



ADMINISTRATIVE RULES OF MONTANA

6.6.3109 REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE

- (1) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care insurance policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing the following questions shall be used:
- (2) Producers shall list any other health insurance policies they have sold to the applicant, including:
 - (a) policies sold that are still in force; and
 - (b) policies sold in the past five years that are no longer in force.
- (3) Upon determining that a sale will involve replacement, an issuer, other than an issuer using direct response solicitation methods, or its producer, shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy or certificate, a notice regarding replacement of accident and sickness or long-term care coverage. One copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the issuer. The required notice shall be provided in the following manner:

NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance Company's Name and Address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term insurance and replace it with an individual long-term care insurance policy to be issued by [company name] Insurance Company. Your new policy provides 30 days within which you may decide, without cost, whether you desire to keep the policy.

For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

STATEMENT TO APPLICANT BY PRODUCER [OR OTHER REPRESENTATIVE]:

(Use additional sheets, as necessary.)

I have reviewed your current medical or health insurance coverage. I believe the replacement of insurance involved in this transaction materially improves your position. My conclusion has taken into account the following considerations, which I call to your attention:

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy. This could result in denial or delay in payment of benefits under the new policy, whereas a similar claim might have been payable under your present policy.

2. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present issuer or its producer regarding the proposed replacement of your present policy. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

(Signature of Producer or Other Representative)

[Typed Name and Address of Producer]

The above "Notice to Applicant" was delivered to me on:

(Date)

(Applicant's Signature)

- (4) Issuers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy or certificate. The required notice shall be provided in the following manner:

1. Do you have another long-term care insurance policy or certificate in force (including health care service contract, health maintenance organization contract)?
2. Did you have another long-term care insurance policy or certificate in force during the last 12 months?
 - a. If so, with which company?
 - b. If that policy or certificate lapsed, when did it lapse?
3. Are you covered by Medicaid?
4. Do you intend to replace any of your medical or health insurance coverage with this policy [certificate]?

NOTICE TO APPLICANT REGARDING REPLACEMENT
OF ACCIDENT AND SICKNESS OR LONG-TERM CARE INSURANCE

[Insurance Company's Name and Address]

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.

According to [your application] [information you have furnished], you intend to lapse or otherwise terminate existing accident and sickness or long-term insurance and replace it with an individual long-term care insurance policy or certificate to be issued by [company name] Insurance Company. Your new policy or certificate provides 30 days within which you may decide, without cost, whether you desire to keep the policy or certificate. For your own information and protection, you should be aware of and seriously consider certain factors which may affect the insurance protection available to you under the new policy or certificate.

You should review this new coverage carefully, comparing it with all accident and sickness or long-term care insurance coverage you now have, and terminate your present policy or certificate only if, after due consideration, you find that purchase of this long-term care coverage is a wise decision.

1. Health conditions which you may presently have (preexisting conditions), may not be immediately or fully covered under the new policy or certificate. This could result in denial or delay in payment of benefits under the new policy or certificate, whereas a similar claim might have been payable under your present policy or certificate.

2. Montana law provides that your replacement policy or certificate may not contain new preexisting conditions or probationary periods. Your insurer will waive any time periods applicable to preexisting conditions or probationary periods in the new policy (or coverage) for similar benefits to the extent such time was spent (depleted) under the original policy.

3. If you are replacing existing long-term care insurance coverage, you may wish to secure the advice of your present issuer or its producer regarding the proposed replacement of your present policy or certificate. This is not only your right, but it is also in your best interest to make sure you understand all the relevant factors involved in replacing your present coverage.

4. [To be included only if the application is attached to the policy.] If, after due consideration, you still wish to terminate your present policy or certificate and replace it with new coverage, read the copy of the application attached to your new policy or certificate and be sure that all questions are answered fully and correctly. Omissions or misstatements in the application could cause an otherwise valid claim to be denied. Carefully check the application and write [company name and address] within 30 days if any information is not correct and complete, or if any past medical history has been left out of the application.

5. Where replacement is intended, the replacing issuer shall notify, in writing, the existing issuer of the proposed replacement. The existing policy or certificate shall be identified by the issuer, name of the insured and policy number or address including zip code. Notice shall be made within five working days from the date the application is received by the issuer or the date the policy or certificate is issued, whichever is sooner.

6. Life insurance policies that accelerate benefits for long-term care shall comply with this rule if the policy or certificate being replaced is a long-term care insurance policy. If the policy or certificate being replaced is a life insurance policy, the issuer shall comply with the replacement requirements of ARM 6.6.301 through 6.6.310. If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy or certificate, the replacing issuer shall comply with both the long-term care and the life insurance replacement requirements.

Implementing statute(s): 33-22-1101, 33-22-1102, 33-22-1103, 33-22-1107, 33-22-1108, 33-22-1111, 33-22-1112, 33-22-1113, 33-22-1114, 33-22-1115, 33-22-1116, 33-22-1117, 33-22-1119, 33-22-1120, 33-22-1121, MCA

History: NEW, 1991 MAR p. 119, Eff. 2/1/91; AMD, 1998 MAR p. 3271, Eff. 12/18/98; AMD, 2008 MAR p. 615, Eff. 10/1/08; AMD, 2019 MAR p. 126, Eff. 1/26/19.