



ADMINISTRATIVE RULES OF MONTANA

6.6.8508 GENERAL RULES

- (1) With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment must remain payable to the beneficiary last named by a viator prior to entering into a viatical settlement contract, or to such other beneficiary, other than a viatical settlement provider, as a viator may thereafter designate, or in the absence of a beneficiary, to the estate of a viator.
- (2) Payment of the proceeds of a viatical settlement pursuant to 33-20-1314 , MCA, must be by means of wire transfer to an account designated by the viator in a notarized writing signed by the viator or by certified check or cashier's check.
- (3) Payment of the proceeds to the viator pursuant to a viatical settlement shall be made in a lump sum except where the viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible.
- (4) A viatical settlement provider or viatical settlement broker shall not discriminate, as provided in 33-20-1313 , MCA, in the making or solicitation of viatical settlements, or discriminate between viators with dependents and without.
- (5) A viatical settlement provider or broker may not condition the consideration of an application on exclusive dealing between a viator and a viatical settlement provider or broker.
- (6) A viatical settlement provider may provide personal information about a policyholder or certificate holder to a financing entity, but must comply with Title 33, part 19, MCA.
- (7) If a viator rescinds a viatical settlement contract, the viator must repay to the viatical settlement provider or financing entity all paid settlement proceeds.
- (8) A viatical settlement provider or viatical settlement broker shall not pay or offer to pay any finder's fee, commission or other compensation to any insured's physician, or to an attorney, accountant or other person providing medical, legal or financial planning services to the viator, or to any other person acting as an agent of the viator, other than a viatical settlement broker with respect to the viatical settlement.
- (9) A viatical settlement provider shall not knowingly solicit purchasers who have treated or have been asked to treat the illness of the insured whose coverage would be the subject of the investment.
- (10) The following standards apply to advertising of viatical settlements:
 - (a) advertising related to a viatical settlement must be truthful and not misleading by fact or implication;

- (b) if the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator; and
 - (c) if the advertising emphasizes the dollar amounts available to viators, the advertising must disclose the average purchase price as a percent of face value obtained by viators contracting with the advertiser during the past six months.
- (11) If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions:
- (a) the viatical settlement provider will effect the transfer of the amount of the death benefit only to the extent or portion of the amount viaticated. Benefits in excess of the amount viaticated shall be paid directly to the viator's beneficiary by the insurance company;
 - (b) the premiums to be paid by the viatical settlement provider and the viator will be apportioned, unless the viatical settlement contract specifies that all premiums shall be paid by the viatical settlement provider. The contract may also require that the viator reimburse the viatical settlement provider for the premiums attributable to the retained interest; and
 - (c) the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either:
 - (i) advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy; or
 - (ii) send a copy of the instrument sent from the insurance company to the viatical settlement provider that acknowledges the viator's interest in the policy.

Authorizing statute(s): 33-20-1315, MCA

Implementing statute(s): 33-20-1313 and 33-20-1314, MCA

History: NEW, 2000 MAR p. 3155, Eff. 11/10/00; AMD, 2005 MAR p. 71, Eff. 1/14/05.