life insurance

# frequently asked questions

## Long-Term Care Services℠ Rider

(Form # ICC 12-R12-10, R12-10 or state variation)

Life Insurance: • Is Not a Deposit of Any Bank • Is Not FDIC Insured • Is Not Insured by Any Federal Government Agency • Is Not Guaranteed by Any Bank or Savings Association • May Go Down in Value

ICC14-IU-110117 (6/16) (Exp. 6/18)

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# The Long-Term Care Services℠ Rider

**The Long-Term Care Services℠ (LTCS)[1] Rider is a flexible and convenient tool that can be added to eligible life insurance policies at issue. The LTCS Rider is cost-efficient, offers some price protection, and most importantly, offers clients a "living" benefit by accelerating all or a portion of the policy's death benefit if the Insured becomes chronically ill and receives qualified long-term care services under a plan of care. Here are the answers to some frequently asked questions about the LTCS Rider in order to help you better understand this exciting optional policy rider.**

**1** In Florida, this rider is called the Long-Term Care Insurance Rider. In California, this rider is called the Comprehensive Long-Term Care Rider.

# Rider Features

## 1 Q: Which products offer the LTCS Rider?

A:
- BrightLife® Grow
- BrightLife® Protect
- IncentiveLife Legacy® III
- IncentiveLife Optimizer® II
- IncentiveLife Optimizer® III

## 2 Q: What are the maximum issues ages for the LTCS Rider?

A: The maximum issue age available with the 1% and 2% benefits is 75. The maximum issue age with the 3% benefit is 70. In Florida, the maximum issue age is 67 for 1% and 2% Benefits and 65 for the 3% Benefit.

## 3 Q: What is the Long-Term Care Specified Amount?

A: It is the maximum amount available for acceleration at issue under the terms of the LTCS Rider. At issue it is equal to the initial Face Amount of the base policy multiplied by the Acceleration Percentage.

For example, assume the base policy Face Amount is equal to $1,000,000 and the policyowner has selected an Acceleration Percentage of 50% for a Death Benefit Option A policy. The Long-Term Care Specified Amount is equal to $500,000 (i.e., $1,000,000 x 50%).

## 4 Q: What is the Acceleration Percentage?

A: The Acceleration Percentage is used to determine the maximum amount available for acceleration at issue under the terms of the LTCS Rider. It must be specified at issue on the application and may not be changed once it has been specified. The maximum benefit amount available at issue under the terms of the LTCS Rider is called the Long-Term Care Specified Amount.

| Acceleration Percentage | Death Benefit Option |
|---|---|
| 20–100% | A |
| 100% | B |

Through the use of the Acceleration Percentage, the policyowner has the opportunity to determine what portion of the death benefit (assuming the policyowner has selected Death Benefit Option A) will be available for coverage under the LTCS Rider, allowing for the remaining amount of the insurance benefit to be passed to the beneficiaries.

Further, policies with larger Face Amounts may be issued with the LTCS Rider (assuming the necessary underwriting requirements have been satisfied) without exceeding the company's maximum limits, preventing the need to split a large policy into two smaller policies.

## 5 Q: What is the Monthly Benefit Percentage?

| Monthly Benefit Percentage | Available Issue Ages[2] |
|---|---|
| 1% | 20–75 |
| 2% | 20–75 |
| 3% | 20–70 |

**A:** The Monthly Benefit Percentage is used to determine the Maximum Monthly Benefit Amount that is available when the Insured qualifies for benefits payable under the terms of the LTCS Rider. The policyowner can choose a Monthly Benefit Percentage of 1%, 2%, or 3% on the LTCS Rider application questionnaire at issue. If the policyholder does not elect a Monthly Benefit Percentage on the application at issue, the default is 2%. The availability of the Monthly Benefit Percentage is dependent on the issue age of the Insured. Once selected, the Monthly Benefit Percentage cannot be changed after the policy is issued.

## 6 Q: I thought the previous version of the LTCS Rider was available with Death Benefit Option B policies. What is different about the availability of the LTCS Rider and Death Benefit Option B policies?

**A:** The previous version of the LTCS Rider was available with Death Benefit Option B policies. However, the benefit provided under the rider was treated as if the policy were issued as Death Benefit Option A. In other words, the LTC benefit would not increase (or decrease) based on an increase (or decrease) in the policy account for a Death Benefit Option B policy.

With the redesigned version of the LTCS Rider, the LTC benefit is linked to the death benefit option so that any increase (or decrease) in the policy account prior to going on claim will provide a corresponding increase (or decrease) in the LTC Maximum Total Benefit. In other words, a policyowner's benefit under the rider has the potential to increase (or decrease) provided the death benefit option selected at issue is option B.

**Note:** *The LTC Specified Amount is always based on an Acceleration Percentage of 100% for Death Benefit Option B policies.*

## 7 Q: Should my potential clients consider electing the Nonforfeiture Benefit Option[3] available with the LTCS Rider?

**A:** It depends on the type of benefits that your client wants and how much your client would like to pay for those benefits. The non-forfeiture benefit option must be elected at issue with the LTCS Rider, and includes a charge in addition to the charges for the base policy and the LTCS Rider that will make the LTCS Rider charge considerably more expensive (20% to 50% depending on the issue age of the Insured) than a policy including the LTCS Rider without the non-forfeiture benefit. It is also a contingent benefit in that there are a number of scenarios where no non-forfeiture benefit would be paid even though a higher premium was paid for several years. The non-forfeiture benefit cannot be added to the LTCS Rider after a policy has been issued, nor can it be removed from the LTCS Rider after a policy has been issued.

## 8 Q: How does the company underwrite the LTCS Rider?

**A:** The LTCS Rider is subject to full underwriting, which includes a morbidity risk evaluation. Certain illnesses, impairments, and conditions relating to morbidity may impact the Proposed Insured's ability to qualify for the LTCS Rider regardless of the mortality risk or rating, so it is possible that the Proposed Insured might qualify for the base policy and not qualify for the rider. There is a prescription drug check required for all applicants, regardless of age, and applicants ages 70 and above are subject to cognitive testing. In addition, financial underwriting will be used to ensure that appropriate LTCS Rider limits are not exceeded.

**2** In Florida, the maximum issue age is 67 for 1% and 2% Benefits and 65 for the 3% Benefit.
**3** The optional Non-Forfeiture Benefit is not available in NY.

Prior to taking an application for a policy including the LTCS Rider, FPs are encouraged to complete the new Pre-Qualification form to determine whether a Proposed Insured is a good candidate to apply for the LTCS Rider. Note that the Pre-Qualification form should not be submitted to AXA Equitable. The LTC supplement (form ICC 12-AXA-LTC, AXA-LTC-2012 or state variation) is required to be completed and submitted with the application for the base policy. In order to qualify for the LTCS Rider, the Insured must be approved for the equivalent of a Substandard to Table D or better underwriting class with no medical flat extra charges. If the Proposed Insured is eligible for Medicaid (Question 5D of the new application questionnaire), or owner has assets of less than $30,000, the LTCS Rider will not be issued and the base policy will be issued subject to policy amendment.

## 9 Q: Does the Pre-Qualification form need to be submitted with the application?

A: No, the Pre-Qualification form should not be submitted to AXA Equitable. It is a tool that FPs are encouraged to use in order to determine if the LTCS Rider is a good fit for a Proposed Insured given his or her medical history. While FPs are not required to complete or submit the Pre-Qualification form with the application, it will help determine the Proposed Insured's eligibility for the LTCS Rider and provide for a more efficient underwriting experience for FPs and clients. It is important to note that pre-qualification does not represent approval of the LTCS Rider. It is a means to screen eligible clients, who will be subject to underwriting. If a Proposed Insured is considering applying for the LTCS Rider, he or she should be able to answer "No" to all of the questions included in the Pre-Qualification form.

## 10 Q: In which situations is the LTCS Rider not available?

A: The LTCS Rider is not available in the following situations:

- Proposed Insured above attained age 75 (in Florida, age 67) or below attained age 20.
- Proposed Insured does not qualify for the equivalent underwriting class of Substandard to Table D or better.
- Proposed Insured is subject to a medical flat extra charge.
- Proposed Owner's assets are less than $30,000.
- Disability Waiver of Monthly Deductions or Disability Premium Waiver is elected and rated (in this case policy may have LTC or DDW/DPW, but not both).
- Disability Waiver of Monthly Deductions or Disability Premium Waiver is elected and is declined for certain impairments.
- Guaranteed Issue underwriting.
- Certain illnesses, impairments or conditions relating to morbidity, regardless of the mortality risk or rating.
- Simplified or Guaranteed Issue underwriting.
- With an international underwriting program (available with AXA Advisors only).
- Foreign Nationals residing in the U.S., unless a strong U.S. nexus is demonstrated and there is proof of permanent ties or intent to remain in the U.S. permanently.
- Qualified plan or otherwise subject to ERISA.
- Policy is reinsured (excluding ARC for AXA Advisors).
- Cash Value Plus rider is elected.
- Return of Premium rider is elected.
- Policy issued as a result of a rider conversion.
- Policy issued as a result of exercising an Option to Purchase Additional Insurance (OPAI) Rider.
- If the Proposed Insured is eligible for Medicaid.

Please check state availability of the rider by contacting the AXA Equitable Life Insurance Sales Desk. There are state variations of the rider.

## 11 Q: Which policy changes are restricted if LTCS Rider is elected?

**A:** Changes not available are Face Increase, Death Benefit Option change from A to B and partial withdrawal combined with a request to hold Face Amount (except guideline force-outs).

## 12 Q: Is the LTCS Rider available with a policy issued as the result of a term conversion?

**A:** Yes. Term conversions generally do not require underwriting unless there is a request for additional coverage or riders, or a request for a better rate or underwriting class. However, the conversion guidelines were recently modified to allow for streamlined underwriting requirements on certain early period term conversions to a permanent product with the LTCS Rider.

To comply with the new guidelines, the client needs to complete the application requirements as shown below. If the underwriting review is satisfactory, and the decision is the equivalent of a Substandard to Table D rate or better, there are no added laboratory or paramedical exam requirements.

| New Life Application and Questionnaires | | | | | Certifications |
|---|---|---|---|---|---|
| **Section A & D:** | **Section B:** Product Questionnaires | **Section C:** Term Rider Conversion & Purchase Option Questionnaire | **Section C:** Accelerated DB for LTCS Rider Questionnaire | Medical Information Questionnaire | Financial Professional Certifications |
| AXA-Life-2011 (rev. 11/11) or state variation | Varies by type of product and state | AXA-TCPO-2011 or state variation | AXA-LTC-2012 or state variation and other LTCS Rider state requirements | AXA-Med-2011 or state variation | AXA-FPCert-2011 or state variation |

Conversions to a permanent product with the LTCS Rider with streamlined underwriting requirements are available only within a year from the register date of the term policy (issue date for backdated policies). Thereafter, conversion requests with the LTCS Rider will be subject to full underwriting.

Currently, there is a program that permits the addition of the LTCS Rider on single life permanent policies if the term policy being converted is within five years of the policy register date, and is rated the equivalent of Substandard to Table D or better. For details regarding this program, please call the Life Insurance Sales Desk or visit www.axa.com. Note that this program is not a contractual right. AXA will periodically review results and may discontinue this program at any time.

# Rider and Policy Administration

1 **Q: Can the allocation percentage of the Long-Term Care Specified Amount be changed?**

**A:** No. Not after the policy has been issued.

2 **Q: How are benefits paid under the LTCS Rider?**

**A:** LTCS Rider benefits are disbursed from the policy under an "Indemnity Style" benefit. That means benefit payments are made directly to the policyowner without the policyowner having to submit bills and keep track of receipts as would be the case under a "Reimbursement Style" benefit. In addition, a policyowner may choose to take the full amount of the benefit available under the LTCS Rider, even if the Insured's expenses are less than the full benefit amount, providing the policyowner with convenience and flexibility when it comes to managing the LTCS Rider benefits.[4]

Reimbursement style plans are common among linked-benefit products and stand-alone long-term care insurance policies but tend to be more restrictive and burdensome for the policyowner to manage. With a reimbursement style benefit, the policyowner is required to submit bills to the insurance company, which then reviews the bills and reimburses the policyowner for the exact amount of the bill, limited by the amount of benefit the Insured qualifies for.

3 **Q: What is the Accumulated Benefit Lien? How does it impact the policy?**

**A:** When benefits are paid to the policyowner under the LTCS Rider, a lien is established against the policy's death benefit. The amount of the Accumulated Benefit Lien will equal the cumulative amount of benefits paid under the LTCS Rider, including any loan repayments during the period of time in which the Insured receives services that are covered under the rider, accumulated at 0% interest. If the Insured dies before the end of a period of coverage, the Accumulated Benefit Lien is deducted from the base policy death benefit. The policy's cash value is also reduced as described in the examples on the next page.

| | |
|---|---|
| Initial Base Policy Face Amount | $1,000,000 |
| Death Benefit Option | A |
| Acceleration Percentage[5] | 50% |
| Initial LTC Specified Amount | $500,000 |
| Accumulated Benefit Lien | $250,000 |

For example, based on the information in the chart above, this policy's death benefit would be reduced by the Accumulated Benefit Lien amount of $250,000, leaving the policyowner with a $750,000 insurance benefit. In addition, the LTC Specified Amount would have been reduced to $250,000 by the Accumulated Benefit Lien amount.

**4** Taking the full benefit amount may mean fewer benefits available in the future even if the Insured's expenses increase. Benefits exceeding the excludable amount will generally be taxable. The minimum monthly benefit payment amount is $500.
**5** For Death Benefit Option B policies, the Acceleration Percentage is required to be 100%.

## 4 Q: How is a policy's cash value determined if benefits are paid out under the LTCS Rider?

A: When benefits are paid under the LTCS Rider, the base policy Face Amount and unloaned policy value will be subject to a percentage reduction for the purposes of determining a policy's cash value. The percentage reduction is determined differently depending on what death benefit option the policyowner has selected and is reflected in the policy's cash value when the Insured comes off claim, a policy loan is requested, or if the policy is surrendered.

For a Death Benefit Option A policy, the percentage reduction will be equal to the Accumulated Benefit Lien Amount divided by the base policy Face Amount.

For example 1, the percentage reduction in the policy's cash value would be equal to 7.50% ($75,000/ $1,000,000).

For a Death Benefit Option B policy, the percentage reduction will be equal to the Accumulated Benefit Lien Amount divided by the base policy Face Amount plus the unloaned policy value.

| Example 1 – Death Benefit Option A | |
|---|---|
| Initial Base Policy Face Amount | $1,000,000 |
| Acceleration Percentage[5] | 75% |
| Initial LTC Specified Amount | $750,000 |
| Accumulated Benefit Lien | $75,000 |

| Example 2 – Death Benefit Option B | |
|---|---|
| Initial Base Policy Face Amount | $500,000 |
| Unloaned Policy Value | $250,000 |
| Acceleration Percentage[5] | 100% |
| Initial LTC Specified Amount | $500,000 |
| Accumulated Benefit Lien | $75,000 |

For example 2, the percentage reduction in the policy's cash value would be equal to 10% ($75,000 / ($500,000 + $250,000)).

## 5 Q: How is the benefit payment amount determined?

A: The policyowner elects the monthly benefit percentage (1%, 2% or 3%) at issue. 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. Regardless of the amount of the 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 HIPAA daily limit then in effect. When on claim, the policyowner 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 Face Amount reductions or partial withdrawals for Death Benefit Option A only may decrease the Long-Term Care Specified Amount, which in turn will decrease the Maximum Monthly Benefit Amount prior to the first period of coverage. If the policy has a loan, a portion of each Benefit Payment will be used to reduce the loan.

5 For Death Benefit Option B policies, the Acceleration Percentage is required to be 100%.

## 6 Q: What happens to a life insurance policy when benefits are being paid under the LTCS Rider?

**A:** The exact mechanics, once a payment is made, would work as follows: Benefits accelerated under this rider result in a lien (Accumulated Benefit Lien Amount) being set up against policy values. The lien increases with each benefit payment. The Accumulated Benefit Lien Amount will not accrue interest.

1. If there is a Death Claim before the end of a Period of Coverage – The Accumulated Benefit Lien Amount and any outstanding policy loan and accrued loan interest are subtracted from the base policy death benefit.
2. If there is a Policy Surrender before End of a Period of Coverage – The unloaned policy value and Surrender Charge are reduced by a percentage. This percentage reduction in cash value is equal to the Accumulated Benefit Lien Amount divided by the base policy Face Amount for Death Benefit Option A policies, or the base policy Face Amount plus the unloaned policy value for Death Benefit Option B policies. The reduction in unloaned policy value cannot exceed the Accumulated Benefit Lien Amount.

## 7 Q: If the policy is in corridor, is there any impact on the LTCS Rider benefit available to the policyowner?

**A:** No. Corridor has no impact on the LTCS Rider benefit available to the policyowner.

## 8 Q: What happens to the policy cash surrender value when the policy is in corridor and benefits are being paid under the LTCS Rider?

**A:** While the policy is in corridor, the cash value could be higher than the Face Amount, and therefore the cash value and/or the death benefit could be higher than the total amount that can be accelerated under the LTCS Rider. Note, the death benefit will always be higher than the Face Amount under Death Benefit Option B.

While the policy is on LTCS Rider claim, the policy account value continues to earn investment results/interest, however, benefits accelerated under this rider are treated as a lien against policy values. We subtract the accumulated benefit lien amount from the base policy death benefit if the insured person dies before the end of the period of coverage. For the purposes of determining the cash surrender value of the policy, the unloaned policy account value, and surrender charge (if applicable) will be reduced pro rata for the portion of the policy Face Amount that we have accelerated to date. However, the unloaned policy account value will not be reduced by more than the accumulated benefit lien amount.

## 9 Q: How do a DDW/DPW (Disability Waiver of Monthly Deductions/Disability Premium Waiver) claim and an LTCS Rider claim differ?

**A:** Waiver of premium claims are generally associated with the following:

- Total disability must have existed for six (6) months.
- Occupational Disability (A representative of the firm for which the Insured was working when disability began should complete the Disability Waiver of Premium claim form. If the Insured was self-employed, the Employer's Statement is not necessary.)
- LTCS Rider claims are handled differently. There is no employer involvement and LTCS Rider claims are based on Activities of Daily Living (ADLs) (in most states) or cognitive impairment, not an occupational disability like DDW/DPW.

## 10 Q: Can the rates on the LTCS Rider ever be increased?

**A:** The issuing company reserves the right to change the rate used to calculate the charge for this rider, not to exceed the guaranteed maximum rate shown in the "Policy Information" section of the policy.

Any rate change will be on a basis that is equitable to all policyholders of a given class and will be as described in the "Changes in Policy Cost Factors" provision of the policy.

**Important note for those policies with No-Lapse Guarantee (NLG) Enhanced or Extended No-Lapse Guarantee (EnhNLG or ENLG) Coverage –** While current (non-guaranteed) LTCS Rider charges can change at any time, NLG/ENLG/EnhNLG premium requirements are guaranteed never to increase. NLG/ENLG/EnhNLG coverage guarantees the policy will not terminate during the NLG/ENLG/EnhNLG period as long as the premium requirement for the NLG/ENLG/EnhNLG is met and any policy loan and accrued loan interest does not exceed the policy value. Therefore, the NLG/ENLG/EnhNLG provides cost certainty for LTCS Rider clients during the NLG/ENLG/EnhNLG period.

**Note:** *The current (non-guaranteed) LTCS Rider charges can be increased during an NLG/ENLG/EnhNLG period, which reduces policy cash value. However, premiums cannot be increased during this period if the premium requirements are satisfied.*

## 11 Q: Can a client ever withdraw or borrow funds from the policy? What is the impact to the LTCS Rider?

**A:** Withdrawals or loans are both acceptable ways to access life insurance policy values. Each reduces the amount that may be available for claims under the LTCS Rider.

**Withdrawals –** Directly reduce the Long-Term Care Specified Amount and, as a result, reduce the Maximum Monthly Benefit Amount for Death Benefit Option A policies but not Death Benefit Option B policies. Withdrawals are not allowed while the policy is on claim.

**Policy Loans –** Loans are allowed both prior to and while the policy is on LTCS claim. While on claim, a portion of each Monthly Benefit Payment is used to repay the loan and accrued interest and cash values. Therefore, the maximum loan values will be reduced because of the outstanding Accumulated Benefit Lien.

Withdrawals and policy loans will lower the Death Benefit and increase the chance a policy may lapse.

## 12 Q: Are withdrawals and policy loans for a policy with the LTCS Rider illustrated in AEGIS?

**A:** For both new business and in-force illustrations for a policy with the LTCS Rider, the LTCS Rider Maximum Total Benefit is shown on the ledger of the AEGIS illustration.

- When policy loans are being illustrated, it is important to know that the amounts in the Maximum Total Benefit column do not reflect any outstanding loan balance or accrued loan interest. This is because policy loans are deducted from the LTCS Rider benefit payment and not the Maximum Total Benefit amount. There is a footnote at the bottom of the Values and Benefits page explaining this.
- Since withdrawals reduce the Long-Term Care Specified Amount for policies with Death Benefit Option A, and reduce the policy account value for policies with Death Benefit Option B, they are reflected in the Maximum Total Benefit amount displayed on the Values and Benefits page.

When running an illustration for a policy with LTCS Rider and withdrawals and/or policy loans, it's a best practice to also run the LTCS Rider Benefit Example Report. Withdrawals and policy loans are reflected in the policy values and net annualized monthly benefit payments shown on this report.[6]

6 The LTCS Rider Benefit Example report is automatically produced for CA, CT and NY policies.

## 13 Q: Are premiums waived if a client is receiving LTCS Rider claim benefits?

**A:** While on Long-Term Claim:

- Premiums will not be accepted into the policy.
- Base policy charges will continue to be deducted from the policy (COIs, per $1,000 charge, policy fee, etc.) unless the policy includes DDW/DPW and policy charges are being waived under the DDW/DPW riders.
- LTCS Rider charges will be waived.
- As long as the policy is on LTCS Rider claim, the policy cannot lapse regardless of policy values.

## 14 Q: Whom do we consider a "U.S. Licensed Health Care Practitioner?

**A:** A Physician, Registered Nurse (R.N.), Licensed Social Worker and any other individual who meets the requirements as prescribed by the U.S. Secretary of the Treasury. It does not include the policyowner, the insured person or the insured person's Immediate Family (as defined in the rider).

## 15 Q: Can the Insured's family members participate in caring for the Insured?

**A:** Yes. Although the rider does not allow family members to fill the role of "Provider" of "Qualified Long-Term Care Services," supplemental care conducive to the health or comfort of the Insured, such as maintenance and personal care, may be furnished by family members unless this is expressly prohibited by the "Plan of Care."

Keep in mind, in order for the policyowner to receive monthly benefit payments under the Long-Term Care Services℠ Rider, a "Licensed Health Care Practitioner" must certify that the Insured is "Chronically Ill." The Licensed Health Care Practitioner must also establish a written "Plan of Care" that specifies the type, frequency, and "Providers" of all of the "Qualified Long-Term Care Services," the Insured requires in accordance with accepted medical and nursing standards of practice.

"Provider" includes, but is not limited to, Adult Day Care Center; Assisted Living Facility; Home Health Care Provider; Hospice Care Facility; Long-Term Care Facility and Nursing Home. A Provider also includes an employee of a licensed facility that renders services and who is qualified to provide such services. A Provider does not include a member of the insured's person's Immediate Family, whether or not that person is licensed to provide services.

# Planning and LTCS Rider Claims

**1** **Q: How are the benefits taxed? Can any portion of the benefits be subject to income taxation?**

**A:** Benefit payments made from policies that provide qualified long-term care benefits[7] will generally be excluded from income if payments are not more than the published IRS maximum amounts or actual expenses, whichever is greater.

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

- *The HIPAA per diem limit ($340 per day in 2016); or*
- *Actual costs incurred for qualified long-term care services by the policyowner on behalf of the insured person (receipts of factual costs could be helpful in determining the amount of benefit payments to exclude).*

**Note:** *The policyowner can elect to take an amount as low as $500 per month from the policy. The monthly amount we will pay is equal to the lesser of: (1) the maximum monthly benefit (or lesser amount requested by the policyowner); and (2) the monthly equivalent of 200% of the daily HIPAA (100% in NY). Thus, a policyowner residing outside of New York, who has requested 200% of the daily HIPAA limit (assuming that is less than the maximum monthly benefit), would have taxable income to the extent that actual expenses were less than this amount.*

***The LTCS Rider benefit payments are intended to be treated as "accelerated death benefits" for the purposes of the Code. Even if not taxable, payments will be reported to the IRS on form 1099-LTC. The policyowner must file tax Form 8853, which is used to compare all payments received by all persons from all sources that relate to the Insured against the annual maximum and determine if any portion must be included in income.***

***Income exclusion under these rules must be aggregated and allocated for policy payments to trusts and other third-party owners as well as an insured policyowner. The same rules also apply if the underlying life insurance policy is considered a Modified Endowment Contract (MEC) under the law.***

**2** **Q: What is the impact of a policy that is a modified endowment contract (MEC) on LTCS Rider benefit payments?**

**A:** The income tax treatment of an accelerated death benefit for long-term care is the same whether the policy is a MEC or a non-MEC.

It is important to remember that MEC status affects the income tax treatment of values withdrawn from a policy's cash value, but not the payment of the death benefit.

**7** The benefits paid under the Rider are intended to be treated for federal income tax purposes as accelerated death benefits under the Internal Revenue Code (the "Code") on the life of a chronically ill individual receiving qualified long-term care services within the meaning of section 7702B of the Code.

## 3 Q: What is the impact of a policy that is a modified endowment contract (MEC) on LTCS Rider charges deducted from the life insurance policy account?

**A:** The LTCS Rider is intended to be tax-qualified under I.R.C. 7702B(b). This means that the LTCS Rider charges are not taxable. However, charges reduce the cost basis of the policy (but not below zero). When the life insurance policy is a MEC, there is no current taxation although basis is reduced by the LTCS Rider cost of insurance (COI) charges.

## 4 Q: Can my client's life insurance be owned by an Irrevocable Life Insurance Trust (ILIT)? Can an ILIT purchase a policy with the LTCS Rider included?

**A:** Yes. The LTCS Rider can be included on a life insurance policy purchased by an ILIT. The Insured should be advised to consult with his or her tax and legal advisor to be certain that there are no unanticipated consequences, such as the unavailability of funds to the Insured, income taxes, or any incidents of ownership that could raise estate tax issues.

As policyowner, the trust would be entitled to any benefits payable under the LTCS Rider. Generally, the funds might best be paid to the trust's beneficiaries, who may find a way to help the Insured. Please see the next question below.

**Note:** *If LTCS Rider benefits are paid to an ILIT, but LTC expenses are not reimbursed, the estate of the Insured is reduced by the payments he or she made. This, in its own right, can be viewed as a form of estate planning, with the "lost" wealth replaced by the ILIT holding the LTCS Rider payments, income-, estate- and gift-tax-free.*

## 5 Q: If the Insured is not the policyowner, is it possible for LTCS Rider payments to be paid over to the Insured to cover the actual long-term care expenses?

**A:** When the policyowner receives payments under the LTCS Rider, he or she is not required to apply them to cover the actual long-term care expenses of the Insured, but may do so.

The payments are made to a trust and become trust assets. The trust assets can be applied to any purpose for which the trust exists. Often, they may be paid out to a trust beneficiary, or they can be applied to premium payments to offset funds that the Insured might otherwise gift to a trust in future years.

If payments are made to the trust beneficiaries and then directed to the Insured, they may be treated as gifts to the Insured. If payments are made directly as medical payments for the Insured/non-owner, the payments are generally gifts, but may fall under an exception as a "qualified transfer" for medical care and thus not subject to gift taxes.[8]

When the insurance policy is owned by a trust, special care and planning must be taken by the client's own tax and legal advisor to avoid an "incident of ownership" for the Insured that might cause the death proceeds to be included in the Insured's estate.

8 IRC 2503(e)(2)(b)

## 6 Q: Are benefits under the Rider payable if the Insured goes overseas?

A: If the Insured is overseas, he or she may be paid benefits under the Rider if the initial plan of care and any recertification is performed by a U.S. Licensed Health Care Practitioner. In addition, the provider of the care must be appropriately licensed in the jurisdiction where the care is received.

## 7 Q: If the beneficiary is a Trust do they have to sign the claim forms for LTCS Rider benefits?

A: No, it is the policyowner that is generally entitled to the long-term care benefit under our rider. Beneficiaries do not need to sign the claim form.

## 8 Q: What documentation is required to receive benefit payment?

A: When a claim is made, a Long-Term Care Services℠ Rider Claim Kit is sent to the policyowner. The Kit includes the following forms. The completed forms should be returned the Life Operations Center.

1. Claimant's Statement
2. Practitioner Statement
3. Plan of Care
4. Care Provider Assessment (The care provider must be appropriately licensed. A copy of the license will be requested.)
5. Proof that the 90-day elimination period has been satisfied.

| Claims Kit Return: | |
|---|---|
| **Regular Mail:** | AXA Life Operations<br>Special Claims Division<br>P.O. Box 1047<br>Charlotte NC 28201-1047 |
| **Express Mail:** | AXA Life Operations<br>8501 IBM Drive, Suite 150<br>Charlotte NC 28262 |
| **Fax:** | 855-268-6373 |

# Other

1 **Q: Are there any long-term care license requirements?**

**A:** Yes, there are state-by-state licensing requirements. Please refer to www.axa.com.

2 **Q: Where can I find more detailed information regarding the LTCS Rider?**

**A:** FPs are encouraged to refer to the LTCS Rider technical guide for a more detailed discussion of various concepts addressed in the FAQ. FPs may also refer to the LTCS Rider specimen form. These items can be obtained by visiting www.axa.com. You may also call the Life Insurance Sales Desk.

Long-Term Care Services℠ Rider benefits are triggered when AXA Equitable receives certification that the insured person is chronically ill and receiving Qualified Long-Term Care Services pursuant to a plan of care. There is a 90-day Elimination Period beginning the first day of any Qualified Long-Term Care Services being provided. Only one complete Elimination Period needs to be met while the policy is in force. The 90 days of the Elimination Period do not need to be consecutive; however, they must be satisfied within a 24-month period. For monthly benefits to continue, the Insured must be recertified for eligibility at least every 12 months.

**This rider may not cover all the expenses associated with the Insured's long-term care needs. If the policy is subject to a loan, a portion of the monthly benefit payment will be applied to repay a portion of the outstanding policy loan.**

Actual terms and conditions of the Long-Term Care Services℠ Rider are contained in Rider Form #ICC 12-R12-10, R12-10 and state variations. This rider has exclusions and limitations under which the rider may be continued in force or discontinued. It may not be available in all jurisdictions or may vary by jurisdiction. For more information, costs and complete details of coverage, refer to the Rider specimen, the Long-Term Care Services℠ Rider Technical Guide, *the outline of coverage, the policy with the LTCS Rider illustration* and the prospectus or supplement for variable life insurance.



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