**Section 2012.83 Incontestability Period**

a) For a policy or certificate that has been in force for less than 6 months, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is material to the acceptance for coverage.

b) For a policy or certificate that has been in force for at least 6 months but less than 2 years, an insurer may rescind a long-term care insurance policy or certificate or deny an otherwise valid long-term care insurance claim upon a showing of misrepresentation that is both material to the acceptance for coverage and that pertains to the condition for which benefits are sought.

c) After a policy or certificate has been in force for 2 years, it is not contestable upon the grounds of misrepresentation alone; the policy or certificate may be contested only upon a showing that the insured knowingly and intentionally misrepresented relevant facts relating to the insured's health.

d) A long-term care insurance policy or certificate may be field issued based on medical or health status if the compensation to the field issuer is not based on the number of policies or certificates issued. For purposes of this Section, "field issued" means a policy or certificate issued by a producer or an agent or a third-party administrator pursuant to the underwriting authority granted to the producer, agent or third party administrator by an insurer and using the insurer's underwriting guidelines.

e) If an insurer has paid benefits under the long-term care insurance policy or certificate, the benefit payments may not be recovered by the insurer in the event that the policy or certificate is rescinded.

f) In the event of the death of the insured, this Section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In this situation, the remaining death benefits under these policies shall be governed by Section 224(1)(c) of the Code. In all other situations, this Section shall apply to life insurance policies that accelerate benefits for long-term care.

(Source: Added at 32 Ill. Reg. 7600, effective May 5, 2008)