

Bulletin 12-04

To: Annuity Contract Providers

From: Merle Scheiber, Director

Date: August 14, 2012

Re: Annuity Contracts That Provide Access to Benefit Guarantees or Values Based On Long-Term Care Type of Triggers

This Bulletin applies to annuity contracts that provide access to benefit guarantees or values, based on long-term care type triggers, such as nursing home confinement, and home care. The access to benefit guarantees or values may be in the form of a waiver of surrender charges benefit, a withdrawal right under a guaranteed living benefit, or other similar provision. This Bulletin applies whether the availability of such access is included in an annuity contract, or whether such availability is included in riders, amendments or endorsements attached to an annuity contract. Annuity provisions that provide access to benefit guarantees or values based on long-term care type triggers are not subject to SDCL Chapter 58-17B or ARSD 20:06:21 provided that all of the following conditions apply:

1. The provisions with long-term care type triggers are not one of the primary focuses of any advertisement of the annuity contract, rider, amendment or endorsement.
2. The long-term care type trigger that will result in access to the benefit guarantees or values is not the only trigger in the annuity contract, rider, amendment or endorsement, and that other triggers are included which would result in the availability of access to benefit guarantees or values. If the annuity contract includes other triggers, but the rider, amendment, or endorsement to such annuity contract only include one long-term care type trigger, the rider, amendment or endorsement will be considered to be the only trigger.
3. The availability of access to benefit guarantees or values is unrelated to the amount of charges incurred for long-term care services.
4. The availability of access to benefit guarantees or values is not labeled as long-term care or nursing home insurance.
5. The annuity contract, rider, amendment or endorsement, as applicable, contains a disclosure that the availability of access to benefit guarantees or values is not intended to provide long-term care or nursing home insurance. If the disclosure will be included in an annuity contract, rider, amendment or endorsement, the form will be required to be re-filed for approval. If the disclosure will be provided as a separate attachment to the annuity contract, rider, amendment or endorsement, only the disclosure form needs to be filed for approval and the filing will require the identification of the forms that will be used with the disclosure. If the disclosure will be provided to an applicant at the time of

application, the disclosure needs to be filed for approval and the filing will require an explanation of the disclosure process at the time of application.

Any annuity contract, rider, amendment or endorsement that is issued on or after January 1, 2013 that provides access to values or benefit guarantees based on long-term care type triggers is subject to this Bulletin.

This Bulletin supersedes Bulletin 08-06.