



COMMONWEALTH OF MASSACHUSETTS
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DIVISION OF INSURANCE

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Life Insurance
Filing Guidance Notice 2019-E

TO: Carriers Offering Life Insurance Policies in Massachusetts
FROM: Sheri Cullen, Director, Policy Form Review
DATE: July 10, 2019
RE: Employees and Former Employees in Group Life Products

This Filing Guidance Notice is issued by the Division of Insurance (“Division”) to provide guidance to those insurance carriers licensed under M.G.L. c. 175 who offer group life insurance products to persons in the Commonwealth of Massachusetts.

Definition of Employer Within Group Life Coverage

The Division is aware that employment practices continue to evolve within our economy and the nature of the employer-employee relationship has changed rapidly over the past twenty years and will continue to change over time. Questions have been raised by carriers about the definition of employee and whether the provisions of M.G.L. c. 175, §133 permit employer group life products to continue to cover employees after they separate from the employer’s service and are no longer active employees with the employer. There are provisions in M.G.L. c. 175, §133A1/2, as explained in Bulletin 2009-07, that permit the creation of a discretionary group for the purpose of separate group life coverage being available for former employees of an employer.

The Division has reviewed existing rules regarding what would constitute an employee. Absent clear statutory definitions, the Division expects that an employee for the purpose of group life coverage would be considered those persons for whom the employer has paid FICA tax to the federal government. This would mean that those persons who do work for an employer but are to be considered independent contractors under federal tax rules would not be considered as employees for the purpose of such coverage.

Regarding the question about permitting continuation of group life coverage for former employees, the Division has reviewed existing rules, including provisions within M.G.L. c.175, § 134 that permits group life policies to cover retired employees in the same coverage as actively employed persons. After careful consideration, the Division is willing to permit the filing of group life

products that allow separated employees to continue coverage under the group life policy. This would only permit a former employee to continue under the group life coverage if that person were covered under the group life policy while actively employed by the employer. This does not permit a former employee to join a group life policy at or after the point of separation of employment with the employer. Carriers may offer a continuation of coverage provision in addition to the conversion language required by M.G.L. c.175, §134.

In consideration of this guidance, carriers may elect to continue the offer of coverage for former employees through discretionary group policies or to file to permit the continuation of coverage under the employer group life policy after an employee separates from active service.

Submitting Filings

Any carrier wishing to offer group life policies to address the guidance identified in this document should file products through the System for Electronic Rate and Form Filing (“SERFF”) with a clear description of the continuation provisions within the proposed group life product.

If you have any questions regarding this Filing Guidance Notice, please contact Sheri Cullen, Director, Policy Form Review at (617) 521-7359.