except as provided in Subparagraph (b) of this Paragraph (8), the provisions of this rule apply to any long-term care policy issued in this state on or after January 1, 2002.
 - (b) For certificates issued on or after January 1, 2002, under a group long-term care insurance policy as defined in Paragraph a. of Subdivision (4) of Section 27-19-103, Code of Ala. 1975, that was in force January 1, 2001, the provisions of this rule shall not apply.
 - (c) The last sentence in Paragraph 3 and Paragraph 4(d0 and 4(f) shall apply to any long-term care insurance policy or certificate issued in this state after July 1, 2008 after their adoption, except new certificates on a group policy as defined in Chapter 482-1-091-.04(5)(a) January 1, 2009 after adoption.
- (9) Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse shall be subject to the loss ratio requirements of Rule 482-1-091-.15 or 482-1-091-.30, whichever is applicable, treating the policy as a whole.
- (10) To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subparagraph (c) of Paragraph (4) or (4)(d) below of this rule, a replacing insurer that purchased or otherwise assumed a block or blocks of long-term care insurance policies from another insurer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer.

(11) A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts shall be offered that meets the following requirements:

- (a) The nonforfeiture provision shall be appropriately captioned.
- (b) The nonforfeiture provision shall provide a benefit available in the event of a default in the payment of any premiums and shall state that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts approved by the Commissioner for the same contract form.
- (c) The nonforfeiture provision shall provide at least one of the following:
 1. Reduced paid-up insurance.
 2. Extended term insurance.
 3. Shortened benefit period.
 4. Other similar offerings approved by the Commissioner.

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Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-19-100, et seq.

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