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Bulletin 08-06

DATE: July 17, 2008
TO: All Individual and Group Annuity Insurers
FROM: Merle Scheiber, Director
RE: Annuities with Long Term Care Features

This bulletin is issued to clarify when individual and group annuities that contain a waiver of surrender penalties associated with long term care are subject to the long term care requirements of Chapter 58-17B and Chapter 20:06:21. Specifically, the long term care requirements found in Chapter 58-17B and Chapter 20:06:21 do not apply to annuities that contain, either in the policy or attached as a rider, no other provisions relating to long term care other than a waiver of surrender penalties provided that all of the following are met:

1. The application of the waiver of surrender penalties is unrelated to the amount of charges incurred for long term care services;
2. There is no separate premium for the waiver of surrender penalties; and
3. The annuity or rider is not marketed as long term care insurance.

A rider or annuity contract is considered to be marketed as long term care insurance if the primary focus of the benefit in the advertising or marketing materials is the long term care component as opposed to the waiver of surrender penalties. A rider which is identified or labeled as a long term care or nursing home rider is marketing the annuity as long term care insurance.