Kansas Administrative Regulations
Agency 40. Insurance Department
Article 4. Accident and Health Insurance

40-4-37u. Contingent-benefit-upon-lapse requirement.

(a) This regulation shall not apply to life insurance policies or riders containing accelerated long-term care benefits.

(b) Each long-term care policy or certificate issued in this state shall offer a nonforfeiture benefit subject to the following requirements:

(1) A policy or certificate offered with nonforfeiture benefits shall have coverage elements, eligibility, benefit triggers, and benefit lengths that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer shall be the benefits described in subsection (f) of this regulation; 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) Each long-term care policy or certificate issued in this state after the effective date of this regulation shall provide contingent benefit upon lapse.

(d) The contingent benefit upon lapse shall be triggered 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, and the policy or certificates lapses within 120 days of the due date of the premium so increased. Unless otherwise required, policyholders and certificate holders shall be notified at least 30 days before 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%

(e) On or before the effective date of a substantial premium increase as defined in subsection (d) of this regulation, the insurer shall perform 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 benefits period in accordance with the terms of subsection (d) of this regulation. This option may be elected at any time during the 120-day period specified in subsection (d) of this regulation; and

(3) notify the policyholder or certificate holder that a default or lapse at any time during the 120-day period specified in subsection (d) of this regulation shall be deemed to be the election of the offer to convert in subsection (d) of this regulation.

(f) Benefits continued as contingent benefit upon lapse shall be as follows:

(1) For purposes of this subsection, attained age rating shall be defined as the schedule of premiums starting from the issue date that increases age at least one percent per year before or at age 50, and at least three percent per year after age 50.

(2) For purposes of this subsection, the contingent-benefit-upon-lapse benefit shall consist of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits, with amounts and frequency in effect at the time of the lapse but not increased thereafter, shall be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits shall be determined as specified in paragraph (f)(3) of this regulation.

(3) The standard contingent-benefit-upon-lapse credit shall be equal to 100% of the sum of all premiums paid, including the premiums paid before any changes in the benefits. The insurer may offer additional shortened benefits period options, if the benefits for each duration equal or

exceed the standard contingent-benefit-upon-lapse credit for that duration. However, the minimum contingent-benefit-upon-lapse 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 contingent-benefit-upon-lapse credit shall be subject to the limitations of subsection

(g) of this regulation.

(4) The contingent benefit upon lapse shall be effective during the first three years as well as thereafter.

(5) Notwithstanding paragraph (f)(4) for a policy or certificate with attained age rating, the contingent benefit upon lapse shall begin on the earlier of the following:

(A) The end of the 10th 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.

(6) Contingent-benefit-upon-lapse 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.

(g) The benefits paid by the insurer while the policy or certificate is in premium-paying status and in the paidup status shall not exceed the maximum benefits, which would be payable if the policy or certificate had remained in premium-paying status.

(h) There shall be no difference in the minimum contingent-benefit-upon-lapse benefit as required under this regulation for group and individual policies.

(i) The requirements set forth in this regulation shall be effective on and after January 1, 2003 and shall apply as follows:

(1) Except as provided in paragraph (i)(2), the provisions of this regulation shall apply to any long-term care policy issued in this state on or after January 1, 2003; or

(2) for any certificate issued on or after January 1, 2003, under a group long-term care insurance policy as defined in K.S.A. 40-2227(e) and amendments thereto, which policy was in force at the time this proposed regulation became effective, the provisions of this regulation shall not apply.

(j) Premiums charged for a policy or certificate containing a contingent benefit upon lapse shall be subject to the loss ratio requirements of K.A.R. 40-4-37k treating the policy as a whole.

(k) To determine whether contingent-benefit-upon-lapse provisions are triggered under subsection (d) of this regulation, each 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 insurer when the policy was first purchased from the original insurer.

(Authorized by K.S.A. 40-103, K.S.A. 40-2228, as amended by L. 2002, ch. 168, sec. 1; implementing K.S.A. 40-2228, as amended by L. 2002, ch. 168, § 1; effective Aug. 30, 2002.)