

RULE 101
PROHIBITION ON THE USE OF DISCRETIONARY CLAUSES
IN DISABILITY INCOME POLICIES

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Section 1. Authority

This Rule is promulgated pursuant to Ark. Code Ann. § 23-61-108, Ark. Code Ann. § 23-66-207, Ark. Code Ann. § 25-15-204 and other applicable laws or rules.

Section 2. Purpose

The purpose of this Rule is to prohibit conflicts of interest which may arise when an insurer responsible for providing disability income benefits has discretionary authority to decide what benefits are due. Nothing in this Rule shall be construed as imposing any requirement or duty on any person other than an insurer that offers disability income protection coverage.

Section 3. Definitions

- A. “Commissioner” means the Arkansas Insurance Commissioner.
- B. “Disability income protection coverage” is a policy, contract, certificate or agreement issued by an insurer subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Commissioner, that provides for periodic payments, weekly or monthly, for a specified period during the continuance of disability resulting from either sickness or injury or a combination of them.

- C. "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity or combination of the foregoing.

Section 4. Discretionary Clauses Prohibited

- A. No policy, contract, certificate or agreement offered or issued in this State providing for disability income protection coverage may contain a provision purporting to reserve discretion to the insurer to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this State.

Section 5. Penalties

A violation of this Rule shall be subject to the same penalties and remedies authorized to be imposed against an insurer by the Commissioner under Ark. Code Ann. § 23-66-210.

Section 6. Severability

If any provision of this Rule, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect other provisions or applications of this Rule which can be given effect without the invalid provision or application, and to that end the provisions of this Rule are severable.

Section 7. Effective Date

This Rule shall apply to all disability income policies issued in this State which are issued or renewed on and after March 1, 2013.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

December 19, 2012
DATE