

**11 NCAC 12 .1026 NONFORFEITURE BENEFIT REQUIREMENTS**

- (a) This Rule does not apply to life insurance policies or riders containing accelerated long-term care benefits.
- (b) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of G.S. 58-55-31:
  - (1) 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 (g) of this Rule; and
  - (2) 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.
- (c) If the offer required to be made under G.S. 58-55-31 is rejected, the insurer shall provide the contingent benefit upon lapse described in this Rule.
- (d) In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificate-holder, a certificate shall provide either the nonforfeiture benefit or the contingent benefit upon lapse.
- (e) The 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 in this Paragraph 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 45 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

<u>Issue Age</u>	<u>Percent Increase Over Initial Premium</u>
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%

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

- (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 (g) of this Rule. This option may be elected at any time during the 120-day period; and
- (3) Notify the policyholder or certificate-holder that a default or lapse at any time during the 120-day period shall be deemed to be the election of the offer to convert.

(g) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, shall satisfy the following criteria:

- (1) For purposes of this Paragraph, attained age rating is defined as a schedule of premiums starting from the issue date increases at least one percent per year prior to age 50 and at least three percent per year beyond age 50.
- (2) For purposes of this Paragraph, 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 Paragraph (g)(3) of this Rule.
- (3) 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 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 (i) of this Rule.
- (4) The nonforfeiture benefit shall begin not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse shall be effective during the first three years as well as thereafter. For a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of: the end of the tenth year following the policy or certificate issue date; or the end of the second year following the date the policy or certificate is no longer subject to attained age rating.

(h) 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.

(i) 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 be payable if the policy or certificate had remained in premium paying status.

(j) There shall be no difference in the minimum nonforfeiture benefits as required under this Rule for group and individual policies.

(k) The requirements set forth in this Rule shall become effective August 1, 2003, and shall apply as follows:

- (1) Except as provided for in Paragraph (k)(2) of this Rule, the provisions of this Rule apply to any long-term care policy issued in this state on or after August 1, 2002.
- (2) For certificates issued on or after August 1, 2002, under a group long-term care insurance policy as defined in G.S. 58-55-20(3), which policy was in force at the time this Rule became effective, the provisions of this Rule shall not apply.

(l) 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 11 NCAC 12 .1013 treating the policy as a whole.

(m) To determine whether contingent nonforfeiture upon lapse provisions are triggered under Paragraph (e) 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.

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

- (1) The nonforfeiture provision shall be disclosed;
- (2) 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; and
- (3) The nonforfeiture provision shall provide at least one of the following:
  - (A) Reduced paid-up insurance; or
  - (B) Extended term insurance; or
  - (C) Shortened benefit period.

*History Note:* Authority G.S. 58-2-40(1); 58-55-30(a); 58-55-31;  
Eff. April 1, 1999;  
Amended Eff. August 1, 2002;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.