



Accelerated Benefits Riders

TERMINAL ILLNESS, CHRONIC ILLNESS, CRITICAL ILLNESS OR CRITICAL INJURY

Product Guide

As of 8/31/15

Life Insurance is used to provide a death benefit to help secure the financial security of your client's family or business at death. Accelerated Benefits Riders are a supplemental benefit that provide the option of receiving a portion of the policy death benefit on a discounted basis, while the insured is still living.

Products issued by

National Life Insurance Company® | Life Insurance Company of the Southwest®

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Introduction

Life Insurance is a powerful financial tool that can be used to meet many needs. Most importantly, life insurance is used to provide a death benefit to help secure the financial security of your client’s family or business at death. Accelerated Benefits Riders are intended to be marketed as a supplemental benefit. Utilizing these benefits reduces the amount of death benefit available under the policy. Receipt of benefits is based on a completed application for benefits and documentation of the Terminal Illness, Chronic Illness or Critical Illness or the Critical Injury which support the requirements for the benefits set forth in the rider.

We address more than just the concern of dying too soon. What about the risk of becoming ill or sustaining a critical injury? To help address these, our policies offer Accelerated Benefits Riders.

These riders provide the option of receiving a portion of the policy death benefit on a discounted basis, while the insured is still living.

Accelerated Benefits Riders

- Terminal Illness
- Chronic Illness
- Critical Illness or Critical Injury

Living Benefits:

Our living benefits story strengthens your business with the ability to help provide your clients with protection from the costs associated with a serious illness or injury.



**Life Changes.
Protect It.**

Quick Reference

Additional Premium Required	No.
Additional Underwriting	We underwrite Chronic Illness, Critical Illness and Critical Injury rider when added to the policy. This is typically at issue for individual life contracts and after the first death for survivorship policies.
Restrictions on use of Benefit	No. With the exception of MA. ¹
Illness Covered	Terminal Illness, Chronic Illness, Critical Illness or Critical Injury.
Qualifications	Terminal Illness: 24 month life expectancy (12 months in CT, PA and VT for LSW) (12 months in CT, NY and PA for NL) Chronic: unable to perform 2 out of 6 Activities of Daily Living, or cognitive impairment. Enhanced Critical Illness 2015: ALS (Lou Gehrig's disease), Aorta Graft Surgery, Aplastic Anemia, Blindness, Cancer, Cystic Fibrosis, End Stage Renal Failure, Heart Attack, Heart Valve Replacement, Major Organ Transplant, Motor Neuron Disease, Stroke, Sudden Cardiac Arrest. Critical Illness: ALS (Lou Gehrig's disease), Blindness, Cancer, End Stage Renal Failure, Heart Attack, Major Organ Transplant, Stroke. Critical Injury: Coma, Paralysis, Severe Burns, Traumatic Brain Injury. Covered critical illnesses and covered critical injuries may vary by state.
Activities of Daily Living	Bathing, continence, dressing, eating, toileting, transferring.
Waiting period (Refer to State Exceptions section in this guide)	Terminal: No waiting period. Chronic: Waiting period may vary by state. Typically - policy must be in-force for 24 months before benefits are available. Critical Illness or Injury: Waiting period may vary by state. Policy must be in-force for 30 days.
Maximum Lifetime Benefit Per Insured (Refer to State Exceptions section in this guide)	The maximum lifetime benefit may vary by state. Please have your clients consult their personal tax advisor to determine the tax status of any benefits paid. Terminal: \$1,500,000 Chronic: \$1,500,000 Critical Illness or Injury: \$1,000,000
Payout	Payout limit is based on a discounted value of the death benefit. Refer to the Exercising Accelerated Benefits Riders section of this guide for information on how discounted value is determined.
Maximum Annual Accelerated Benefit per insured/per calendar year IRS per diem limit	Terminal: No annual limit. Chronic: NL - \$120,450 (indexed) for 2015 / LSW - 2% of net death benefit per month, or 24% annually up to the annual limit of \$360,000. Critical Illness or Injury: No annual limit.
Product and State Availability (Refer to Accelerated Benefits Riders Product Availability section in this guide)	Generally, Accelerated Benefits Riders are available on all products. ² All are available in most states. Run illustration for product and state specifics.
Available on policies in qualified plans	All plan types.

Please have your clients consult their personal tax advisor to determine the tax status of any benefits paid.

¹ Please refer to state specials at the end of this guide for details.

² Critical Illness or Critical Injury not available on ART, NL AssurePlus Protector, NL Estate Provider, NL Ultra Select, or NL Investor Select.

Accelerated Benefits Riders

The Accelerated Benefits Riders are no additional cost riders that can be added to our life insurance policies to help protect the insured from the potential financial devastation if diagnosed with an illness that is terminal, chronic or critical or a critical injury.

These may be added either at, or after issue. Adding after issue may be subject to additional underwriting.

Always view the National Life Illustration System, or go to www.NationalLife.com to check for state and product availability.

Using the Accelerated Benefits Riders

The cost of treating a serious illness or injury could be financially devastating. Depending on the amount of care needed, a spouse or child may need to work reduced hours – or even stop working altogether – in order to provide care. Benefits from these riders could be used to reimburse them for loss of income.

There is no restriction placed on the use of the benefits received, with the exception of Chronic Illness in Massachusetts. Benefits could be used for anything, such as:

- Making structural changes to a home to accommodate the illness
- Compensating a non-licensed care provider
- Travel, business, or everyday expenses

The amount of Accelerated Benefits available is based on a discounted death benefit amount (not the face value of the policy). The benefit is available up to a maximum lifetime limit, which applies to all policies under a single insured.

An illustration of the discounted death benefit amount given various assumptions can be found through the National Life Illustration System.

Terminal Illness

The Accelerated Benefits Rider for Terminal Illness accelerates the death benefit, on a discounted basis, for a terminal illness.

An insured has a terminal illness if they have been diagnosed and are suffering from a terminal illness that will result in death within 24 months of certification of the terminal illness by a physician.

There is no waiting period for benefits paid under the Terminal Illness Rider.

Benefit Limits:

We will accelerate the discounted death benefit, not to exceed a maximum amount of \$1,500,000 under all contracts and all riders made over the entire lifetime of the insured.

There is no annual limit and the benefit is received as a lump sum.

Refer to Accelerated Benefits Riders State Approval and Exceptions section of this guide.

Chronic Illness

The Accelerated Benefits Rider for Chronic Illness accelerates the death benefit, on a discounted basis, for a Chronic Illness.

NL Chronic Illness

Policy needs to be in force for 2 years in order to accelerate.

The benefit can be received as a lump sum if desired (up to the IRS per diem limit)

LSW Chronic Illness

Policy needs to be in force for 2 years in order to accelerate.

The discounted death benefit is calculated as 2% of the net death benefit each month or 24% annually, up to the annual limit of \$360,000.

An insured has a Chronic Illness if they have been certified, within the past 12 months, by a licensed health care practitioner, as being unable to perform, without substantial assistance, at least 2 out of 6 activities of daily living for a period of at least 90 consecutive days due to a loss of functional capacity, or requires substantial supervision to protect oneself from threats to health and safety due to severe cognitive impairment for this same period of time.

You will note the insured does not have to be in a licensed health care facility to receive payment. This is not a reimbursement plan or a disability policy. Once eligibility has been determined, benefit payments are made directly to the policy owner and the policy owner can apply for benefits every 12 months.

Benefit Limits:

National Life Insurance Company or Life Insurance Company of the Southwest will accelerate the discounted death benefit, not to exceed a maximum amount of \$1,500,000 under all contracts and all riders made over the entire lifetime of the Insured.

The annual IRS per diem limit that can be accelerated is \$120,450 (indexed) for 2015. This amount may change annually.

Refer to Accelerated Benefits Riders State Approval and Exceptions section of this guide.

Activities of Daily Living (ADLs) – Defined

1. Bathing: ability to wash oneself on a routine basis by sponge bath or in a tub or shower including getting into and out of a tub or shower.
2. Continence: ability to maintain control of bowel or bladder function or, when unable to maintain control, the ability to perform associated personal hygiene, including caring for catheter or colostomy bag.
3. Dressing: putting on or taking off all items of clothing and any necessary braces, fasteners or artificial limbs.
4. Eating: feeding oneself from a plate, cup or table or by feeding tube or intravenously.
5. Toileting: getting to and from the toilet, off and on the toilet and performing associated person hygiene.
6. Transferring: moving in or out of a bed, chair or wheelchair.

Substantial supervision means hands-on assistance or stand-by assistance.

Cognitive impairment is defined as deterioration or loss in intellectual capacity measured by clinical evidence and standardized tests which judge the areas of memory, orientation and reasoning.

LSW Chronic Illness

The discounted death benefit is calculated as 2% of the net death benefit each month or 24% annually, up to the annual limit of \$360,000.

Enhanced Critical Illness 2015

The Accelerated Benefits Rider for Critical Illness accelerates the death benefit, on a discounted basis, for a Critical Illness.

An insured qualifies under the Critical Illness rider for:

- ALS (Lou Gehrig's disease)
- Aorta Graft Surgery
- Aplastic Anemia
- Blindness
- Cancer
- Cystic Fibrosis
- End Stage Renal Failure
- Heart Attack
- Heart Valve Replacement
- Major Organ Transplant
- Motor Neuron Disease
- Stroke
- Sudden Cardiac Arrest

No benefit will be paid for a qualifying event that directly results from self-inflicted injury or attempted suicide.

The rider needs to be in force for 30 days prior to the insured experiencing or being diagnosed with the qualifying event in order to accelerate, unless resulting from an accidental injury.

The benefit is received as a lump sum.

See state availability on pages 20 - 27.

Benefit Limits:

Critical Illness for National Life Insurance Company or Life Insurance Company of the Southwest, as applicable, will accelerate (or convert to reduced paid-up insurance), income tax-free, the discounted death benefit, not to exceed a maximum amount of \$1,000,000 under all contracts made over the entire lifetime of the insured.

There is no annual limit.

Refer to Accelerated Benefits Riders State Approval and Exceptions section of this guide.

When determining the discounted death benefit, the mortality factor will have four different categories dependent on the severity of the Critical Illness as applicable:

- Minor
- Moderate
- Severe
- Life Threatening

The highest payout will result from the Life Threatening category.

Critical Illness

The Accelerated Benefits Rider for Critical Illness accelerates the death benefit, on a discounted basis for a Critical Illness.

An insured qualifies under the Critical Illness for:

- ALS (Lou Gehrig's disease)
- Blindness
- Diagnosed with cancer
- End stage renal failure (kidney failure)
- Heart attack
- Major organ transplant
- Stroke

When determining the discounted death benefit, the mortality factor will have four different categories dependent on the severity of the Critical Illness as applicable:

- Minor
- Moderate
- Severe
- Life Threatening

The highest payout will result from the Life Threatening category.

When available, Critical Illness will only be used in states where Enhanced Critical Illness 2015 rider is not approved.

See state availability on pages 20 - 27.

Benefit Limits:

For Critical Illness we will accelerate (or convert to reduced paid-up insurance), income tax-free, the discounted death benefit, not to exceed a maximum amount of \$1,000,000 under all contracts made over the entire lifetime of the insured.

There is no annual limit.

Refer to Accelerated Benefits Riders State Approval and Exceptions section of this guide.

NL Critical Illness

No benefit will be paid for a qualifying event that directly results from self-inflicted injury or attempted suicide.

The rider needs to be in force for 90 days prior to the insured experiencing or being diagnosed with the qualifying event in order to accelerate, unless resulting from an accidental injury.

Critical Injury

The Accelerated Benefits Rider for Critical Injury accelerates the death benefit, on a discounted basis, for a Critical Injury.

An insured qualifies under the Critical Injury rider for:

- Coma
- Paralysis
- Severe burns
- Traumatic brain injury

No benefit will be paid for a qualifying event that directly results from self-inflicted injury or attempted suicide.

The rider needs to be in force for 30 days prior to the insured experiencing or being diagnosed with the qualifying event in order to accelerate, unless resulting from an accidental injury.

The benefit is received as a lump sum.

See state availability on pages 20 - 27.

Benefit Limits:

Critical Injury for National Life Insurance Company or Life Insurance Company of the Southwest, as applicable, will accelerate (or convert to reduced paid-up insurance), income tax-free, the discounted death benefit, not to exceed a maximum amount of \$1,000,000 under all contracts made over the entire lifetime of the insured.

There is no annual limit.

Refer to Accelerated Benefits Riders State Approval and Exceptions section of this guide.

When determining the discounted death benefit, the mortality factor will have four different categories dependent on the severity of the Critical Injury as applicable:

- Minor
- Moderate
- Severe
- Life Threatening

The highest payout will result from the Life Threatening category.

Underwriting

Underwriting for the riders usually happens at the same time the policy is being underwritten. If not added at issue, conversions, or survivorship policies, the riders are underwritten at the time they are added to the policy.

For Survivorship policies, Accelerated Benefits Riders are only available after the first death, subject to underwriting.

Converting Term to Permanent

Conversion of Term policies to Permanent policies is a contractual right. The conversion of any Accelerated Benefits Riders on the Term policy is not a contractual right. Although our current practice is to convert the riders, it is up to the discretion of the company.

Qualifying Under Multiple Riders

If the insured qualifies under more than one rider, the policy owner has the option to choose which one to accelerate.

For instance, if the insured qualifies under Chronic Illness and Terminal Illness riders, the policy owner may want to elect Terminal because it would pay a higher benefit in a lump sum.

For LSW, benefits are not available under Chronic Illness if the insured is eligible for any other Accelerated Benefits Rider.

If the policy owner were to elect Chronic Illness benefits, and a year later the insured were to qualify for Terminal Illness benefits, the policy owner would be able to accelerate the rest of their death benefit up to the maximum lifetime benefit. All previous payments under the Chronic Illness would count towards the Terminal Illness maximum lifetime benefit.

Exercising Accelerated Benefits Riders

Submitting a Claim

The policy owner can submit a claim directly or through the policy owner's NLIC or LSW insurance agent, as applicable.

To report an Accelerated Benefits Rider claim call Customer Relations at **800-732-8939**, or send an email to the claims department at **claims@NationalLife.com**

Advise the Claims Department of the following:

- Name of insured
- Policy number
- Nature of the illness or injury of the insured
- Onset date of the illness or injury
- Advise which rider: Terminal, Chronic, Critical Illness or Critical Injury

It is important to note that NLIC and LSW reserve the right to have the insured examined by a physician of its choice to affirm the qualifying condition, if necessary.

Once claim forms and medical records are received and an opinion is provided by NLIC's or LSW's Medical Director, the claims examiner will determine whether the insured qualifies for the benefits for which the policy owner applied.

In the event of a Critical Illness or Critical Injury, the claims examiner will consult with NLIC's or LSW's Medical Director to categorize the affect of the qualifying event on the insured's future mortality.

Discounting: How the Benefit Payments are Calculated

When a benefit is elected, the actual benefit received is based on a calculation that discounts the death benefit.

The discounting calculation reflects the "Present Value" of the policy's death benefit and remaining premiums owed under the policy.

Present Value Concept

How much would you have to invest today to receive \$100,000 at some point in the future? That depends on when the money will be received and the interest rate.

For example, let's look at the present values of \$100,000 received 20 years from now, 10 years from now, or today. These calculations use an interest rate of 4%. The actual interest rate earned on any particular investment will vary:

- If you want to receive \$100,000 in 20 years, you need to invest \$45,639 today assuming a 4% interest rate.
- If you want to receive \$100,000 in 10 years, you need to invest \$67,556 today assuming a 4% interest rate.
- This is known as the present value concept; or the current value of a future sum of money.

Present Value of \$100,000 to be Received



Calculating Benefit Amount

Calculating the benefit amount involves several things including: the death benefit, mortality, premiums, cash value, any loans on the policy and applicable charges.

1. Death Benefit

The first step is to determine the present value of the policy's death benefit. This is similar to the example above which calculated the present value of \$100,000 to be received at some point in the future. However, a death benefit isn't received at a fixed point in the future.

The point at which the death benefit is received depends on the mortality of the insured.

High mortality means the money is likely to be received sooner than later and so it has a higher present value than low mortality. Because mortality generally increases with age, the present value of the death benefit also tends to increase with age.

2. Premiums

The next step is to calculate the remaining premiums that are due on the policy (if any), for company reimbursement on their "present value".

The calculation is different depending on whether the policy is Whole Life, Universal Life or Term.

After finding the future value of required premiums, the benefit amount is calculated, generally as:

3. Subtract the present value of premiums from the present value of the death benefit.

4. An administrative fee is then assessed and subtracted. The fee varies by state.

5. Subtract any loans or debt on the policy.

Calculation Recap

$$\begin{array}{r} \text{Present value of death benefit} \\ - \text{Present value of remaining premiums} \\ - \text{Fees and loans} \\ \hline = \text{Benefit} \end{array}$$

Life Expectancy vs. Present Value of Death Benefit

The higher the mortality, the higher the present value of the death benefit will be. This is why terminal illness has the highest benefit amount.

Premiums Paid vs. Present Value of Required Premiums

On flexible premium products, the more well-funded a policy is, the less premiums will be due in the future, which will result in a higher payout.

Full Acceleration - What Happens To My Policy?

If a full, lump sum benefit is elected; the death benefit will be fully accelerated, the discounted death benefit will be paid to the policy owner, and the policy will terminate.

Partial Accelerations:

All Accelerated Benefits Riders are eligible for partial acceleration.

A partial acceleration is an option for a policy owner who wants to receive part of their benefit while still maintaining a death benefit.

If a partial acceleration is requested, it will follow the same guideline as a full acceleration with some differences. The partial percentage of the full amount requested will be reduced from the original death benefit, as well as the discounted benefit.

For instance, assume the policy has a \$500,000 death benefit. The policy owner needs to accelerate their death benefit to pay for medical bills, but only wants to accelerate half and still maintain a death benefit.

To illustrate this concept, assume after the discounting calculation, the full benefit is \$400,000. The policy owner would receive 50% of that, or \$200,000.

The policy death benefit would also be reduced by 50%, or \$250,000.

The policy owner would receive a \$200,000 benefit, and a \$250,000 death benefit would still be available under the policy.

Examples

Full Acceleration – Terminal, Critical Illness and Critical Injury

Death Benefit:	\$500,000
Benefit after Discounting:	\$400,000
Payment to client is:	\$400,000
Lump Sum – Policy Terminates	

Partial Acceleration – Terminal, Critical Illness and Critical Injury

Death Benefit:	\$500,000
Client wants to accelerate:	50%
Full Benefit after Discounting:	\$400,000
Benefit Received for 50% Acceleration:	\$200,000
Policy Reduced by 50% of original policy value:	\$250,000
Remaining Death Benefit:	\$250,000

Partial Acceleration – Chronic

Death Benefit:	\$500,000
Gross Death Benefit at 24% partial acceleration:	\$120,000 (\$500,000 x .24)
Discounted Value of \$120,000 of the Death Benefit:	\$96,000
Benefit Payment:	\$96,000
Remaining Death Benefit:	\$380,000 (\$500,000 – \$120,000)

Federal Income Taxation of Accelerated Benefits Riders

Since the Health Insurance Portability and Accountability ACT (HIPAA) was signed into law on August 21, 1996, increasing numbers of health-related insurance products and riders have appeared in the marketplace. This in turn has generated widespread confusion as to their income tax treatment.

Federal Income Tax Treatment for Accelerated Benefits Riders Terminal and Chronic Illness

Section 101(a)(1) of the Internal Revenue Code (the “Code”) – the authority for the income tax-free treatment of life insurance death benefits – states this general rule: “gross income does not include amounts received (whether in a single sum or otherwise) under a life insurance contract, if such amounts are paid by reason of the death of the insured.” Section 101(g)(1)(a) of the Code sets forth another general rule: that any amount received as accelerated death benefits under a terminal illness rider “shall be treated as an amount paid by reason of the death of the insured.” This means that accelerated death benefits for terminal illness are generally treated as having the same income tax exclusion as is accorded to benefits paid at the actual death of the insured.

Exceptions

Of course it would not be the Internal Revenue Code if there were not exceptions. The first exception is where the policy has been transferred for a valuable consideration (the Transfer for Value Rule) and none of the exemptions provided in Section 101(a)(2) are applicable. In other words, if the death benefits would have been taxable at the death of the insured, then amounts received under Terminal Illness while the insured is still alive will be subject to the same treatment.

Example

Assume that Wilma is the original and current owner and beneficiary of a \$500,000 term life insurance policy on Fred. If Fred becomes terminally ill, Wilma can exercise the Accelerated Benefits Riders Terminal Illness Rider and receive income tax-free benefits. If Wilma has previously gifted the policy to Pebbles, and Pebbles becomes the owner and beneficiary, then Pebbles can exercise the rider and receive income tax-free benefits. However, if Wilma sold the policy to Pebbles for its fair market value three years earlier, that would constitute a transfer for a valuable consideration, and all death benefits (accelerated or otherwise) received by Pebbles, less what she paid for the policy (sale price plus ongoing premiums) would be includible in her income.

Section 101(g)(5) creates another exception for business-related policies.

“This subsection shall not apply in the case of any amount paid to any taxpayer other than the insured if **such taxpayer has an insurable interest with respect to the life of the insured by reason of the insured being a director, officer, or employee of the taxpayer or by reason of the insured being financially interested in any trade or business carried on by the taxpayer.**”

“This subsection” refers to subsection (g) of Section 101; subsection (g) contains the language that enables these benefits to enjoy an income tax exclusion. Thus, the effect of this provision is to make the accelerated benefits includible in the beneficiary’s income.

Example

Mavis Frisbee is the Managing Partner and chief rainmaker of Ben, Jarvis, Green & Ellis, PC, a very successful mid-sized Boston law firm. The firm has purchased a \$2 million key person insurance policy on Mavis, and is the owner and beneficiary. Assuming that the firm has complied with the Employer-Owned Life Insurance rules (including the annual filing of IRS Form 8925), if Mavis dies the firm will collect \$2 million of life insurance death benefits income tax-free. However, there will be a different result if Mavis becomes terminally or chronically ill: **because the firm’s insurable interest in Mavis is based on her being an employee of the firm, exercise of Terminal or Chronic Illness riders will NOT allow the firm to exclude the accelerated benefits from income.**

Example

A-Rod and K-Rod, well-known professional athletes, are business partners in a thriving chain of bowling alleys. They enter into a cross-purchase buy-sell agreement, with each owning a \$5 million life insurance contract on the other. If K-Rod becomes terminally or chronically ill, A-Rod would not be able to collect income tax-free accelerated benefits under the Terminal or Chronic riders, because **A-Rod’s insurable interest in K-Rod is based on the insured (K-Rod) being financially interested in a trade or business carried on by the taxpayer (A-Rod).**

On the other hand, A-Rod could potentially transfer the contract to K-Rod, using its fair market value as a partial payment for K-Rod’s ownership interest in the business.¹ K-Rod could then exercise the rider and receive income tax-free benefits.

Special Rules for Chronic

To qualify for the income tax exclusion, accelerated benefits riders must comply with a variety of rules, most of which are referenced or contained in Code Sections 101 and 7702B. These include requirements that benefits paid under the riders must be either:

1. For costs incurred by the recipient for qualified long-term care services provided to the insured and not compensated for by insurance or otherwise, or
2. Made on a per diem or other periodic basis within limitations established by the Internal Revenue Service.

Payments made under Chronic attached to a **National Life Insurance Company policy** are limited by the per diem amounts described in (2) above, as well as by the discounted death benefits payable under the rider, and thus should generally qualify for the income tax exclusion.

Payments made under Chronic attached to a **Life Insurance Company of the Southwest policy** are limited to a maximum of 2% of the discounted death benefit payable monthly. If these amounts exceed the per diem limit described above, they enjoy an income tax exclusion only to the extent that they reimburse the recipient for costs described in (1) above.

¹ To the extent that the fair market value of the policy exceeds cost basis, A-Rod may have to recognize the gain.

Example

Mavis owns the same life insurance contract on her own life on which her employer pays premiums under an Executive Bonus Plan. Because the premiums are includible in her income, any Critical Illness or Critical Injury accelerated benefits she receives under the contract should be income tax-free.

Example

The law firm still owns that \$2 million key person contract on Mavis (see above). When Mavis suffers a heart attack, the firm accelerates benefits under Accelerated Benefits Rider Critical and pays them directly to Mavis **to reimburse her for medical expenses**. Since the premiums were not includible in her gross income, AND since she's receiving the benefits from her employer anyway, Section 104(a) (3) would appear to require the amounts she receives to be includible in her income. **However, the exclusion appears to be saved by Section 105(b), so long as the amounts received by Mavis are limited to reimbursements for medical expenses paid by her for which she has not claimed income tax deductions.**

Although there is no specific rule about business-related policies in connection with Critical Illness or Critical Injury accelerated benefits, **it is likely that the firm must include the accelerated benefits in its income**, since the law seems to be written with an intent to compensate insureds for injuries or sickness. The firm should receive an offsetting deduction under Section 162 (ordinary and necessary business expenses) for the amounts paid to reimburse Mavis for her medical expenses.

Example

The firm decides to set up a Section 79 plan in which Mavis is a participant. Mavis has her heart attack during the five-year funding period when the policy is still connected with the plan. It is unclear whether or not the Critical Illness or Critical Injury benefits are "attributable to contributions by the employer which were not includible in the employee's gross income," since Mavis had to include in gross income the value of both the insurance protection and the permanent benefit. On the other hand, the amount she had to include was less than the amount the firm contributed. Even if all or part of the benefits are deemed to be attributable to employer contributions that were not included in her income, so long as the benefits are limited to an amount necessary to reimburse her for nondeductible medical expenses they should be received income tax-free.

Bottom Line

It appears as though, in most cases, accelerated benefits received under a Critical Illness or Critical Injury rider will be treated as amounts received under accident or health insurance, and thus will not be included in the recipient's taxable income. However, where the recipient of the accelerated benefits is anyone other than the insured or a person with respect to whom the insured is a spouse or legal dependent, there is substantial doubt as to whether the benefits will be entitled to an income tax exclusion.

Example: Back to A-Rod and K-Rod (see above). K-Rod develops a critical illness, and A-Rod wants him out. If A-Rod accelerates benefits under Critical Illness, it is likely that the benefits will be includible in A-Rod's income, since the law seems to be written with an intent to compensate insureds for injuries or sickness – not to fund business buyouts.

As described earlier, A-Rod could potentially transfer the contract to K-Rod, using its fair market value as a partial payment for K-Rod's ownership interest in the business. K-Rod could then exercise the rider and receive income tax-free benefits.

Life Insurance in Qualified Retirement Plans

Accelerated Benefits Riders may be added to life insurance contracts in a Profit Sharing Plan. However, there is substantial uncertainty as to the federal income tax treatment of distributions under any of the riders.

- In the case of a permanent policy with cash value, distributions under Terminal or Chronic could be characterized as a pro rata distribution of death benefit and cash value. To the extent the cash value portion exceeded the participant's cost basis, that portion could then be taxable. And if the participant were an unincorporated business owner, there would be no offset for cost basis in the contract.
- In the same situation, distributions under Critical Illness or Critical Injury might be treated differently: although the carrier treats these amounts as accelerated death benefits, the IRS appears to treat these distributions as amounts received under accident or health insurance. Of course, the same uncertainty arises if the acceleration results in a reduction of cash value; AND it would appear that the distributions would have to be limited to reimbursements for related medical expenses anyway to retain the income tax exclusion, if it were otherwise available.

- The bigger question that arises is whether under the plan provisions there is even a distributable event: Typically, a distributable event would include death, total and permanent disability, separation from service, or plan termination.

For these reasons, the more predictable approach would be to distribute the policy to the participant – assuming a distributable event has occurred – and have the participant accelerate benefits after it has become an individually owned policy.

Example

The firm has had a qualified Profit Sharing Plan in place for many years. Mavis has elected to use some of her account balance to purchase a life insurance policy. When Mavis suffers her heart attack – assuming it triggers a distributable event – the plan trustee distributes the policy to Mavis. Although she must include in income the fair market value of the policy in excess of her basis in the policy (cumulative taxable term costs), when she exercises the Critical Illness or Critical Injury riders the benefits should be income tax-free, at least to the extent that they reimburse her for related expenses for which she does not take a medical expense deduction.

Practical Considerations – Federal Income Tax Reporting

From a practical standpoint, the IRS requires insurance carriers to report Chronic and Terminal accelerated benefits on a Form 1099-LTC. Although the guidance is not crystal clear on this point, National Life carriers will report Critical Illness or Critical Injury accelerated benefits on a Form 1099-R. Note that the form contains no place for the carrier to indicate whether these distributions are taxable or not. **It is the responsibility of individual or business taxpayers (typically policy owners and beneficiaries) to consult their professional tax and legal advisors and report accordingly on their tax returns.**

In those situations where an employer is the policy owner and uses accelerated benefits to reimburse the insured employee for qualifying expenses, the carrier reports with respect to the employer and the employer must report with respect to distributions it makes to the employee.

Income Taxation of Premiums

Our Accelerated Benefits riders do not require premium payments. Thus, there are no issues regarding either the deductibility of premiums by the premium payor or the inclusion of premium amounts by the policy owner.

Summary

Most benefits received under **Terminal or Chronic** should be income tax-free, provided that:

- Death benefits under the contract would have been received income tax-free in the event of the death of the insured, and
- The recipient of the benefits has an insurable interest in the insured that is NOT based primarily on a business relationship.

Most benefits received under **Critical Illness** or **Critical Injury** should be income tax-free, provided that:

- They are received by the insured, or by a person with respect to whom the insured is a spouse or legal dependent, as beneficiary.

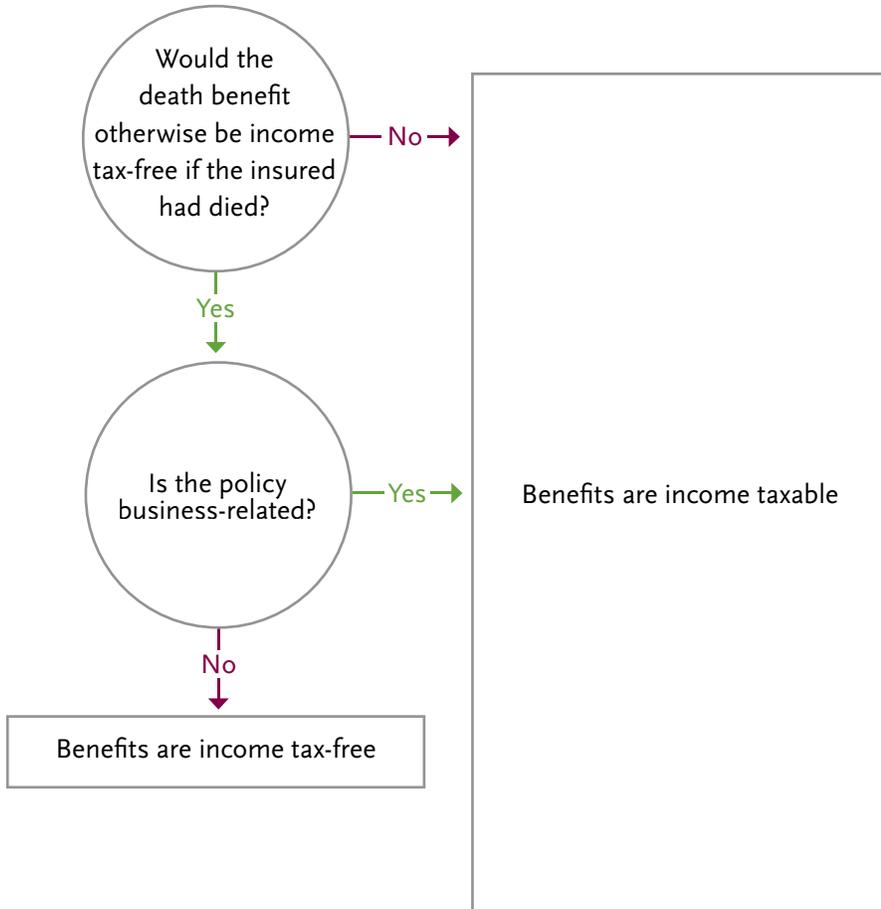
However, the income tax exclusion is limited to amounts necessary to reimburse the insured for expenses paid by the insured and not deducted as medical expenses, if:

- The policy premiums were paid by the insured's employer and not includible in income by the insured, or
- The benefits are received by the insured directly from the employer.

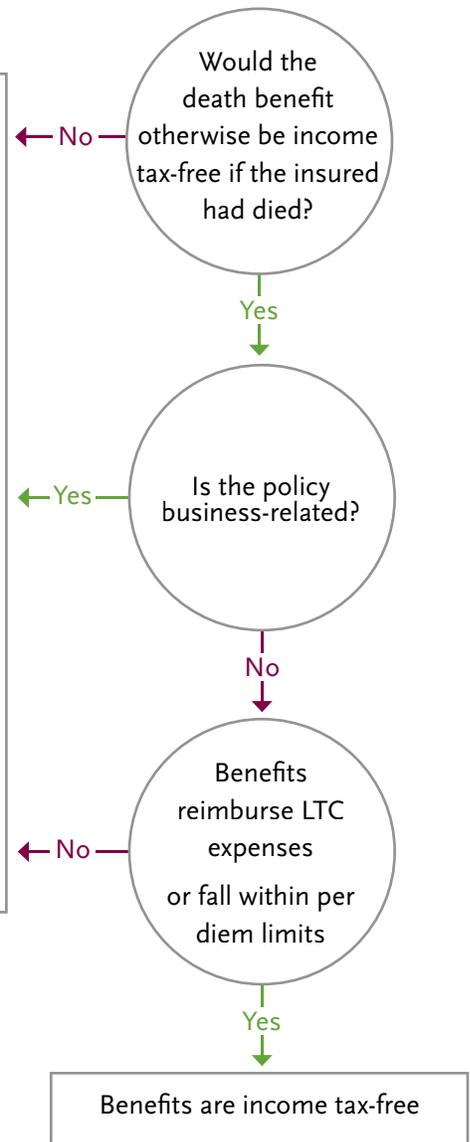
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² NL Group carriers are in the process of reviewing this practice to determine whether Accelerated Benefits Riders Critical Illness or Critical Injury benefits are more properly reported on a 1099-R

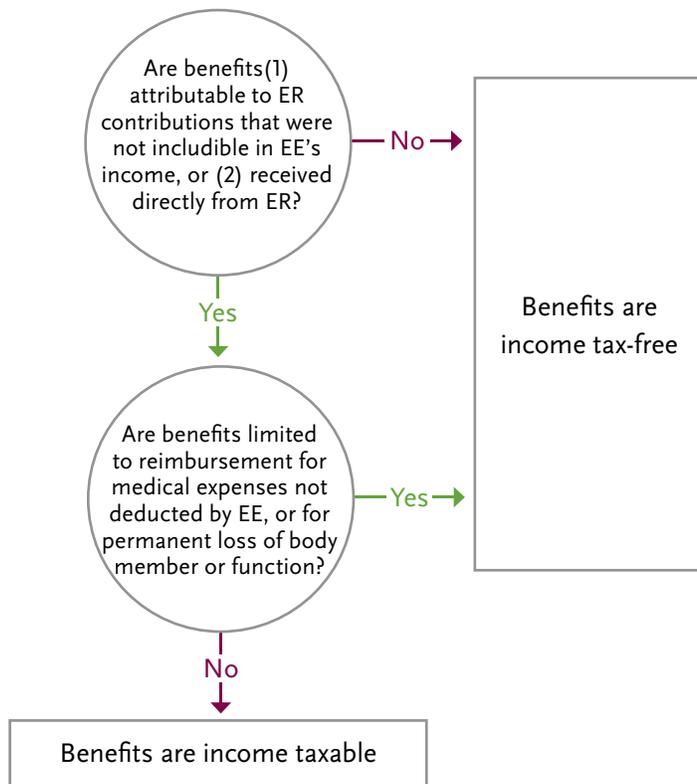
Terminal Illness



Chronic Illness



Critical Illness or Critical Injury



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THE ABOVE INFORMATION IS NOT INTENDED OR WRITTEN TO BE USED, AND IT CANNOT BE USED, BY ANY PERSON FOR THE PURPOSES OF AVOIDING ANY PENALTY THAT MAY BE IMPOSED BY THE INTERNAL REVENUE SERVICE.

In the event the advice is also considered to be a “marketed opinion” within the meaning of the IRS guidance, then as required by the IRS, please be further advised of the following:

THE ABOVE ADVICE WAS WRITTEN TO SUPPORT THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED BY THE WRITTEN ADVICE AND, BASED ON THE PARTICULAR CIRCUMSTANCES, YOU SHOULD SEEK ADVICE FROM AN INDEPENDENT TAX ADVISOR.

Receipt of accelerated benefits will reduce the policy's death benefit and cash value, may result in a taxable event, and may affect your client's, your client's spouse or your client's family eligibility for public assistance programs. Please have your clients consult their personal tax advisor to determine the tax status of any benefits paid under this rider and with social service agencies concerning how receipt of such a payment will affect eligibility for public assistance.

Loans and withdrawals will reduce the policy's Cash Value and Death Benefit and may result in a taxable event. Surrender charges may reduce the policy's cash value in early years.

Accelerated Benefits Riders Product Availability

For second-to-die policies all Accelerated Benefits Riders are not available until after the first death, subject to underwriting and state availability.

Check rider availability for each product you are considering through the National Life Illustration System or online at www.NationalLife.com

There are state special limitations on the availability of all riders depending on the amount of coverage the insured has on existing policies with us. Please contact the home office for details.

	TERMINAL	CHRONIC	CHRONIC FOR NY	CRITICAL
FIXED UL				
LSW Foundation	✓	✓	NO	✓
LSW Horizon	✓	✓	NO	✓
LSW IncomeBuilder	✓	✓	NO	✓
NL AssurePlus Protector	✓	✓ ²	✓	NO
NL Estate Provider	✓ ¹	✓ ¹	NO	NO
INDEXED UL				
NL FlexLife	✓	✓ ²	✓	✓
LSW FlexLife	✓	✓	NO	✓
LSW SecurePlus Provider	✓	✓	NO	✓
NL LifeCycle Solution	✓ ¹	✓ ¹	✓ ¹	✓ ¹
LSW LifeCycle Solution	✓ ¹	✓ ¹	NO	✓ ¹
NL Ultra Select	✓	✓ ²	✓	NO
LSW SecurePlus Advantage 79	✓	✓	NO	✓
VUL				
NL Investor Select	✓	✓	NO	NO
WHOLE LIFE				
LSW ProtectorLife	✓	✓	NO	✓
NL LifeBuilder	✓	✓ ²	✓	✓
NL LifeBuilder 1	✓	✓ ²	✓	✓
NL ValuGuard	✓ ¹	✓ ¹	✓ ¹	✓ ¹
TERM LIFE				
NL ART	✓	✓	✓	NO
NL L Series	✓	✓	✓	✓
NL GL Series	✓	✓	✓	✓
LSW Term	✓	✓	NO	✓

¹ Available after first death - Subject to underwriting.

² Minimum death benefit required for AssurePlus Protector is \$250,000; NL FlexLife is \$100,000; NL LifeBuilder is \$100,000; and NL Ultra Select is \$250,000.

State Approvals & Exceptions

	LSW Terminal	NL Terminal	LSW Chronic	NL Chronic	LSW Critical Illness or Injury	NL Critical Illness or Injury
Alabama	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Alaska	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Arizona	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Arkansas	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
California	Approved - No Exceptions	Approved - No Exceptions	Rider must be in force for 30 days in order to accelerate.	Policy must be in force for 30 days in order to accelerate.	Critical Illness available. Enhanced Critical Illness 2015 not available. Critical Injury not approved as of this date.	Critical Illness available. Enhanced Critical Illness 2015 not available. Critical Injury not approved as of this date.
Colorado	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Connecticut	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Rider must be in force for 30 days in order to accelerate. Confinement requirements	Policy must be in force for 30 days in order to accelerate rider. Confinement requirements	Rider not available.	Rider not available.
Delaware	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
District of Columbia	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Florida	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Georgia	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Hawaii	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Idaho	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Illinois	Benefit is limited to \$500,000.	Benefit is limited to \$500,000.	Rider waiting period limitation does not apply.	Policy must be in force for 30 days in order to accelerate rider. Benefit is limited to \$500,000.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier. Benefit is limited to \$500,000.
Indiana	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Iowa	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions

State Approvals & Exceptions

	LSW Terminal	NL Terminal	LSW Chronic	NL Chronic	LSW Critical Illness or Injury	NL Critical Illness or Injury
Kansas	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.
Kentucky	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Louisiana	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Critical Injury rider waiting period does not apply.	Critical Injury rider waiting period does not apply.
Maine	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Maryland	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	No limitation on self-inflicted injury or attempted suicide. Blindness is not a qualifier.	No limitation on self-inflicted injury or attempted suicide. Blindness is not a qualifier.
Massachusetts Also see page 9	Approved - No Exceptions	Approved - No Exceptions	Benefits may only be used for Qualified Long-Term Care services which are described as the necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services that are required by a chronically ill insured and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. Rider must be in force for 30 days in order to accelerate rider.	Benefits may only be used for Qualified Long-Term Care services which are described as the necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or personal care services that are required by a chronically ill insured and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. Policy must be in force for 30 days in order to accelerate rider.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier.
Michigan	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Policy must be in force for 30 days in order to accelerate rider.	Approved - No Exceptions	Approved - No Exceptions
Minnesota			Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.
Mississippi	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Missouri	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Montana	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Nebraska	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Nevada	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
New Hampshire	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions

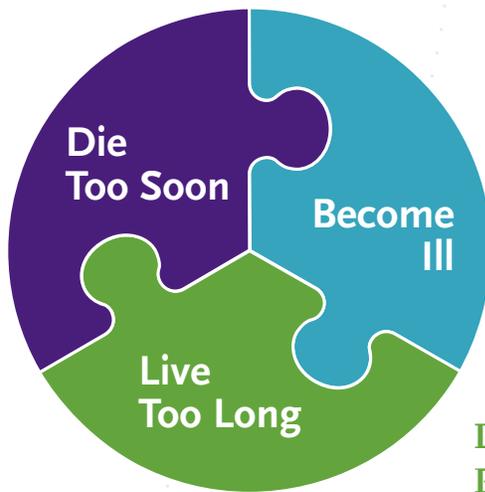
State Approvals & Exceptions

	LSW Terminal	NL Terminal	LSW Chronic	NL Chronic	LSW Critical Illness or Injury	NL Critical Illness or Injury
New Jersey	Benefit is limited to \$500,000.	Benefit is limited to \$500,000.	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply. Benefit is limited to \$500,000.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. If not eligible for both Critical Illness and Critical Injury, insured will be issued with a stand-alone Terminal Illness benefit. Blindness is not a qualifier. Benefit is limited to \$500,000.
New Mexico	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
New York*	Rider not available	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Rider not available.	Policy waiting period limitation does not apply. Maximum Lifetime Benefit is \$2,000,000. In addition to the inability to perform a 2 out of 6 ADLs, a life expectancy calculation must be completed at the time of acceleration. Offers a guaranteed paid-up option on any death benefit not accelerated. Policyowner can only receive benefits once a year. If policyowner accelerates benefits, they must wait 12 months to accelerate benefits again. Once paid up, policy may not be changed back to premium paying. If owner elects to pay up policy, all monthly deductions will cease and the following transactions will not be permitted: premiums, loans, face amount changes and option changes. Withdrawals and accelerations will be permitted. Election to convert remaining death benefit to paid-up status will reduce amount of accelerated benefit.	Rider not available.	Enhanced Critical Illness and Critical Injury not approved as of this date. Rider waiting period limitation does not apply. Blindness is not a qualifier.
North Carolina	Approved - No Exceptions	Approved - No Exceptions	Rider must be in force for 30 days in order to accelerate.	Policy must be in force for 30 days in order to accelerate rider.	Approved - No Exceptions	Approved - No Exceptions
North Dakota	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Ohio	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy must be in force for 30 days in order to accelerate rider. Policy waiting period limitation does not apply.	Rider waiting period limitation does not apply. Blindness is not a qualifier. There is a 2 year limitation on self-inflicted injury or attempted suicide.	Rider waiting period limitation does not apply. Blindness is not a qualifier. There is a 2 year limitation on self-inflicted injury or attempted suicide.

* The Chronic II Accelerated Benefits is part of a life insurance policy with a rider that accelerates the death benefit on the account of chronic illness and is not a health insurance policy providing long-term care insurance subject to the minimum requirements by New York Law, does not qualify for the New York State Long-Term Care Partnership program and is not a Medicare supplement policy.

State Approvals & Exceptions

	LSW Terminal	NL Terminal	LSW Chronic	NL Chronic	LSW Critical Illness or Injury	NL Critical Illness or Injury
Oklahoma	Approved - No Exceptions	Approved - No Exceptions	Rider must be in force for 30 days in order to accelerate.	Policy must be in force for 30 days in order to accelerate rider.	Approved - No Exceptions	Approved - No Exceptions
Oregon	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	There is a 2 year limitation on self-inflicted injury or attempted suicide.	There is a 2 year limitation on self-inflicted injury or attempted suicide.
Pennsylvania	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Rider waiting period limitation does not apply.	Rider waiting period limitation does not apply.
Rhode Island	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
South Carolina					Rider waiting period limitation does not apply.	Rider waiting period limitation does not apply.
South Dakota	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Tennessee	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Texas	Approved - No Exceptions	Approved - No Exceptions	Rider must be in force for 30 days in order to accelerate.	Approved - No Exceptions	Rider waiting period limitation does not apply.	Rider waiting period limitation does not apply.
Utah	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Approved - No Exceptions	Approved - No Exceptions
Vermont	Expected to result in death within 12 months of diagnosis in order to accelerate rider.	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Virginia	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy must be in force for 30 days in order to accelerate rider.	Blindness is not a qualifier.	Blindness is not a qualifier.
Washington	Approved - No Exceptions	Approved - No Exceptions	Rider waiting period limitation does not apply.	Policy waiting period limitation does not apply.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.	Rider waiting period limitation does not apply. If eligible for Enhanced Critical Illness 2015 or Critical Injury, insured will be issued a combination version which includes Terminal Illness. Blindness is not a qualifier.
West Virginia	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Wisconsin	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions
Wyoming	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions	Approved - No Exceptions



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