



ADMINISTRATIVE RULES OF MONTANA



6.6.3119 NONFORFEITURE BENEFIT REQUIREMENT

- (1) An insurance company offering a long-term care insurance policy or certificate shall offer to each prospective purchaser the choice between a policy that includes nonforfeiture benefits to the defaulting or surrendering policyholder or certificate holder and one that does not include nonforfeiture benefits.
- (2) To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of 33-22-1116, MCA:
 - (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 (5); and
 - (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 of the long-term care insurance policy or certificate that includes nonforfeiture benefits is rejected, the issuer 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 upon lapse in (4)(c) still applies.
- (4) After rejection of the offer of the long-term care insurance policy or certificate, for individual and group policies without nonforfeiture benefits issued after December 18, 1998, the issuer shall provide a contingent benefit upon lapse.
 - (a) 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.
 - (b) The contingent benefit upon lapse shall be triggered every time an issuer 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 30 days prior to the due date of the premium reflecting the rate increase.

Triggers for a Substantial Premium Increase

Issue Age	Substantial Percent 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%

- (c) A contingent benefit on lapse shall also be triggered for policies with a fixed or limited premium paying period every time an issuer 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 lapses within 120 days of the due date of the premium so increased, and the ratio in (4)(e)(ii), is 40% or more. Unless otherwise required, policyholders shall be notified at least 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 (4)(b), and where both are triggered, the benefit provided shall be at the option of the insured.

- (d) on or before the effective date of a substantial premium increase as defined in (4)(b) above, the issuer shall:
- (i) offer to reduce policy benefits provided by the current coverage consistent with the requirements of ARM 6.6.3129 so that required premium payments are not increased;
 - (ii) offer to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of (5). This option may be elected at any time during the 120-day period referenced in (4)(b); and
 - (iii) notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in (4)(b) shall be deemed to be the election of the offer to convert in (4)(c)(ii), unless the automatic option in (4)(e)(iii) applies.
- (e) On or before the effective date of a substantial premium increase as defined in (4)(c), the issuer shall:
- (i) offer to reduce policy benefits provided by the current coverage consistent with the requirements of ARM 6.6.3129 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 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 (4)(c); and
 - (iii) notify the policyholder or certificateholder that a default or lapse at any time during the 120-day period referenced in (4)(c) shall be deemed to be the election of the offer to convert in (4)(e)(ii), if the ratio is 40% or more.
- (5) Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse in accordance with (4)(b), but not (4)(c), are described in (5)(a) through (e):
 - (a) For purposes of this rule, attained age rating is defined as a schedule of premiums starting from the issue date which increases with increasing age at least 1% per year prior to age 50, and at least 3% per year beyond age 50.
 - (b) For purposes of this rule, the nonforfeiture benefit shall be 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 (5)(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 issuer 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 (6).
 - (d) The nonforfeiture benefit shall begin:
 - (i) 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;
 - (ii) except that for a policy or certificate with attained age rating, the nonforfeiture benefit shall begin on the earlier of:
 - (A) the end of the tenth year following the policy or certificate issue date; or
 - (B) 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 have been 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 12 months after adoption of this provision and shall apply as follows:
- (a) Except as provided in (8)(b), the provisions of this rule apply to any long-term care policy or certificate issued in this state on or after the December 18, 1998; and
 - (b) For certificates issued on or after December 18, 1998, under a group long-term care insurance policy or certificate as defined in 33-22-1107, MCA, which policy or certificate was in force at the time this rule became effective, the provisions of this rule shall not apply.
 - (c) The last sentence in (3) and (4)(c) and (4)(e) shall apply to any long-term insurance policy issued in Montana after six months after its adoption, except new certificates on a group policy as defined in 33-22-1107(5), MCA, one year 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 ARM 6.6.3112 or ARM 6.6.3124, whichever is applicable, treating the policy or certificate as a whole.
- (10) To determine whether contingent nonforfeiture upon lapse provisions are triggered under (4)(b) or (4)(c), a replacing issuer that purchased or otherwise assumed a block or blocks of long-term care insurance policies or certificates from another issuer shall calculate the percentage increase based on the initial annual premium paid by the insured when the policy or certificate was first purchased from the original issuer.
- (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 provisions 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; and
 - (c) the nonforfeiture provision shall provide at least one of the following:
 - (i) reduced paid-up insurance;
 - (ii) extended term insurance;
 - (iii) shortened benefit period; and
 - (iv) other similar offerings approved by the commissioner.
- (12) This rule does not apply to life insurance policies, certificates or riders containing accelerated long-term care benefits.

Authorizing statute(s): 33-1-313, 33-22-1121, MCA

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, 1995 MAR p. 2242, Eff. 1/1/96; TRANS & AMD, from ARM 6.6.5603, 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.