SUBCHAPTER 5. MINIMUM STANDARDS; CONTRACT GUIDELINES
PART 9. UNIVERSAL LIFE RULE

365:10-5-81. Valuation

(a) **Requirements.** The minimum valuation standard for universal life insurance policies shall be the Commissioners Reserve Valuation Method, as described below for such policies, and the tables and interest rated specified below.

(1) The terminal reserve for the basic policy and any benefits and/or riders for which premiums are not paid separately as of any policy anniversary shall be calculated as follows.

(2) Future guaranteed benefits, as used in the formula in (1) of this subsection, are determined by:

(A) projecting the greater of the Guaranteed Maturity Fund and the policy value, taking into account future Guaranteed Maturity Premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer; and

(B) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

(3) All present values in the formula in (1) of this subsection shall be determined using:

(A) an interest rate (or rates) specified by 36 O.S. § 1510 for policies issued in the same year;

(B) the mortality rates specified by the 36 O.S. § 1510, for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose; and

(C) any other tables needed to value supplementary benefits provided by a rider which is being valued together with the policy.

(b) **Alternative Minimum Reserves.**

(1) If, in any policy year, the Guaranteed Maturity Premium on any universal life insurance policy is less than the valuation net premium for such policy, calculated by the valuation method actually used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such contract shall be the greater of:

(A) The reserve calculated according to the method, the mortality table, and the rate of interest actually used.

(B) The reserve calculated according to the method actually used but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the Guaranteed Maturity Premium in each policy year for which the valuation net premium exceeds the Guaranteed Maturity Premium.

(2) For universal life insurance reserves on a net level premium basis, the valuation net premium is EqnPVFBxa and for ^{a}x reserves on a Commissioners Reserve Valuation Method, the valuation net premium is EqnPVFBxa+a-bx a.

365:10-5-82. Nonforfeiture

(a) **Minimum cash surrender values for flexible premium universal life insurance policies.** Minimum cash surrender values for flexible premium universal life insurance policies shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

(1) The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be calculated as follows:

(A) The minimum cash surrender value shall be equal to the accumulation to that date of the premiums paid minus the accumulations to that date of:

(i) the benefit charges,

(ii) the averaged administrative expense charges for the first policy year and any insurance increase years,

(iii) actual administrative expense charges not exceeding the initial or additional expense allowances, respectively,

(iv) any service charges actually made (excluding charges for cash surrender or execution of a paid-up nonforfeiture benefit) and

(v) any deductions made for partial withdrawals.

(B) All accumulations shall be at the actual rate or rates of interest at which interest credits have been made unconditionally to the policy (or have been made conditionally, but for which the conditions have since been met), and minus any unamortized unused initial and additional expense allowances.

(2) Interest on the premiums and on all charges referred to in OAC 365:10-5-82(a)(1)(A)(i) through (v) above shall be accumulated from and to such dates as are consistent with the manner in which interest is credited in determining the policy value.

(3) The benefit charges shall include the charges made for mortality and any charges made for riders or supplementary benefits for which premiums are not paid separately. If benefit charges are substantially level by duration and develop low or no cash values, then the Commissioner shall have the right to require higher cash values unless the insurer provides adequate justification that the cash values are appropriate in relation to the policy's other characteristics.

(4) The administrative expense charges shall include charges per premium payment, charges per dollar of premium paid, periodic charges per thousand dollars of insurance, periodic per policy charges, and any other charges permitted by the policy to be imposed without regard to the policyholder's request for services.

(5) The averaged administrative expense charges for any year shall be those which would have been imposed in that year if the charge rate or rates for each transaction or period within the year had been equal to the arithmetic average of the corresponding charge rates which the policy states will be imposed in policy years two through twenty in determining the policy value.

(6) The initial acquisition expense charges shall be the excess of the expense charges, other than service charges, actually made in the first policy year over the averaged administrative expense charges for that year. Additional acquisition expense charges shall be the excess of the expense charges, other than services charges, actually made in an insurance-increase year over the averaged administrative expense charges for that year. An insurance-increase year shall be the year beginning on the date of increase in the amount of insurance by policyowner request (or by the terms of the policy).

(7) Service charges shall include charges permitted by the policy to be imposed as the result of a policyowner's request for service by the insurer (such as the furnishing of future benefit illustrations) or of special transactions.

(8) The initial expense allowance shall be the allowance provided by the policy to be

imposed as the result of a policyowner's request for service by the insurer (such as the furnishing of future benefits illustrations) or of special transactions.

(9) The initial expense allowance shall be the allowance provided by items (ii), (iii) and (iv) of subsection (G) or by items (ii) and (iii) of subsection (I)(4)(a) as applicable, of 36 O.S. § 4029 for a fixed premium, fixed benefit endowment policy with a face amount equal to the initial face amount of the flexible premium universal life insurance policy, and maturing on the latest maturity date permitted under the policy, if any, otherwise at the highest age in the valuation mortality table. The unused initial expense allowance shall be the excess, if any, of the initial expense allowance over the initial acquisition expense charges as defined in this section.

(10) If the amount of insurance is subsequently increased upon request of the policyowner (or by the terms of the policy), an additional expense allowance and an unused additional expense allowance shall be determined on a basis consistent with this subsection and with 36 O.S. § 4029(I)(4)(e), using the face amount and the latest maturity date permitted at that time under the policy.

(11) The unamortized unused initial expense allowance during the policy year beginning on the policy anniversary at age x + t (where "x" is the same issue age) shall be the unused initial expense allowance multiplied by Eqnxa+tx a where ^{a}x + t and ^{a}x are present values of an annuity of one per year payable on policy anniversaries beginning at ages x + t and x, respectively, and continuing until the highest attained age at which a premium may be paid under the policy, both on the mortality and interest bases guaranteed in the policy. An unamortized unused additional expense allowance shall be the unused additional expense allowance multiplied by a similar ratio of annuities, with ^{a}x replaced by an annuity beginning on the date as of which the additional expense allowance was determined.

(b) **Minimum cash surrender value for fixed premium universal life insurance policies.** For fixed premium universal policies, the minimum cash surrender values shall be determined separately for the basic policy and any benefits and riders for which premiums are paid separately. The following requirements pertain to a basic policy and any benefits and riders for which premiums are not paid separately.

(1) The minimum cash surrender value (before adjustment for indebtedness and dividend credits) available on a date as of which interest is credited to the policy shall be equal to [A - B - C - D], where:

(2) Future guaranteed benefits are determined by:

(A) projecting the policy value, taking into account future premiums, if any, and using all guarantees of interest, mortality, expense deductions, etc., contained in the policy or declared by the insurer, and

(B) taking into account any benefits guaranteed in the policy or by declaration which do not depend on the policy value.

(3) All present values shall be determined using:

(A) an interest rate (or rates) specified by 36 O.S. § 4029 for policies issued in the same year and

(B) the mortality rates specified by 36 O.S. § 4029 for policies issued in the same year or contained in such other table as may be approved by the Commissioner for this purpose.

(c) **Minimum paid-up nonforfeiture benefits.**

(1) If a universal life insurance policy provides for the optional election of a paid-up

nonforfeiture benefit, it shall be such that its present value shall be at least equal to the cash surrender value provided for by the policy on the effective date of the election. The present value shall be based on mortality and interest standards at least as favorable to the policyowner as:

(A) in the case of a flexible premium universal life insurance policy, the mortality and interest basis guaranteed in the policy for determining the policy value, or

(B) in the case of a fixed premium policy the mortality and interest standards permitted for paid-up nonforfeiture benefits by 36 O.S. § 4029.

(2) In lieu of the paid-up nonforfeiture benefit, the insurer may substitute, upon proper request not later than sixty (60) days after the due date of the premium in default, an actuarially equivalent alternative paid-up nonforfeiture benefit which provides a greater amount or longer period of death benefits, or, if applicable, a greater amount or earlier payment of endowment benefits.

PART 13. MEDICARE SUPPLEMENT INSURANCE MINIMUM STANDARDS

365:10-5-129. Open enrollment

(a) An issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this State, nor discriminate in the pricing of such a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with the first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. Each Medicare supplement policy and certificate currently available from an issuer shall be made available to all applicants who qualify under this subsection without regard to age.

(b) If an applicant qualifies under subsection (a) or subsection (d) of this Section and submits an application during the time period referenced in said subsection (a) or subsection (d)~~)~~, and

(1) as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer shall not exclude benefits based on a preexisting condition; or

(2) as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary shall specify the manner of the reduction under this subsection.

(c) Except as provided in Subsection (b) and Section 365:10-5-140, subsection (a) and subsection (d) of this Section shall not be construed as preventing the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the six (6) months before the coverage became effective.

(d) At least one (1) of the ten (10) standardized Medicare supplement plans currently available from an issuer shall be made available to all applicants who qualify under this subsection by reason of disability. The issuer shall not deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this State because of the health status, claims experience, receipt of health care, or medical condition of an applicant where an application for such policy or certificate is submitted during the six (6) month period beginning with the first month in which an individual first enrolled for benefits under Medicare Part B. The premium rate charged for such disabled person may not exceed the lowest available aged premium rate for such plan.

(e) In the event Social Security backdates the Medicare enrollment date, the six-month enrollment period shall be calculated from the date the individual first receives notification of approval of Medicare coverage.

(f) A person who has a Medicare supplement policy, including a person entitled to Medicare benefits due to a disability, and has been covered by that policy with no gap in coverage greater than ninety (90) days beginning from the person's open enrollment period shall be provided continuity of coverage under a new supplement policy with the same or lesser benefits issued by the same or different issuer.

(1) The issuer of a new Medicare supplement policy for any person described in subsection (f) shall waive any medical underwriting or preexisting conditions exclusion to the extent benefits would have been payable under the prior Medicare supplement policy and any earlier Medicare supplement policy if those policies were still in effect. The subsection does not require the succeeding insurer to pay any benefits that are not within the terms of coverage of the succeeding policy solely because they would have been paid by the prior policy.

(2) When a determination of benefits under the prior policy is required, the issuer of the prior policy shall, at the request of the issuer of the succeeding policy, furnish a statement of benefits available or pertinent information sufficient to permit verification of the benefit determination or the determination itself by the issuer of the succeeding policy. For purposes of this subsection, benefits of the prior policy are determined in accordance with the definitions, conditions, and covered expense provisions of that policy rather than those of the succeeding policy. The benefit determination must be made as if coverage had not been replaced.

(g) In the case that an individual enrolled in a Medicare supplement policy by reason of disability becomes eligible for open enrollment under subsection (a) of this Section, the issuer of the Medicare supplement policy shall provide notice of such rights no sooner than ninety (90) days and no later than sixty (60) days prior to the first day of the first month in which the individual becomes sixty-five (65) years of age.