

§5076. Incontestability period

1. Policies or certificates in effect for less than 6 months. For a policy or certificate that has been in effect for less than 6 months, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that was material to the acceptance for coverage.

[PL 1999, c. 292, §2 (NEW).]

2. Policies or certificates in effect for more than 6 months but less than 2 years. For a policy or certificate that has been in effect for at least 6 months but less than 2 years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that was both material to the acceptance for coverage and that pertains to the condition for which benefits are sought.

[PL 1999, c. 292, §2 (NEW).]

3. Policies or certificates in effect for 2 years or more. After a policy or certificate has been in effect for at least 2 years, the policy or certificate may not be contested upon the grounds of misrepresentation alone. The policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

[PL 1999, c. 292, §2 (NEW).]

4. Field-issued policies or certificates. A long-term care insurance policy or certificate may not be field-issued if the compensation to the field issuer is based on the number of policies or certificates issued. For the purposes of this subsection, "field-issued" means a policy or certificate issued by a producer or a 3rd-party administrator pursuant to the underwriting authority granted to the producer or 3rd-party administrator by an insurer using the insurer's underwriting guidelines.

[PL 2007, c. 232, §1 (AMD).]

5. Recovery of benefit payments by the insurer. If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments may not be recovered by the insurer if the policy or certificate is rescinded.

[PL 1999, c. 292, §2 (NEW).]

6. Death of the insured. Upon the death of the insured, this section does not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care and the remaining death benefits under these policies are governed by sections 2507 and 2615 relating to the incontestability requirements for individual and group life insurance. In all other events, this section applies to life insurance policies that accelerate benefits for long-term care.

[PL 1999, c. 292, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 292, §2 (NEW). PL 2007, c. 232, §1 (AMD).

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