THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION
DIVISION OF INSURANCE
280 FRIEND STREET, BOSTON 02114
(617) 727-7189

SUSAN K. SCOTT
ACTING COMMISSIONER OF INSURANCE

BULLETIN B-91-1

TO: Blue Cross and Blue Shield; Commercial Insurers; HMOs

FROM: Nancy C. Turnbull, Deputy Commissioner and Director of Health Policy

DATE: June 26, 1991

RE: Nonprescription Enteral Formulas: Amended Language

Chapter 330 of the Acts of 1990 amended M.G.L. c. 175, s. 47I, c. 176A, s. 8L, c. 176B, s. 4K, and c. 176G, s. 4, the insurance laws mandating that all insurers provide coverage for nonprescription enteral formulas for home use for the treatment of malabsorption caused by Crohn's disease and ulcerative colitis, to include three additional conditions: gastroesophageal reflux, gastrointestinal motility, or chronic intestinal pseudo-obstruction. These additional conditions must be covered by health insurance policies issued or renewed on or after March 18, 1991.

As stated in the Division's memo of September 22, 1988 on this subject, it remains the Division's position that for the treatment for malabsorption caused by all five of these conditions the benefit must cover enteral formulas that are taken orally as well as those that are administered by tube. The Division continues to require that coverage of this benefit be provided at the same level as for any other service. The Division considers it reasonable to require a copayment for a 30-day supply of enteral formula that is equal to the copayment required for office visits.

If you have any questions regarding this mandate, you may contact the Health Policy Unit at (617) 727-7189, ext. 532.

BULLETIN B-91-01

TO: All Life Insurance Companies

FROM: Susan K. Scott, Acting Insurance Commissioner

RE: Mortgage Life Insurance Marketing Procedures

DATE: March 26, 1991

The purpose of this bulletin is to identify, for all insurance companies which sell mortgage life insurance, problems relating to the sale and marketing of this product through lending institutions and to provide guidelines for such marketing. Specifically, the guidelines address the activities which may be delegated to lending institutions, compensation arrangements and compliance with the statutes prohibiting tie-ins between loan transactions and insurance purchases. Companies must promptly establish marketing procedures which comply with these guidelines.

In Massachusetts, lending institutions may not be licensed as insurance agents, M.G.L. c. 175, § 174E. Furthermore, M.G.L. c. 175, § 177 prohibits payment of commissions to unlicensed agents. The Division of Insurance considers payments based on a percentage of premium to be commissions.

Lending institutions may sponsor a program of mortgage life insurance for their borrowers. Because a lending institution may not, by statute, be licensed as an insurance agent, it may

not perform the functions of an agent, as defined in M.G.L. c. 175, § 162. A lending institution may not solicit insurance, transmit applications or negotiate policies. Its activities must be limited to those which will not violate the statute. For example, a lending institution may inform borrowers of the availability of the product and provide necessary information, such as the balance due on a mortgage, to borrowers who choose to enroll. The lending institution may bill, receive and transfer premiums paid by borrowers, facilitate claims payment and handle routine correspondence about the insurance. The company's marketing procedures should ensure that a licensed agent or other individual authorized to act for the company is responsible for any actual soliciting of individuals, explaining the coverage to potential purchasers, transmitting applications and advising consumers about the relationship between this product and any other insurance they may have.

An insurance company may pay a fee to a lending institution for performing administrative functions in connection with a mortgage life insurance program made available to its borrowers. The fee may not be calculated as a percentage of premium, but may be set by any other method which is unrelated to premium, such as a per capita or flat fee basis.

M.G.L. c.175 § 193E and c. 176D § 4, prohibit a lending institution from requiring, as a condition precedent to loan approval, the purchase of insurance, including mortgage life insurance, from a particular company, agent or broker. It is the Division of Insurance's understanding that the purchase of this product is not required by any statute. Therefore, the lending institution must inform borrowers, in writing, that loan approval is not contingent on purchase of this product and that the purchase of mortgage life insurance through its sponsored program is optional.

Adherence to these guidelines will enable life insurance companies to market this product through lenders in compliance with the applicable statutes.

Questions regarding this bulletin may be directed to Jean Farrington, Chief Enforcement Counsel, (617) 727-7189 ext. 508.

0219c
MMR