



**AXA EQUITABLE**

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# LONG-TERM CARE SERVICES RIDER<sup>SM</sup>

## TECHNICAL GUIDE

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# The Long-Term Care Services Technical Guide

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## ***The Long-Term Care Services Rider: An Overview***

The Long-Term Care Services (LTCS) Rider is available subject to state approval as an optional rider on new issues of Incentive Life Legacy, Incentive Life Optimizer, and Athena Universal Life. The LTCS Rider provides, as a monthly benefit, an acceleration of the policy's Death Benefit (up to the Long-Term Care Specified Amount) to pay for qualified long-term care expenses if the insured is chronically ill and receiving qualified long-term care services pursuant to a Plan of Care. The LTCS Rider is an affordable strategy for clients who are purchasing life insurance to help protect their families and heirs but may also be concerned about providing funds to cover the long-term care services they may need at some point in their lives. Any unloaned portion of the Death Benefit not accelerated for qualified long-term care services will be paid to the policy's beneficiaries at the death of the Insured.

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## **Long-Term Care Services Rider At-A-Glance**

Feature	Long-Term Care Services Rider
Marketing Name	<ul style="list-style-type: none"> <li>Long-Term Care Services (LTCS) Rider</li> <li>In MA, this rider is known as “Accelerated Death Benefit for Chronic Illness Rider”</li> </ul>
Generic Name	<ul style="list-style-type: none"> <li>Accelerated Death Benefit for Long-Term Care Services Rider or state variation</li> </ul>
Policy Forms	<ul style="list-style-type: none"> <li>LTCS Rider Form: R06-90 or state variation</li> <li>LTCS Rider Application <i>Supplement Form</i>: 180-6012-LTC or state variation</li> </ul>
Issuing Companies	<ul style="list-style-type: none"> <li>AXA Equitable and MLOA</li> </ul>
LTCS Rider 30-Day Free Look Provision	<ul style="list-style-type: none"> <li>LTCS Rider may be returned within 30 days from date of signed delivery receipt and rider charges will be reversed.</li> <li>If base policy is free-looked, rider is free-looked</li> </ul>
Issue Ages	<ul style="list-style-type: none"> <li>20 – 70, based on age nearest birthday</li> </ul>
Sex	<ul style="list-style-type: none"> <li>Male, Female, Unisex (Montana only)</li> </ul>
Underwriting Classes	<ul style="list-style-type: none"> <li>Standard Class or better, and no permanent or temporary flat extra premiums</li> </ul>
Term Conversions	<ul style="list-style-type: none"> <li>Full underwriting for LTCS Rider and completed LTCS Rider application supplement required.</li> </ul>
Long-Term Care Benefit Percentage	<ul style="list-style-type: none"> <li>1% or 2% Issue Ages 20 – 70</li> <li>3% Issue Ages 20 - 55</li> </ul>
Minimum Long-Term Care Specified Amount	<ul style="list-style-type: none"> <li>Minimum Face Amount on base policy</li> </ul>
Maximum Long-Term Care Specified Amount	<ul style="list-style-type: none"> <li>Amount that would result in \$50,000 of Monthly Benefit for all Long-Term Care Coverage issued by AXA EQ, MLOA and affiliates.</li> <li>Same as the base policy Face Amount at issue.</li> </ul>
Minimum Monthly Benefit Payment	<ul style="list-style-type: none"> <li>\$500</li> </ul>
Maximum Monthly Benefit Payment	<ul style="list-style-type: none"> <li>The Maximum Monthly Benefit Payment is the lesser of (1) the Benefit Percentage times the Long-Term Care Specified Amount, and (2) 200% (100% in NY) of the applicable daily HIPAA limit times 30.</li> </ul>
Death Benefit Options	<ul style="list-style-type: none"> <li>Option A – Level Death Benefit.</li> <li>Option B – Face Amount plus the Policy Account</li> </ul>

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Feature	Long-Term Care Services Rider
	Value. <ul style="list-style-type: none"> <li>• DBO changes are not allowed if LTCS Rider on policy</li> </ul>
<a href="#">LTCS Rider Restrictions</a>	<p><b>NOT AVAILABLE</b> in the following situations:</p> <ul style="list-style-type: none"> <li>• DDW or DPW is elected and issued on rated basis (even if base policy is Standard or better)</li> <li>• Guaranteed Issue</li> <li>• Simplified Underwriting including Preferred Client Program</li> <li>• International Underwriting Program</li> <li>• Qualified Plan or otherwise subject to ERISA</li> <li>• Policy is reinsured</li> <li>• CVPlus Rider elected</li> <li>• Replacement of other Long-Term Care coverage (rider or stand-alone policy)</li> <li>• Insured eligible for Medicaid</li> <li>• Owner assets &lt; \$30,000</li> </ul> <p>Rider will <b>TERMINATE</b> in the following situations:</p> <ul style="list-style-type: none"> <li>• Substitution of Insured is exercised (cannot keep on new insured even with underwriting)</li> <li>• Paid Up Death Benefit Guarantee is exercised</li> <li>• Living Benefits Rider (Terminal Illness) is exercised</li> <li>• Policy is put on Loan Extension</li> </ul> <p>Other Restrictions</p> <ul style="list-style-type: none"> <li>• Only available at issue, rider cannot be added subsequent to issue</li> <li>• Long-Term Care Benefit Percentage cannot be changed after issue</li> </ul>
<a href="#">LTCS Rider Restricted Policy Changes</a>	Changes <b>NOT</b> Available if LTCS Rider is elected: <ul style="list-style-type: none"> <li>• Face Increase</li> <li>• Death Benefit Option Changes (B to A, A to B)</li> </ul>

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Feature	Long-Term Care Services Rider
<p>LTCS Rider Cost of Insurance (COI) Rates</p>	<ul style="list-style-type: none"> <li>• Partial withdrawal with request to hold Face Amount</li> <li>• There are guaranteed and current COI rates for LTCS Rider</li> <li>• The current COI rates for the rider are banded by LTC Benefit Percentage (1%, 2%, 3%) and vary by Issue Age, Sex, Tobacco User Status, Underwriting Class</li> <li>• Guaranteed COI rates vary by Issue Age, Sex, Tobacco User Status (do not vary by LTC Benefit Amount Percentage)</li> <li>• <math>LTC\ Monthly\ Charge = (LTC\ NAR/1000) \times COI</math></li> <li>• <math>LTC\ NAR = LTC\ Specified\ Amount - Policy\ Account\ Value</math></li> </ul>
<p>Age 100</p>	<ul style="list-style-type: none"> <li>• After policy anniversary nearest insured's 100<sup>th</sup> birthday, monthly LTCS Rider cost of insurance is 0 (guaranteed)</li> <li>• Long-Term Care Monthly Benefits continue to be available until the Long-Term Care Specified Amount has been paid out.</li> </ul>
<p>Restoration of Rider Benefits</p>	<p><b>Criteria:</b></p> <ul style="list-style-type: none"> <li>• Owner must be insured.</li> <li>• Written request within 5 months of termination if Insured would have met LTCS Rider eligibility criteria before end of grace period.</li> <li>• Base policy restored subject to our normal rules.</li> <li>• Owner remits all overdue LTCS Rider charges.</li> </ul>
<p>Extension of Benefits</p>	<p><b>Criteria:</b></p> <ul style="list-style-type: none"> <li>• Confinement in LTC facility prior to policy lapse and before LTC benefits paid out</li> <li>• Confinement continues without interruption after rider termination</li> <li>• Elimination period is satisfied</li> <li>• No Death Benefit under this provision</li> </ul>

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Feature	Long-Term Care Services Rider
Tax Reporting	<ul style="list-style-type: none"> <li>• <b>1099R</b> – LTCS Rider taxable rider charges. Charges reduce Basis and once Basis = 0 are taxable, if non-MEC. If MEC, charges are taxable if there is gain in the policy.</li> <li>• <b>1099LTC</b> – LTCS Rider benefit payments. All benefit payments will be reported. They are taxable to the extent they (together with any other long-term care benefits relating to the same insured) exceed the greater of the expenses incurred or the HIPAA limit.</li> <li>• <b>8853</b> – Required form for policyowners if LTCS Rider benefits were attributed to them</li> </ul>
Chronically Ill Individual	<p><b>Certification for person who is:</b></p> <ul style="list-style-type: none"> <li>• Unable to perform <b>Activities of Daily Living (ADLs)</b> for period of at least 90 days – bathing, continence, dressing, eating, toileting, transferring; OR</li> <li>• <b>Requires “Substantial Supervision”</b> to protect from threats to health and safety due to <b>Cognitive Impairment</b> (severe deficiency in memory, orientation, reasoning, judgment).</li> </ul>
Elimination Period	<ul style="list-style-type: none"> <li>• 90 days</li> <li>• Satisfied by LTC Facility stay or days of Home Health Care</li> <li>• Within a consecutive 24 month period</li> <li>• Must be satisfied only once while rider is in effect</li> </ul>
Claims Administration	<ul style="list-style-type: none"> <li>• NOC Claims Area</li> </ul>
Marketing Materials	<p><b>Client Approved Marketing Materials</b></p> <ul style="list-style-type: none"> <li>• The Long-Term Care Services Rider – Plan Ahead for Your Long-Term Care Needs – Catalog #136649</li> <li>• Understanding the Taxation of Your Long-Term Care Services Rider – Catalog #133650</li> <li>• A Shopper’s Guide to Long-Term Care Insurance – Catalog #136652</li> <li>• Choosing a Medigap Policy: A Guide to Health Insurance for People with Medicare (2010) – Catalog #136694</li> </ul>

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Feature	Long-Term Care Services Rider
	<ul style="list-style-type: none"> <li>• Guide to Long-Term Care (Wisconsin Only) – Catalog #136802</li> <li>• Taking Care of Tomorrow – A Consumer’s Guide to Long-Term Care (California Only) – Catalog #136803</li> </ul> <p><b>Pre-sale Material for Financial Professional Use Only</b></p> <ul style="list-style-type: none"> <li>• Sales Idea: An Alternative to Traditional LTCi Coverage – Incentive Life<sup>SM</sup> Legacy available with the Long-Term Care Services Rider – Catalog #136145</li> </ul>

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## ***How the Long-Term Care Services Rider Benefit Works***

### ***Application***

- A **Long-Term Care Benefit Percentage (LTC Benefit Percentage)** (1%, 2% or 3%) is chosen on the LTCS Rider application supplement. The LTC Benefit Percentage chosen cannot be changed after the policy is issued. This is used to determine the rider rate band and the maximum level of monthly benefit that is available when the insured qualifies for monthly benefits under the terms of the LTCS Rider.
- The **Long-Term Care Specified Amount (LTC SA)** is equal to the initial policy Face Amount and will be reduced to reflect any requested partial withdrawals and reductions in Face Amount. It represents the total amount available for acceleration under the rider over the duration of the policy. In no event can the LTC SA be increased.
- **Maximum Monthly Benefit Amount** - The LTC Benefit Percentage (LTC Benefit Percentage) is applied to the LTC SA to determine the Maximum Monthly Benefit Amount, the amount available as a monthly claim payment under the terms of the LTCS Rider. The Maximum Monthly Benefit Amount that AXA Equitable and its affiliates will issue cannot be greater than \$50,000 for all combined inforce coverage.

**Actual Benefit Payments** - Regardless of the amount of Maximum Monthly Benefit Amount purchased, actual Benefit Payments are limited to the lesser of the Maximum Monthly Benefit Amount or the monthly equivalent of 200% (100% in NY) of the Health Insurance Portability and Accountability Act (HIPAA) daily limit.

### ***Example:***

A client who purchases a \$1,000,000 policy with a 2% LTC Benefit Percentage would have a Maximum Monthly Benefit Amount of \$20,000 (2% of 1,000,000 = 20,000). Actual claim payments are limited to 200% (100% in NY) of the monthly equivalent of the HIPAA daily limit for the applicable calendar year. (For 2010 the HIPAA daily limit of \$290 translates into an actual monthly limit of \$17,400 for calendar year 2010 since 200% of [30 days x \$290 per day] = \$17,400). The client can request an amount less than the monthly limit. The minimum Monthly Benefit Amount is \$500.

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## ***Availability of the Long-Term Care Services Rider***

### ***When the Long-Term Care Services Rider is Available***

- Only available on new issues of certain AXA Equitable and affiliates single life permanent policies
- Issue Ages 20-70 for LTC Benefit Percentage 1% and 2%. Issue Ages 20-55 for LTC Benefit Percentage 3%. Issue Ages are based on age nearest birthday.
- Male, Female, Unisex (Montana only)
- Underwriting class must be Standard or better. LTCS Rider is not available if policy has permanent or temporary flat extra premiums. LTCS Rider is not available if the Disability Deduction Waiver (DDW) rider or the Disability Premium Waiver (DPW) rider is elected and issued on a rated basis (even if the base policy is rated Standard or better.)
- Minimum Face Amount of policy that will be issued with LTCS Rider – Minimum Face Amount of the underlying base policy.
- Maximum Face Amount of policy that will be issued with LTCS Rider – The amount that would result in \$50,000 of Maximum Monthly Benefit Amount. If client wants to purchase a higher Face Amount than the Maximum shown below, the client would have to buy a second policy without LTCS Rider for any additional Face Amount. The second policy will be subject to all charges according to its terms.

<b>Long-Term Care Benefit Percentage</b>	<b>Maximum Face Amount at Issue*</b>
1%	\$5,000,000
2%	\$2,500,000
3%	\$1,666,666

\*Assumes no other AXA EQ or affiliates LTC coverage in effect.

### ***Situations When the Long-Term Care Services Rider Is NOT Available***

- Guaranteed Issue
- Simplified Underwriting including Preferred Client Program
- International Underwriting Program
- Qualified Plan or otherwise subject to ERISA
- Policy is reinsured
- CVPlus Rider elected
- Replacement of other Long-Term Care rider or stand-alone Long-Term Care insurance
- Cannot be added after issue
- Benefit Percentage cannot be changed after issue
- Flat extras are on the policy
- Client's assets are less than \$30,000
- DDW or DPW are rated
- Client is eligible for Medicaid

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### ***Situations That Will Terminate the Long-Term Care Services Rider***

- LTCS Rider Free Look Provision - If the client is not completely satisfied with LTCS Rider for any reason, they may return it within 30 days from the date of the signed delivery receipt. We will reverse any charges applicable to the rider and the policy will be treated as if the rider had never been issued.
- Written request from policyowner to terminate the rider. Only after the first policy year.
- Termination or surrender of the base policy.
- Death of the insured.
- The entire Long-Term Care Specified Amount has been paid out.
- Substitution of Insured Rider is exercised.
- Payment under the Living Benefits Rider for terminal illness is made.
- Policy is put on Loan Extension.
- Election of a Paid Up Death Benefit Guarantee.

### ***Policy Changes That Are NOT Available when the LTCS Rider Has Been Elected***

- Face Amount increases.
- Death Benefit Option changes, either Option A to B or Option B to A
- If a partial withdrawal is made on a policy with the LTCS Rider, the Face Amount of the policy and the LTC Specified Amount will generally be reduced. Requests to hold the Face Amount will not be allowed even with underwriting.

## ***Long-Term Care Services Rider Underwriting***

One of the benefits of purchasing a permanent life insurance policy with the Long-Term Care Services Rider is the unified underwriting process.

- Application Supplement form #180-6012-LTC or state variation must be completed and submitted with the application for the applicable life insurance policy.
- Insured must be rated Standard or better with no permanent or temporary flat extras.
- If the proposed insured is eligible for Medicaid (Question 4A of the Application Supplement), LTCS Rider will not be issued.
- If the proposed owner's assets are less than \$30,000, LTCS Rider will not be issued. Base policy will be issued subject to policy amendment.

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## ***Monthly Deductions for the Long-Term Care Services Rider***

A Cost of Insurance (COI) charge for LTCS Rider is deducted from the Policy Account Value on each month anniversary while the rider is in effect until the policy anniversary nearest the insured's attained age 100. When monthly benefits are being paid under the rider we will waive the monthly LTCS Rider COI charge.

### ***LTCS Rider Cost of Insurance (COI) Rates***

There are both current and guaranteed COI rates. The current LTCS Rider COI rates vary by sex, underwriting class (Preferred Plus, Preferred and Standard), Tobacco User Status, Issue Age and Long-Term Care Benefit Percentage (1%, 2% or 3%) selected. The guaranteed LTCS Rider COI rates vary by sex, Tobacco User Status, and Issue Age. The current and guaranteed rates are included with the Outline of Coverage.

### ***How the Long-Term Care Services Rider monthly charges are calculated***

The monthly rider charge is calculated by applying the monthly LTCS Rider COI rate to the Long-Term Care Net Amount at Risk (LTC SA minus the Policy Account Value) at the beginning of the policy month. Current basis LTCS Rider charges are shown on the optional Annual Calculation Summary report found in AEGIS new business proposal system, if elected.

- **Guaranteed Long-Term Care Services Rider Values on the Policy Pages** – The LTCS Rider guaranteed basis COI rate, the Initial LTC Specified Amount, the LTC Benefit Percentage, and the Initial Maximum Monthly Benefit Amount are shown on the Policy Pages of the policy.
- **Taxation of Long-Term Care Services Rider Monthly Charges** – Monthly charges for the LTCS Rider coverage are considered to be distributions from the policy for federal income tax purposes.
  - **Policy is not a MEC** – The monthly charge reduces Cost Basis. When Cost Basis is zero, the monthly charges are reported as taxable income on Internal Revenue Service (IRS) Form 1099R.
  - **Policy is a MEC** – The monthly charge is reportable on IRS Form 1099R to the extent of the gain in the policy at the time the charge is deducted. If there is no gain in the policy at the time the charge is taken, the Cost Basis of the policy will be reduced by the amount of the rider charge.

(See examples in Appendix B & C.)

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## ***Long-Term Care Services Rider Impact on Policy Premiums***

- LTCS Rider is reflected in the **Extended No Lapse Guarantee (ENLG)**, **Commissionable Target Premium (CTP)**, **Minimum Initial Premium (MIP)** and **No Lapse Guarantee Premium (NLG)**. CTP rates vary by Issue Age, Sex, and Tobacco User Status. CTP rates do not vary by LTC Benefit Percentage or by Underwriting Class.
- The **7 Pay Premium**, **Guideline Single Premium**, and **Guideline Level Premium** are not affected by LTCS Rider. This is because LTCS Rider is not currently considered a Qualified Additional Benefit.
- The monthly LTC rider charge, to the extent it is a nontaxable charge, will reduce the **sum of premiums paid toward the 7 Pay limit**, if applicable (i.e. if the policy is not a MEC and is within a 7 Pay testing period).
- The monthly LTC rider charge, to the extent it is a nontaxable charge, will reduce the **sum of premiums paid toward the guideline premium limit**.
- Premium payments are not allowed if a policy is on LTCS Rider claim.

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## ***Receiving Benefits under the Long-Term Care Services Rider***

The Insured must be considered Chronically Ill and have received qualified long-term care services for a 90-day Elimination Period. Actual payment of benefit will begin following our receipt of all documentation required under the rider, including written certification from a U.S. Licensed Health Care Practitioner that the insured is chronically ill and is receiving qualified long-term care services pursuant to a Plan of Care. Receipts for costs are not needed. Recertification is required after every 12-month period in order to continue receipt of benefits.

- **Elimination Period** – The Elimination Period is the number of days that must elapse before any benefit is payable under the Long-Term Care Services Rider. LTCS Rider has an Elimination Period of 90 days. The 90 days do not have to be consecutive; however, they must be satisfied during a 24-month period. Each day of qualified long-term care services provided to a Chronically Ill insured in either a Long-Term Care Facility or by a Home Health Care Provider will count toward satisfying the Elimination Period. The Elimination Period needs to be satisfied only once while the rider is in effect. Benefits will not be retroactively paid for the Elimination Period.
- **Defining ‘Chronically Ill’** – The Insured is considered Chronically Ill when he or she is certified by a Licensed Health Care Practitioner as
  1. Being unable to perform (without Substantial Assistance from another person) at least two Activities of Daily Living (bathing, continence, dressing, eating, toileting, and transferring) due to a loss of functional capacity for a period of at least 90 days; or
  2. Requiring Substantial Supervision to protect such individual from threats to health and safety due to Cognitive Impairment.
- **Documentation Required to Receive Long-Term Care Services Rider Benefits** We must receive the following documentation before any benefits under LTCS Rider are payable:
  1. Written certification from a U.S. Licensed Health Care Practitioner that the insured is a Chronically Ill individual and is receiving qualified long-term care services pursuant to a Plan of Care;
  2. Proof that the 90-day Elimination Period has been satisfied; and
  3. Written notice of claim and proof of loss.
- **Determining the Actual Monthly Benefit Payment** When on claim, client can request any monthly benefit payment between \$500 and the lesser of the Maximum Monthly Benefit Amount and the monthly equivalent of 200% (100% in NY) of the daily HIPAA limit then in effect. Note that any requested partial withdrawals or Face Amount reductions will decrease the LTC SA which in turn will decrease the Maximum Monthly Benefit Amount. If policy has a loan, a proportionate part of each Benefit Payment will be used to reduce the loan.
- **Changing the Actual Monthly Benefit Payment**  
Upon request, the amount of the Monthly Benefit Payment may be changed as long as the payment requested is not higher than the maximum amount allowed. However, the COI rate for the rider will continue to be based upon the LTC Benefit Percentage as selected at issue.

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- **Period of Monthly Benefits**  
Monthly Benefits will be paid during a Period of Coverage, or the period of time during which the insured receives covered services under the LTCS Rider. A Period of Coverage begins on the first day of covered services received after the end of the Elimination Period and terminates at the earliest date any of the following occur:
  1. The insured is no longer receiving qualified long-term care services.
  2. The insured is no longer eligible to receive benefits under LTCS Rider.
  3. The client requests termination of monthly benefit payments.
  4. The entire LTC SA has been accelerated as monthly benefit payments.
  5. Surrender of the policy.
  6. A payment is made under the Accelerated Death Benefit Rider for terminal illness.
  7. The date of death of the insured.
- **Payment of the First Benefit** - First Benefit will be paid on the monthiversary following the end of the 90-day Elimination Period or the date we approve claim (if later).
- **Termination of Services** – Client must notify us if they are no longer receiving qualified long-term care services.
- **Contact Information** – By phone at 800-777-6510 or by mail at AXA Equitable, Special Claims Division, P.O. Box 1047, Charlotte NC 28201-1047

### ***Long-Term Care Services Rider Claim Payment Mechanics***

Benefits accelerated under this rider are treated as a lien (Accumulated Benefit Lien Amount) against policy values. The lien increases with each LTCS Rider Benefit Payment. The Accumulated Benefit Lien Amount will not accrue interest.

- **Death Claim before End of a Period of Coverage** – The Accumulated Lien Amount and any outstanding policy loan and accrued loan interest are subtracted from the base policy Death Benefit.
- **Policy Surrender before End of a Period of Coverage** – The unloaned Policy Account Value and Surrender Charge is reduced by the proportion of the policy Face Amount that has been accelerated to date. The reduction in unloaned Policy Account Value will not exceed the Accumulated Benefit Lien Amount.

#### **Example:**

- Face Amount = \$1,000,000 (Death Benefit Option A, not in corridor)
- LTC Benefit Percentage = 1%
- No outstanding loans against the policy
- Total Accumulated Lien Amount = \$200,000 (monthly benefits of \$10,000 have been paid out for 20 months; 20% of the Face Amount has been accelerated to date)
- If insured dies prior to the next monthly benefit payment, the beneficiary will receive \$1,000,000 - \$200,000 = \$800,000 as the Death Benefit.
- If policy is surrendered prior to the next monthly benefit payment, the Cash Surrender Value at the time of surrender will be reduced by 20%. Assume the Net Cash Surrender Value is \$400,000. When surrender is processed, the Net

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Cash Surrender Value will be reduced by 20%, i.e. the policy will be surrendered for \$320,000.

### ***Monthly Deductions while LTCS Rider Benefits Are Paid***

- Monthly charge for LTCS Rider is waived
- If net Policy Account Value is not sufficient to cover the monthly deduction for policy and any riders, we will not lapse the policy. We will waive any monthly deductions for the policy and any riders that cannot be taken. However, loan interest will continue to be charged and deducted from benefit payment (if not paid in cash).

### ***Loans***

A portion of each benefit payment is applied toward any outstanding loan and accrued loan interest.

**Example:** Policy has a \$100,000 Face Amount, \$100,000 LTC SA, 2% Benefit Percentage and a policy loan of \$5,000 at the time LTCS Rider monthly benefit claim payments begin. Client elects the Maximum Benefit Payment of \$2,000 per month and continues receiving monthly benefit payments for 50 months. Assume for this example that the client is paying any loan interest due in cash rather than adding it to the loan balance. Each monthly benefit payment will be reduced by 2% of the initial amount of the loan ( $.02 \times \$5,000 = \$100$ ), applied as a loan repayment, and the balance ( $\$2,000 - \$100 = \$1,900$ ) sent to the client. Note that the 2% represents the percentage of LTC SA that is accelerated as a monthly benefit and is found by dividing the monthly benefit payment by the LTC SA, in this example equals  $\$2,000$  divided by  $\$100,000$ ).

### ***Accessing Account Values***

Policy loans and withdrawals are two ways to access life insurance Account Values. Each reduces the amount that may be available for claims under the Long-Term Care Services Rider.

- Withdrawals – Directly reduce the LTC SA, and as a result reduce the Maximum Monthly Benefit Amount. Withdrawals are not allowed while policy on LTCS Rider claim. Cannot make withdrawal and hold Face Amount.
- Policy Loans are available while policy is on LTCS Rider claim. However, a portion of each Monthly Benefit payment is used to repay the loan. This amount is calculated to repay the total policy loan by the time the Death Benefit is fully accelerated. In the previous example there are 50 loan repayments of \$100 each and the total loan is repaid at the same time the entire LTC Specified Amount is fully accelerated. Policy loans are available while the policy is on claim, subject to the loan provisions of the base policy.

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## ***Long-Term Care Services Rider Licensing and Certification***

- LTCS Rider Licensing, Appointments and Education Requisites – There are state specific requirements which must be met prior to solicitation and/or sale of LTCS Rider. In most of the states the rider is considered Long-Term Care Insurance (LTC states) and therefore a health license and health appointment is required to sell LTCS Rider. In addition, some of the LTC states require completion of mandatory education prior to solicitation, and continuing education, specific to long-term care insurance. However, some states consider the rider an Accelerated Death Benefit (ADB states) and require no further license (beyond the life license), health appointment or state education. See FB 06-207RR for details. In addition, a chart is maintained on eDOX (eDOX>Field Force & Management Resources>Licensing, Appointment, and Registration Information) showing each state's most up to date requirements for LTCS Rider.
- LTCS Rider Certification – Required prior to sale of policy with LTCS Rider whether an ADB or LTC state. See FB 06-372 and FB 06-373 for details.
  - Complete “Introduction to Long-Term Care” eLearning course on AXA Advisors Virtual University (AAVU) for the base level of long-term care insurance knowledge, and
  - Attend the entire Long-Term Care Services Rider Workshop and sign in on the attendance sheet. As an alternative and/or reinforcement, the material from the workshop is also available as an eLearning course on AAVU. A separate version of this course is required for supervisors. This course is referenced in FMC #06-075.

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## ***Long-Term Care Services Rider Application Materials***

The following state specific forms are available by selecting “Long-Term Care Services Rider Forms Package” in eDOX Build Kits under the applicable base policy.

- **LTCS Rider Client Materials Checklist** – This checklist describes the materials needed for solicitation and sale of LTCS Rider in the state selected. You should review it to make sure you are submitting all requirements.
- **LTCS Rider Application Supplement** (Accelerated Death Benefit for Long-Term Care Services Rider Supplement form 180-6012-LTC or state variation). The LTCS Rider supplement includes questions designed to elicit information as to whether, as of the date of the application, the applicant has other LTC coverage in force and whether the purchase of this rider is intended as a replacement. It also allows the applicant to designate one other party to receive copies of lapse and termination notices or to waive the right to designate another party. The supplement contains a disclosure statement that receipt of the LTC benefits may be taxable, and that assistance should be sought from a person’s tax advisor. The supplement contains the acknowledgement that the applicant has received an Outline of Coverage and Shopper’s Guide (if required by state). It also provides an acknowledgement that the applicant elects out of having any Federal income tax withheld for taxable distributions to pay the monthly cost for LTCS Rider.
- **Senior Insurance Program Information** – A document to be given to the applicant when the application is taken. It contains state specific contact information for questions regarding long-term care insurance. This document is required in Alabama, Arizona, Arkansas, California, Delaware, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Puerto Rico, South Dakota, Tennessee and the Virgin Islands.
- **Outline of Coverage** (Form OLC-LTC A or state variation) – Required in all states, this form must be given to the client prior to taking the application. The Outline of Coverage is a “user-friendly” description of the LTCS Rider coverage. It includes Appendix A, a chart of current and guaranteed LTCS Rider rates.
- **Personal Worksheet (Form PWRID-LTC A or state variation)** – This document is required in Alabama, Arizona, Arkansas, California, Delaware, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Missouri, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Puerto Rico, South Dakota, Tennessee, Virgin Islands, Virginia, and Wisconsin. Two copies will automatically print from eDOX Build Kits, if required. Both copies must be completed and signed by the client and the Financial Professional. One copy must be submitted along with the application. The other copy is to be given to the client.
- **Potential Rate Increase Disclosure Form** – In states that require the Personal Worksheet and in Illinois. Discloses that the current rate for LTCS Rider may be increased in the future, but never higher than the guaranteed rate shown on page 3 of the policy.
- **Shopper’s Guide** (catalog #136652 or state variation) – Required in Delaware, Georgia, Idaho, Missouri, New Mexico, North Carolina, Puerto Rico, Tennessee, Virginia, and Wyoming. State specific variations required in California and Wisconsin. It may be ordered through the AXAonline ordering system as a stand-alone document and is also

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included in the marketing kits if state requires it. The Shopper's Guide is also available on eDOX as a nonprintable document.

- **A Guide to Health Insurance for People with Medicare** (catalog # 136694) – This NAIC publication must be provided upon request for clients 65 and older in certain states. It is available through the AXAonline ordering system and as a stand-alone document and, for variable products, on the prospectus CD. It is also available on eDOX as a nonprintable document.

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## ***Taxation Of Long-Term Care Services Rider Benefit Payments***

### ***Tax Consequences when Benefits are Paid under the LTCS Rider***

The LTCS Rider benefit amounts received are intended to be treated as accelerated death benefits for Federal income tax purposes under Section 101(g) of the Internal Revenue Code (the Code). The Code provides special tax treatments for such payments on the life of a chronically ill insured person receiving qualified long-term care services within the meaning of Section 7702B of the Code. For income tax purposes, payment of benefits will be reported to the policyowner on Form 1099-LTC. The policyowner must then file Form 8853 to determine the amounts to be included or excluded from income for the applicable taxable year.

Generally, income exclusion for all benefit payments from all sources with respect to an insured person will be limited to the higher of:

- the Health Insurance Portability and Accountability Act (HIPAA) per diem limit (for 2010 this limit is \$290 a day) or,
- the actual costs incurred by the taxpayer (policyowner) on behalf of the insured person.

If there is more than one policy on the insured, receipt of benefit payments must be aggregated to determine taxability. To the extent aggregate benefits for an insured received by all owners from all sources exceed the tax law limits, the excess benefit amount will be taxable as ordinary income to the recipient.

Income exclusion under this rule applies even if the life insurance policy is considered to be a Modified Endowment Contract (MEC) under the tax law.

### ***Policy Ownership Considerations***

The ownership structure of the life insurance policy with a Long-Term Care Services Rider can affect how the benefits are taxed under various tax provisions (i.e. income tax, gift tax, estate tax). Therefore, careful consideration should be given to all situations where the owner and insured are not the same person. In addition, it's important to pay careful consideration to business related scenarios. Depending on specific facts and circumstances, separate qualified long-term care insurance policy owned by the insured may be a better vehicle for providing long-term care benefits.

#### ***The Policyowner Is the Insured***

LTCS Rider benefit payments, made to the policyowner insured, to cover qualified Long-Term care services are intended to qualify for exclusion from income subject to the dollar limits described above, with respect to a particular insured person (see tax rules for multiple policies).

#### ***The Policyowner Is an Individual other than the Insured***

For income tax purposes, the benefit payments made to an individual policyowner who is other than the insured are treated the same as if the policyowner was the insured. However, there are also other tax considerations to be considered.

For example, if a taxpayer's son owns a policy and the insured person is his father, there may be gift tax considerations if the son provides the funds to his father when the benefits are paid.

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However, special gift tax rules may provide gift tax exemptive relief when the taxpayer directly pays the provider of medical care on behalf of an insured person.

#### *The Policyowner Is a Trust*

In an estate planning scenario, an insured taxpayer may set up an irrevocable life insurance trust (ILIT) as owner of a life insurance policy to avoid including the life insurance death proceeds in the insured's taxable estate. In this situation the trust as owner of the policy will be entitled to any applicable benefits under the Long-Term Care Services Rider.

If the insured qualifies for monthly benefits under the Long-Term Care Services Rider the trust policyowner, with the advice of his or her tax and legal advisor, will need to plan to assure that there are no unintended consequences such as the unavailability of funds to the insured or the availability of funds at the cost of defeating the estate planning for which the trust was created.

Generally the retention of any incident of ownership in a life insurance policy by an insured or the retention of a life interest in property contributed to a trust will each cause the policy's death proceeds to be included in the insured estate.

If the insured has other long-term care coverage outside the ILIT, a benefit received by the ILIT might create taxable income for the ILIT if aggregate exclusion limits are exceeded.

#### *The Policyowner Is a Trade or Business*

If an employer provides for benefits informally funded through an employer owned life insurance policy that includes the LTCS Rider, there are additional compensation and benefit tax issues to be considered. Furthermore, the income exclusion rules for accelerated death benefits will generally not apply.

If the owner and the insured person are not the same, the exclusion for accelerated death benefits for chronic illness will not apply if the owner (taxpayer) has an insurable interest with respect to the life of the insured person by reason of the insured person being an officer, employee, or director of the taxpayer or by reason of the insured person being financially interested in any trade or business carried on by the taxpayer.

### ***Tax Rules For Multiple Policies***

The Federal income tax rules apply the limitation on the exclusion of benefits on an aggregate basis for all payments received from all sources with respect to an insured person, whether owned by the same person or not. This includes benefits from both long-term care insurance and accelerated death benefits for chronic illness. Each payer of benefits is required to report such payments for Federal income tax purposes on Form 1099-LTC. If you receive benefits under your policy, you must calculate the portion of benefits, if any, for your own particular situation that must be included in income (refer to IRS Form 8853 and Instructions for Form 8853).

To help illustrate this concept further, let's take a look at an example of multiple policies owned by a daughter and mother.

- A daughter receives \$45,000 in benefits in a taxable year on a policy she owns on the life of the insured, her mother. Her mother receives \$70,000 in benefits under a separate

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policy that she owns on herself. The total benefits on the life of the mother, as the insured, would be \$115,000.

- Now assume the maximum excludible amount for such year happens to be \$90,000 based on the per diem limit being higher than qualifying costs incurred for services, all of which were incurred by the mother.
- In this case, the mother could exclude all \$70,000, since the amount received was under the \$90,000 limit, and her daughter would exclude \$20,000 since there would still be \$20,000 remaining of the \$90,000 limit after the mother's \$70,000 exclusion. The remaining \$25,000 received by her daughter would not be excludible since aggregate benefits (\$115,000) exceeded the applicable Federal income limitation (\$90,000) for such year.

Under IRS Instructions to Form 8853, the per diem limitation on benefits is first allocated to the insured to the extent of the total payments the insured received. For joint returns the allocation is first made to the insured and spouse for payments they both received. Any remaining applicable per diem limit is allocated pro rata among other policyholders based on the payments they received in the taxable year.

The current applicable per diem limit and costs incurred, and any necessary allocation for multiple policies, will therefore have to be determined annually to calculate excludible amounts for all recipients of benefits.

## ***Other Important Circumstances To Consider***

### **Adjustment to Tax Limits on the Policy**

Any adjustments made to the policy death benefit, face amount, and other values as a result of the Long-Term Care Services Rider benefits paid, will also generally cause adjustments to the tax limits that apply to your policy. For example, for guideline premium tested policies the guideline premiums will be adjusted. In addition, the seven-pay period and seven-pay premium for testing MEC status will also be impacted.

### **Transfer-for-Value**

If there has been a transfer-for-value of the life insurance policy (e.g. selling a policy to a third party) that causes the life insurance death benefit to lose its basic eligibility for excludability for income tax purposes, any acceleration of a portion of the death benefit will also lose eligibility for income tax exclusion.

### **Split Dollar Agreement**

For policies intended to be used in a split dollar agreement, many additional tax issues may arise for which there is little Federal income tax guidance. These issues may include, but are not necessarily limited to, the taxation of any economic benefit arising out of the Long-Term Care Services Rider, an employer's right to a policy's Cash Value versus the pro rata reduction of Cash Values through the acceleration of a portion of the policy's Death Benefit and the application of the rules for business related policies.

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## ***Taxation of Long-Term Care Services Rider Charges***

Tax Consequences when the Charges for the Long-Term Care Services Rider are Deducted from the Life Insurance Policy Account:

LTCS Rider monthly charges are considered distributions for income tax purposes, and may be taxable to the policyowner as ordinary income, reported on Form 1099R.

- If the base life insurance policy is not classified as a Modified Endowment Contract (MEC), monthly rider charges will generally be deemed a nontaxable return of premium that will reduce the tax basis in the policy. The amount of the monthly charge will generally only be taxable as ordinary income after the tax basis in the policy has been reduced to zero.
- For policies classified as MECs, monthly rider charges will generally be taxable to the extent of any gain in the policy (policy account value exceeds cumulative premiums). As with any taxable distribution from a MEC, an additional 10% tax penalty on the taxable amount will also generally apply if the policyowner is under age 59 1/2 at the time of the distribution.

Charges for the Long-Term Care Services Rider are generally not considered deductible for income tax purposes. The Long-Term Care Services Rider is not intended to be a qualified long-term care insurance contract under section 7702B(b) of the Internal Revenue Code.

This brochure does not discuss tax considerations for a separate stand-alone policy that only provides long-term care benefits. Clients should carefully review the basic operation of the Long-Term Care Services Rider and the possible advantages or disadvantages of the rider compared to a stand-alone long-term care policy with or without a separate life insurance policy.

This information is based on our general understanding of current Federal income tax rules. Be advised that this document is not intended as legal or tax advice. In addition, U.S. Treasury Regulations require us to note that any tax information provided in this document is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer. The tax information was written for internal use only and to support the promotion or marketing of the transaction(s) or matter(s) addressed, and clients should seek advice, based on their particular circumstances, from an independent tax advisor.

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## **Appendix A - Glossary**

**Activities of Daily Living** - Those activities that measure the insured person's ability for self care. The Activities of Daily Living used in this rider to determine the level of care needed by the insured person are:

1. **Bathing**, which means washing oneself by sponge bath; or in either a tub or shower, including the task of getting in or out of the tub or shower.
2. **Continence**, which means the ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene, including caring for a catheter or colostomy bag.
3. **Dressing**, which means putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs.
4. **Eating**, which means feeding oneself by getting food into his or her body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously.
5. **Toileting**, which means getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene.
6. **Transferring**, which means moving into or out of a bed, chair, or wheelchair.

**Chronically Ill Individual** - An individual who has been certified by a Licensed Health Care Practitioner as:

1. being unable to perform (without Substantial Assistance from another person) at least two Activities of Daily Living for a period of at least 90 days due to a loss of functional capacity; or
2. requiring Substantial Supervision to protect such individual from threats to health and safety due to Cognitive Impairment.

**Cognitive Impairment** – A severe deficiency in the insured person's short or Long-Term memory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness; included in this definition are nervous or mental disorders of organic origin, including Alzheimer's Disease and senile dementia, which are determined by clinical diagnosis or tests.

**Elimination Period** - A required period of time while this rider is in force that must elapse before any benefit is available to you under this rider. This rider will have an Elimination Period of 90 days, beginning on the first day of any Qualified Long-Term Care Services that are provided to the insured person. Benefits under this rider will not be paid until the Elimination Period is satisfied, and benefits will not be retroactively paid for the Elimination Period. The Elimination Period can be satisfied by any combination of days of a Long-Term Care Facility stay or any days of Home Health Care. Each day of care or service will be counted towards the Elimination Period, whether or not continuous. The Elimination Period must be satisfied within a consecutive period of 24 months starting with the month in which such services are first provided. The Elimination Period must be satisfied only once while this rider is in effect.

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**Licensed Health Care Practitioner** – A Physician, a registered nurse (R.N.), a licensed social worker, or any other individual who meets the requirements as may be prescribed by the U.S. Secretary of the Treasury. A Licensed Health Care Practitioner does not include you, the insured person, a member of your or the insured person's Immediate Family, anyone who is under suspension from Medicare or Medicaid, or who is the owner or an employee of the Long-Term Care Facility in which the insured person is confined.

**Long-Term Care Net Amount at Risk** – The net amount at risk for this rider is the current Long-Term Care Specified Amount minus the Policy Account Value, but not less than zero.

**Long-Term Care Specified Amount** – The maximum benefit that will be paid for Qualified Long-Term Care Services for the insured person during a Period of Coverage. The initial Long-Term Care Specified Amount is equal to the face amount of the base policy at issue. This amount may change due to subsequent policy transactions, and will be reduced at the end of a Period of Coverage to reflect benefits paid during that Period of Coverage.

**Period of Coverage** - The period of time during which the insured person receives services that are covered under this rider and for which benefits are payable. This begins on the first day of covered services received after the end of the Elimination Period. A Period of Coverage will end on the earliest of the following dates:

1. the date that we receive the Notice of Release which must be sent to us when the insured person is no longer receiving Qualified Long-Term Care Services;
2. the date we determine you are no longer eligible to receive benefits in accordance with the terms of this rider;
3. the date when you request that we terminate benefit payments under this rider;
4. the date when the Accumulated Benefit Lien Amount equals the current Long-Term Care Specified Amount;
5. the date that you surrender the policy;
6. the date we make a payment under the Accelerated Death Benefit Rider for terminal illness; or
7. the date of death of the insured person.

**Qualified Long-Term Care Services** – Necessary diagnostic, preventive, therapeutic, curing, mitigating, and rehabilitative services, and maintenance or personal care services. These services must be required by a Chronically Ill Individual pursuant to a Plan of Care prescribed by a U.S. Licensed Health Care Practitioner. These services must be provided by a Long-Term Care Facility or by a Home Health Care Provider.

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### **Appendix B - Policy Is Not A MEC: (Not on claim)**

The monthly LTC rider charge will reduce the cost basis of the policy each month but not below zero. When there is no longer any cost basis in the policy (i.e. cost basis = 0), the LTC monthly charge is reportable on a 1099R form as a taxable distribution, to the policy owner. The monthly LTC rider charge, to the extent it is a nontaxable charge, will also reduce the sum of premiums paid toward the 7-pay limit, if applicable (i.e., if the policy is not a MEC and is within a 7-pay testing period). Finally, the LTC rider charge will reduce the sum of premiums paid toward the guideline premium limit, if applicable.

Example: Beginning of policy year 4: Basis=1100, PREMSPD for Guidelines = 900 and PREMSPD for MEC = \$800, monthly LTC rider charge = \$200, premium payment on 9/22 = \$500.

Policy Year 4

Monthiversary (15 <sup>th</sup> of the month)	Before Rider Charge Taken					After Rider Charge Taken				
	Basis	PREMSPD for Section 7702 Guideline	PREMSPD for MEC Testing	LTC rider charge taken on 15 <sup>th</sup> of month	Taxable Distribution to be reported on 1099R	Nontaxable Distribution	Basis	PREMSPD for Section 7702 Guideline	PREMSPD for MEC Testing	Premium Payment
1	1100	900	800	200	0	200	900	700	600	0
2	900	700	600	200	0	200	700	500	400	0
3	700	500	400	200	0	200	500	300	200	0
4	500	300	200	200	0	200	300	100	0	0
5	300	100	0	200	0	200	100	0	-200	0
6	100	0	-200	200	100	100	0	0	-300	0
7	0	0	-300	200	200	0	0	0	-300	0
8	0	0	-300	200	200	0	0	0	-300	0
9	0	0	-300	200	200	0	0	0	-300	500 (9/22)
10	500	500	200	200	0	200	300	300	0	0
11	300	300	0	200	0	200	100	100	-200	0
12	100	100	-200	200	100	100	0	0	-300	0

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\$800 will be reported on 1099R

**Appendix C - Policy Is A Mec: (Not on claim)**

The monthly LTC rider charge is considered a taxable distribution to the extent there is gain in the policy. If there is no gain in the policy, the distribution is considered a nontaxable return of basis and reduces any remaining basis in the policy. Nontaxable distributions reduce premiums paid for purposes of guideline premiums. Since the policy is a MEC, effect on MEC testing is not shown.

Example: Beginning of policy year 4 Basis= \$1100, PAV=2100, monthly LTC rider charge = \$200, premium payment on 9/22 = \$100.

Policy Year 4

Monthaversary (15 <sup>th</sup> of the month)	Before Rider Charge Taken					After Rider Charge Taken				
	Policy Account Value*	Basis	PREMSPD for Section 7702 Guideline Testing	Gain	LTC rider charge	Taxable Distribution to be reported on 1099R	Nontaxable Distribution	Basis	PREMSPD for Section 7702 Guideline Testing	Premium Payment
1	2100	1100	1100	1000	200	200	0	1100	1100	0
2	1900	1100	1100	800	200	200	0	1100	1100	0
3	1700	1100	1100	600	200	200	0	1100	1100	0
4	1500	1100	1100	400	200	200	0	1100	1100	0
5	1300	1100	1100	200	200	200	0	1100	1100	0
6	1100	1100	1100	0	200	0	200	900	900	0
7	900	900	900	0	200	0	200	700	700	0
8	700	700	700	0	200	0	200	500	500	0
9	500	500	500	0	200	0	200	300	300	100 (9/22)
10	800	400	400	400	200	200	0	400	400	0
11	500	400	400	100	200	100	100	300	300	0
12	300	300	300	0	200	0	200	100	100	0

\$1300 will be reported on 1099R

\* Policy Account Values are hypothetical.

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*Actual terms and conditions of the Long-Term Care Services Rider are contained in Rider form #R06-90 and state variations. This rider has exclusions and limitations and may not be available in all jurisdictions or may vary.*

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Incentive Life Legacy policy form #09-100 and state variations.  
Incentive Life Optimizer policy form #08-200 and state variations.  
Athena Universal Life policy form #09-400 and state variations.

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