THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF CONSUMER AFFAIRS
DIVISION OF INSURANCE
470 ATLANTIC AVENUE
BOSTON, MA 02210-2223
(617) 521-7794
TTY/TDD (617) 521-7490

PRISCILLA H. DOUGLAS
SECRETARY
LINDA RUTHARDT
COMMISSIONER

To: All Life Insurance Companies Licensed in Massachusetts

From: Linda Ruthardt, Commissioner of Insurance

Subject: Waiver of Surrender Charges For Early Withdrawal of Annuity Proceeds

Date: May 24, 1994

Massachusetts Division Of Insurance
Bulletin SRB 94-4

This bulletin is designed to define for licensed life insurers when surrender charges for early withdrawal may be waived for any group or individual annuity contract, written to be effective on or after May 15, 1994, or, at the option the insurer and the insured annuitant, for any in force group or individual annuity contract effective on such date.

Waiver of Surrender Charges for any early withdrawal of Annuity Proceeds either in a lump sum or by installments shall be allowed in the event the insured becomes totally and permanently disabled. For any group or individual annuity product ***"Total and permanent disability"*** shall be defined to mean one or both of the following qualifying events:

(1) Any medical condition of the insured which a physician certifies is expected to result in the life span of the insured becoming limited to a period which may be less than, but not more than, twenty-four (24) months.

(2) Confinement in a custodial or skilled nursing facility, hospice or similar establishment, or receipt by the insured of home health services, or any combination of such confinement or receipt of such services for a period of at least three months, with certification from the insured's physician that the insured is expected to stay in such nursing facility, hospice or similar establishment or receive home health care services until death.

(a) Insurers electing to offer this option shall not restrict the definition set forth above in any way, such as, but not limited to, applying prior hospitalization requirements, tests for disability or inability to perform activities of daily living, or medical necessity requirements.

Nothing in this bulletin shall preclude an insurer from requiring that an annuitant provide verification of total and permanent disability as defined herein, pursuant to an independent medical exam of the annuitant, at the insurer's expense, or, at the option of the annuitant, provide one form of alternative evidence. Such alternative evidence shall be of one the following kinds:

(i) any finding by the Social Security Administration which entitles the annuitant to disability benefits;
(ii) any finding of permanent and total disability by an Industrial Accident Board, Commission or similar agency under a state workers' compensation law; or
(iii) any disability determination which has enabled the annuitant to make early withdrawal from an individual retirement account or similar instrument without penalty pursuant to requirements of the Internal Revenue Service.