

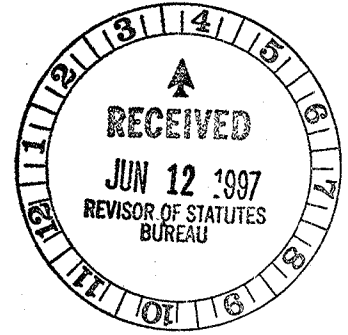
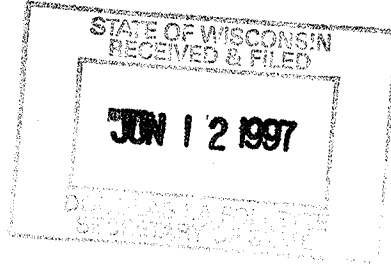


State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Josephine W. Musser
Commissioner

121 East Wilson Street
P.O. Box 7873
Madison, Wisconsin 53707-7873
(608) 266-3585
http://badger.state.wi.us/agencies/oci/oci_home.htm



STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE

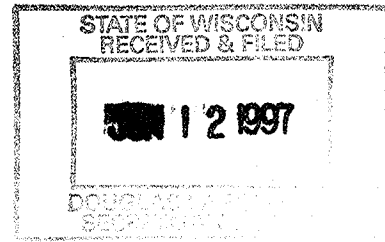
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I, Josephine W. Musser, Commissioner of Insurance and custodian of the official records, certify that the annexed rule affecting Section Ins 23, Wis. Adm. Code, relating to life insurance sold to fund prearranged funeral plans, is duly approved and adopted by this Office on June 12, 1997.

I further certify that I have compared this copy with the original on file in this Office and that it is a true copy of the original, and the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 121 East Wilson Street, Madison, Wisconsin, on June 12, 1997.

Josephine W. Musser
Josephine W. Musser
Commissioner of Insurance



ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

CREATING A RULE

Chapter Ins 23, Wis. Adm. Code, relating to minimum standards for life insurance policies sold to fund prearranged funeral plans.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE

Statutory authority: s. 632.41(2)(b) Stats.

Statutes interpreted: s. 632.41(2)(b)2, Stats.

Section 632.41(2)(b)2 Stats., as created by 1995 Wisconsin Act 295, requires the commissioner of insurance to create minimum standards for life insurance policies that provide for the assignment of the proceeds to a funeral director or operator of a funeral establishment. The minimum standards must address the following areas: benefits, claims, marketing, compensation, and reporting practices. The proposed rule creates a chapter of the insurance code governing the sale of funeral policies and establishing minimum standards in the above areas.

General

This rule requires that any insurance intermediary who sells a funeral policy to fund a prearranged funeral plan be either an authorized and appointed agent of the funeral director or funeral establishment or have no direct or indirect relationship to the sale of the prearranged funeral plan. The rule further prohibits any misrepresentation by an insurance intermediary that he or she is affiliated with or representing

a funeral home, when the insurance intermediary in fact has no such affiliations.

Funeral Policy Forms

The rule sets forth standards for funeral policies including the type of policy which may be marketed for this purpose, and the relationship between the cost of the policy and the cost of the prearranged funeral plan. A funeral policy is required to provide the following: a grace period; the payment of death benefits as specified; and a free-look period. An insurer may not require cancellation of a life insurance policy based on cancellation of the prearranged funeral plan. Insurers are required to include with a form filing a consideration plan describing all consideration which may be paid relating to the sale of the policy or to the funeral director.

Minimum Benefit Standards

The rule establishes minimum benefits standards for funeral policies which apply to death benefits in relation to premium payments and requires that death benefits equal or exceed cumulative premiums at a 3 percent interest rate compounded annually over ten years. The subsection excludes limited payment whole life insurance policies from this requirement.

Commissions

The rule requires insurers to file all consideration plans with the Commissioner and establishes a standard for insurers to use in structuring consideration arrangements.

Claim Payments

The rule sets forth minimum standards for claims payments under a funeral policy. This section prohibits payment of death benefits to a funeral director or funeral establishment unless the prearranged plan is in effect and prohibits the insurer from paying more than the actual

costs of the burial expenses to the funeral director or funeral establishments.

Advertising

The rule sets forth the requirements for advertisements of funeral policies. These requirements include compliance with ch. INS 2, disclosures as outlined, and responsibility of the insurer whose policy is advertised for ensuring that each advertisement complies with the laws and regulations and for approval of each advertisement prior to dissemination and use.

Marketing

The rule outlines requirements for the insurer in marketing funeral policies. These requirements include establishing and implementing written marketing procedures, training and monitoring its insurance intermediary force to ensure compliance with the marketing procedures, and not accepting an application unless the application is on a completed approved form. The insurer is further required to make specified disclosures, statements, and questions on the application form.

Suitability

The rule requires an insurer to establish suitability standards. The rule specifies the subjects the standards must address. The insurer must train and monitor its insurance intermediary force to ensure compliance with the standards. The rule prohibits an insurer or insurance intermediary from taking an application or issuing a funeral policy unless the policy is suitable for the applicant.

Solicitation

The rule details the requirements applicable to insurance intermediaries in soliciting funeral policies. The section requires insurance intermediaries to comply with the home solicitation rule and further outlines the disclosures that the insurance intermediary is to make at the time of initial contact with a prospective buyer. Insurance intermediaries are prohibited from using certain solicitation practices which include: making any misleading representations, inducing the purchase of insurance through force, fright or threat, failing to disclose that a purpose of solicitation is the sale of insurance, using unapproved advertisements, interfering with the filing of a complaint with the office of the commissioner of insurance or interfering with an investigation or proceeding before the office of the commissioner of insurance. The insurance intermediary further is required to provide the insurer with a list of funeral goods and services and comply with the outlined policy delivery requirements.

SECTION 1. Ch. Ins 23 is created to read:

CHAPTER INS 23

STANDARDS FOR INSURANCE MARKETED TO FUND PREARRANGED FUNERAL PLANS.

INS 23.01 PURPOSE. The rule establishes minimum standards for benefits, claims payments, marketing practices, compensation arrangements and reporting practices for funeral policies.

INS 23.10 DEFINITIONS. In this chapter:

(1) "Advertisement" has the meaning given in s. INS 2.16(3)(a)1.

- (2) "Consideration" means remuneration of any kind including, but not limited to, commission payments, cash, services, benefits, bonuses, goods or the benefit of marketing efforts.
- (3) "Cumulative premiums" means all sums paid as consideration, net of dividends paid in cash in an orderly progression, for the coverage during the first ten years of the policy, excluding amounts which are designated in the policy or certificate as providing for annuity benefits.
- (4) "Funeral director" has the meaning given in s. 445.01(5), Stats.
- (5) "Funeral establishment" has the meaning given in s. 445.01(6), Stats.
- (6) "Funeral policy" means a life insurance or annuity policy sold for the purpose of funding a prearranged funeral plan which is sold by an insurance intermediary who is the authorized and appointed agent of the funeral director or funeral establishment providing the prearranged funeral plan.
- (7) "Prearranged funeral plan" has the meaning given in s. 445.125 (3m)4, Stats.
- (9) "Solicitation" means offering a policy for sale by telephone or personal contact or by written or printed communication at any location including the insurance intermediary's regular place of business.

INS 23.20 GENERAL. (1) An insurance intermediary may sell a life insurance or annuity policy for the purpose of funding a prearranged funeral plan only if:

- (a) The insurance intermediary is an authorized and appointed agent under s. 445.125(3m), Stats. of the funeral director or funeral establishment which provides the prearranged funeral plan; or
- (b) The insurance intermediary does not, directly or indirectly, receive referrals or other marketing information from a funeral director or operator of a funeral establishment or an agent of the funeral director

or funeral establishment, sell the prearranged funeral plan, or participate in the sale of the prearranged funeral plan.

(2) No insurer may accept an application which an insurance intermediary solicited in violation of sub. (1) or another provision of this chapter.

(3) An insurer shall establish reasonable procedures to prevent violations of sub. (1) and (2).

INS 23.25 AGENT REPRESENTATION OF AFFILIATION. (1) No insurance intermediary may represent that he or she is affiliated with or representing a funeral operator or funeral establishment unless he or she is an authorized agent of the funeral operator or funeral establishment under s. 445.125(3m), Stats.

(2) An insurer shall establish reasonable procedures to prevent violations of sub. (1).

INS 23.30 REQUIREMENTS FOR FUNERAL POLICIES. (1) No insurer may sell or issue a policy as a funeral policy unless all of the following occur:

(a) The policy is an individual whole life or group whole life or an annuity policy.

(b) The premium amount for a funeral policy which is issued on a single pay basis does not exceed the current costs of the prearranged funeral plan.

(c) The funeral policy if issued on a multi-premium basis provides an unintentional lapse provision which requires written notification to the insured and to one person designated by the insured to receive notification if no premium is received by the insurer during a grace period of no less than thirty days.

(d) The funeral policy provides that death benefits which exceed the actual final costs of the burial expenses shall be paid to the insured's beneficiary or if no beneficiary is named, the insured's estate.

(e) The funeral policy provides the unrestricted right to return the policy or certificate within 30 days of the date it is received by the policyholder. If the policyholder returns the policy or certificate, the insurance contract is void and all payments made under it shall be refunded directly to the policyholder by the insurer.

(f) Notification of the right to return is conspicuously printed on the front page of the funeral policy or conspicuously attached to the funeral policy.

(g) The insurance intermediary obtains a delivery receipt from the insured when the policy is given to the insured.

(h) The funeral policy provides that cancellation of the prearranged funeral plan does not automatically cancel the policy.

(2) No insurer may submit policy forms for funeral policies pursuant to s. 631.20, Stats. unless the forms comply with ch. INS 2 and all of the following are included in the filing:

(a) An application form with provisions for signature by the applicant and insurance intermediary.

(b) A consideration plan including all of the following:

1. A description of consideration which may be paid to any person relating to the sale or renewal of a funeral policy.

2. A listing describing all consideration the insurer provides to the funeral director or operator of the funeral establishment for endorsing the insurer's product or direct or indirect assistance in marketing of the product.

(c) A specimen policy delivery receipt.

(d) A certification and supporting documentation prepared and signed by an actuary that the policy will meet the requirements of s. INS 23.35.

INS 23.35 Minimum Benefit Requirements. (1) An insurer may issue a funeral policy only if the policy's death benefit will equal or exceed

the cumulative premiums which may be required to be paid for the policy plus interest at the rate of three percent per annum compounded annually to the tenth anniversary of the effective date of coverage.

(2) This section applies to death benefits in relation to premiums, subject to the following provisions:

(a) When determining the relationship between benefits and premiums as set forth in sub. (1), neither premiums nor death benefits shall be adjusted for maturity benefits, surrender benefits, or policy loans.

(b) The following benefits, but not the premiums paid for such benefits, shall be disregarded in applying this section:

1. Accidental death benefits.
2. Permanent disability benefits.
3. Any benefit similar to a benefit under subd. 1. and 2. of this subsection.

(3) An insurer shall provide the benefits required under this section contractually.

(4) This subsection does not apply to limited payment whole life insurance where the premiums are level at all times, if the least death benefit payable at any time equals or exceeds the total of all premiums which, in the absence of death, would have been paid over the entire limited payment period.

INS 23.40 CONSIDERATION PLANS. (1) The insurer shall file all consideration plans and any revised consideration plan with the Commissioner.

(2) The insurer shall structure consideration plans for the marketing and sale of funeral policies so as to not result in incentives which directly or indirectly promote practices which violate this chapter.

INS 23.50 MINIMUM STANDARDS FOR CLAIMS PAYMENTS UNDER A FUNERAL POLICY.

(1) The insurer shall not pay policy death benefits to a funeral director or funeral establishment unless the prearranged funeral plan is in effect at the time of the insured's death.

(2) In the event of the insured's death, the insurer shall not pay to the funeral director or establishment more than the actual final costs billed by the funeral director or funeral establishment. The remainder or excess due under the policy is to be paid to the beneficiary designated by the insured to receive any policy benefits which exceed the actual final costs or, if no beneficiary has been designated by the insured, the insured's estate.

INS 23.60 REQUIREMENTS FOR ADVERTISEMENTS OF FUNERAL POLICIES.

(1) Advertisements for funeral policies shall comply with all relevant statutes and rules, including but not limited to ch. INS 2.

(2) An insurer or insurance intermediary placing or using or publishing an advertisement which may be utilized directly or indirectly in the solicitation or sale of a funeral policy shall disclose the following in a clear and conspicuous manner:

(a) That a purpose of the advertisement is the solicitation of insurance.

(b) That an insurance intermediary may contact any person who responds to the advertisement.

(c) The identity of the insurer.

(3) No insurer or insurance intermediary may use a response from an advertisement of a prearranged funeral plan regardless of who placed or published the advertisement unless the advertisement includes the disclosures required under sub. (2).

(4) The insurer whose policy is advertised has the responsibility for the content, form and method of dissemination of all advertisements, regardless of who designed, created, wrote, printed or utilized them.

(5) An insurer shall require its insurance intermediaries, and all other persons or agencies acting on its behalf in preparing advertisements, to submit advertisements to it for approval prior to use of the advertisement.

(6) An insurer shall maintain a copy of every advertisement and all correspondence for each advertisement submitted for approval or used in Wisconsin for three years after the advertisement was last used.

INS 23.70 MARKETING PROCEDURES. (1) The insurer shall establish and implement written marketing procedures for funeral policies to ensure compliance with solicitation, disclosure, and suitability requirements.

(2) The insurer shall train and monitor its agent force to ensure compliance with the written marketing procedures and provide each a copy of the written procedures.

(3) The insurer shall maintain a copy of the marketing procedures.

(4) The insurer shall maintain a copy of the list of funeral goods and services contracted for in the prearranged funeral plan at the time of the application.

(5) No insurer may accept an application unless the application is complete and on a form approved under s. 631.20, Stats., and in compliance with this section.

(6) The insurer shall provide the following disclosures and statements and ask the following questions on the application form in print no less than 12 point type:

[Disclosures]

1. The total price of the prearranged funeral plan.
2. Whether the cost of the final expenses is or is not guaranteed.

3. The minimum dollar amount of the death benefit payable under the funeral policy.
4. The total amount of premium the applicant will pay for the funeral policy, including total premium to be paid for a multi-pay policy.

[Statements]

1. You should not need more than one life insurance policy to fund a prearranged funeral plan.
2. If you have an existing life insurance policy or annuity, you may be able to assign some or all of an existing policy's benefits to fund the prearranged funeral plan rather than purchase an additional insurance policy.
3. It may not be in your best interests to borrow on the cash value of an existing life insurance policy to pay the premium on a funeral policy that will be used to fund a prearranged funeral plan.
4. The life insurance or annuity policy you are purchasing may not fully fund the costs of the funeral goods and services provided.

[Questions]

1. Do you have another life insurance or annuity policy in force?
 - a. If so, with which company?
 - b. If so, do you intend to replace your current insurance policy with this policy?
2. Do you presently have a prearranged funeral plan of any kind with a funeral home?
3. If so, do you intend to replace the funding of your existing prearranged plan with this policy?

INS 23.80 SUITABILITY. (1) An insurer shall establish written suitability standards to assure that inappropriate, unsuitable or

excessive insurance is not sold or issued to fund prearranged funeral plans.

(2) An insurer shall require that the suitability standards include, but not limited to the following:

(a) The appropriateness of using a funeral policy to fund a prearranged funeral plan.

(b) The appropriateness of using an existing insurance policy to fund the prearranged funeral plan.

(e) The appropriateness of replacing any existing policy with a funeral policy.

(3) The insurer shall train and monitor its insurance intermediaries to ensure compliance with the suitability standards in their sales practices.

(4) An insurer or an insurance intermediary shall take an application or issue a funeral policy only if the funeral policy is suitable for the applicant.

INS 23.90 SOLICITATION AND DISCLOSURE REQUIREMENTS. (1) Any insurance intermediary who solicits funeral policies shall comply with all applicable statutes and rules, including but not limited to s. 628.34 (1), Stats. and ch INS 20.

(2) Every insurance intermediary intending to solicit the sale of a funeral policy shall at the time of the initial contact or communication with the prospective buyer, clearly and expressly disclose:

(a) The name of the individual insurance intermediary who solicited the sale of the funeral policy.

(b) The name of the funeral home represented.

(c) A statement that insurance is being sold.

(d) The identity of the insurer.

(e) The type of insurance being solicited.

(3) Insurance intermediaries shall not:

(a) Make any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy or to take out a policy of insurance with another insurer.

(b) Employ undue pressure to purchase or recommend the purchase of insurance or any method of marketing having the effect of inducing or tending to induce, the purchase of insurance through force, fright, or threat, whether explicit or implied.

(c) Make use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose is solicitation of the purchase of insurance and that contact will be made by an insurance intermediary.

(d) Use any advertisement, or responses from any advertisement, which has not been approved by the insurer.

(4) No insurance intermediary may directly or indirectly prevent or dissuade or attempt to prevent or dissuade any person from filing a complaint with the office of the commissioner of insurance, cooperating with the office of the commissioner of insurance in any investigation or attending or giving testimony at any proceeding authorized by law.

(5) An insurance intermediary shall provide the insurer at the time the funeral policy application is submitted, a list of the funeral goods and services contracted for by the insured in the prearranged funeral plan.

(6) After receiving a funeral policy from the insurer, the insurance intermediary shall:

(a) Promptly deliver the policy to the policyholder.

(b) Obtain from the insured a signed policy delivery receipt.

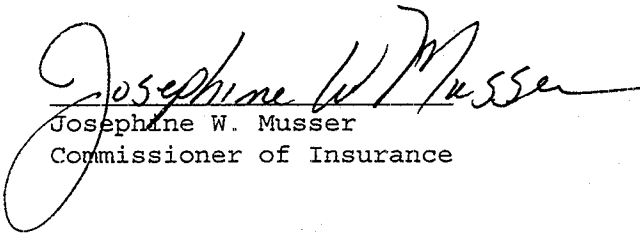
(c) Keep a copy of the signed policy delivery receipt for at least three years after termination of the policy.

(d) Forward a copy of the signed policy delivery receipt to the insurer within seven days of delivery.

SECTION 2. EFFECTIVE DATE. This rule takes effect on the first day of the third month commencing after the date of its publication.

SECTION 3. APPLICABILITY. This rule applies to any funeral policy solicited or issued after its effective date.

Dated at Madison, Wisconsin, this 12th day of June, 1997.


Josephine W. Musser
Commissioner of Insurance

