

Section 7

Medical Underwriting

Medical Underwriting

Regular Issue Medical Requirements

eMed is encouraged for all cases. eMed or TeleMed is required for the Enhanced Quick Issue Underwriting Program. Please refer to our Programs Section for EQI and New Professionals Program requirements.

Regular Issue Medical Requirements			
Ages	eMed/TeleMed/Paramedical Exam*	Urine/HIV	Blood/Urine
Individual Disability Products and Overhead Expense: All States Except CA and FL			
18-40	> \$3,000	N/A	N/A
41-50	> \$2,500	N/A	N/A
51-60	> \$1,500	\$500 ↔ 1,500	> \$1,500
Over 60	All	N/A	All
Individual Disability Products and Overhead Expense: CA and FL only			
18-40	> \$3,000	N/A	N/A
41-50	> \$2,500	N/A	N/A
51-60	> \$1,500	N/A	> \$500
Over 60	All	N/A	All
PayGuard Plus: All States Where Approved			
18-50	> \$6,000	N/A	N/A
51-60	> \$6,000	\$500 ↔ 6,000	> \$6,000
Disability Buy-Out: All States			
18-40	> \$200,000	N/A	N/A
41-50	> \$150,000	N/A	N/A
51-60	> \$50,000	N/A	> \$100,000

*For amounts equal to or below those listed in the table, Part II Medical Supplement or eMed is required.

When eMed/TeleMed/Paramedical Exam and Blood/Urine are required, Physical Measurements (build and blood pressure) will also be required. Physical Measurements are also commonly known as “Measurements” or “Short Form”.

eMed and TeleMed not available in WY.

Medical Requirements: additional information

To determine medical underwriting requirements for individual disability, add half the applied for FIO amount and all of the SIS, Student Loan Protection, and Supplemental Benefit Term riders to the base monthly benefit amount. Any PayGuard Plus coverage in force in eligible states will also be included when determining medical requirements.

Note: Benefit Purchase Rider is not factored into the amount of coverage calculation.

To determine medical underwriting requirements for Overhead Expense, add half the applied-for FIO amount, all of the Business Loan Protection, Professional Replacement, and Your Income Protection Riders to the base monthly benefit amount.

To determine medical underwriting requirements for Disability Buy-Out, add half the applied-for FIO amount to the base monthly benefit amount.

To determine underwriting requirements for the Monthly or Down Payment Funding Method for Disability Buy-Out, multiply the monthly benefit by the benefit period and add the lump sum amount (if applicable) to the total.

Any amount of coverage in force with Berkshire/Guardian (issued in past five years) must be added to the above limits unless the requirement called for has been obtained in the interim.

Underwriting reserves the right to request additional medical requirements at the underwriter’s discretion.

Forms and requirements validity period

The application forms and requirements are valid for specific periods of time. Use the following chart to determine when a new application or requirement is needed:

Forms and Requirements Validity Period	
Form/Requirement	Validity Period (Based on Date Signed)
Application	Up to 6 Months
eMed/TeleMed/Paramedical	Up to 12 Months
Labs (i.e., Blood, Specimen)	Up to 12 Months*

*New labs may be requested for cause or to improve an offer.

Approved medical vendors

Medical requirements must be ordered from the following approved vendors:

Approved Medical Vendors	
Service	Approved Vendors
eMed*	Access via GOL (see below)
TeleMed *	APPS
Paramedical Exams	APPS, ExamOne, Healthmasters, Parameds.com
Lab Orders (Blood and Urine)	CRL (for IL/Combo), ExamOne,
APS Retrieval Service	ExamOne, Express Imaging Service (EIS), ParaMeds.com, ReleasePoint

*eMed and TeleMed not available in WY.

When blood profiles are required on cases within the non-medical limits, the paramedical facility should be advised to obtain the blood profile only and not to perform a full exam or obtain a medical history.

Underwriting reserves the right to request special studies, blood profiles or other tests at the underwriter’s discretion.

Reminder: If an exam and labs are required for underwriting, be sure to override any automatically-generated age/amount requirements and instead select “Physical Measurements, Blood and Urine”. This will avoid the applicant being asked the medical questions again.

Note: Terminology may vary between vendors. Physical Measurements are also commonly known as “Measurements” or “Short Form.”

To access eMed, go to Guardian Online (GOL) > Tools Connection> select eMed under Essential Tools column. Select Launch eApp/eMed, then select Start New Case. Once the order is placed, a secure email will be sent to the applicant to sign in and complete the medical questionnaire.

Need help? Email DiHelp@glic.com, or call **866-672-1964**, Option 4.

Guidelines for ordering Attending Physician Statements (APS)/medical records

APS/medical records are required when an applicant is at least one of the following:

- Age 51 and above
- Applying for Lifetime or Lump Sum Benefits
- Applying in California

eApp currently identifies applicants meeting the above criteria and presents these applicants with a link, at the end of the eApp process, to connect their Patient Portal Medical records utilizing Human API. While this process is optional, utilizing the link is highly recommended to expedite the overall underwriting process. Underwriting cannot accept Patient Portal Records provided by an insured.

Underwriting reserves the right to order APS/medical records at underwriter’s discretion.

eMed

Guardian eMed is a web-based service for applicants to complete and sign the “Part II”. It is the preferred alternative to a paramedical examiner or TeleMed asking the Part II medical questions or the producer completing a paper non-medical with the applicant.

The advantages of eMed include:

- Secure and convenient way for the applicant to provide medical information.
- Our customized script facilitates a thorough collection of medical information directly from applicants and results in fewer Attending Physician Statements (APSS).
- Ability to view and save a copy of the electronically signed Part II.
- Applicant and agent receive immediate email notification after eMed is completed.

Note: eMed is not available in WY

TeleMed

TeleMed is the phone service that lets you stay out of the medical collection process. It frees up your time, results in fewer client touch points and offers a better client experience. Used in place of the traditional in-person paramedical, our TeleMed service collects medical information from applicants over the phone and our customized scripts result in fewer Attending Physician Statements (APSS).

Reminder: When ordering the exam for labs, be sure to specify in the order “Physical Measurement, Blood and Urine only” or the applicant will be asked medical questions again.

Note: TeleMed is not available in WY.

Choices

TeleMed – all services program

We collect the applicant’s medical history via the phone interview, order and follow-up on medical requirements including the paramedical exam, labs and APSS for you.

TeleMed – interview only program

TeleMed conducts the medical history interview over the phone and your agency orders medical requirements (e.g., Labs and Physical Measurements) from one of our approved vendors.

- Interview Now: This is the Interview Only service when TeleMed has not previously been ordered. While meeting with your client, you can call the special Interview Now number, then hand the phone to your client to complete the TeleMed interview. Please be sure the client is in a secure and private location.

Refer to the TeleMed Agency Guide (Pub6181BL) for more details. Also, provide your client this helpful flyer, Preparing for Your Exam & Insurance Interview (Pub3783BL).

Exclusions and ratings

Exclusions and premium ratings are tools that allow us to issue coverage in circumstances when an application would otherwise be declined.

Limits and benefit periods may be reduced and/or elimination periods extended, depending upon the nature and severity of any medical impairments involved. Supplemental benefit riders may not be offered.

Extra premium (ratings)

An extra premium is a means of providing disability insurance coverage when there is an increase in risk due to current and/or past impairment or medical history. The extra premium enables us to provide coverage for any disability resulting from such an impairment or history. An exclusion rider and an extra premium may both be necessary for some applicants.

Extra premium charges are 25%, 50%, 75%, or 100%.

Exclusion Riders

An exclusion rider is a means of providing disability insurance coverage in certain instances when an applicant might otherwise be uninsurable because of a current or past impairment or medical condition that could be the cause of future disability. The rider excludes coverage for any disability resulting from such an impairment or medical condition.

Reconsideration of Exclusions and Ratings

When the underwriter approves the policy and it is issued, the agency is notified of the status of the exclusion or rating. If the exclusion or rating is not considered permanent, a time period for reconsideration will be provided. This review, intended to determine if the original offer can be improved upon, will be subject to additional requirements to be determined at that time by the underwriter.

For extra premiums due to weight requirements, we will consider reducing or removing an extra premium after the insured has maintained a standard weight for a period of at least one year. Any consideration for the reduction or removal of an extra premium will be subject to evidence of insurability as we require.

Refer to the publication How It Works (Pub3519BL-B) for additional information.

Reconsideration of Standard Rates Due to Nicotine Use

Insureds may apply for select rates on the policy anniversary following total abstinence from all nicotine and tobacco use for a period of 12 months.

Please refer to the Disability Claims & Policy Services page on Guardian Online (under In Force Policy Change Resources → Disability Policy Changes) or contact Policy Services at 1-888-Guardian (1-888-482-7342) for more information.

Refer to FIO/FPO/GDR occupation class mappings from pre-18ID/18UD policy form to the current 18ID/18UD policy form at the end of this section.

Section 8

Financial Underwriting

Financial Underwriting

Not applicable for the Enhanced Quick Issue, Start Up Savvy, and Special Limits for New Professionals Underwriting Programs; Overhead Expense for newly self-employed physicians/dentists and Group Conversion Program, etc.

Financial requirements summary: individual disability products (including future purchase/increase option exercises)

Financial Requirements Summary

Monthly Benefit

\$2,000 → \$7,499

\$7,500 and Up

Documentation Required

One-year financial documentation
(See following specific financial returns required)

Two years' financial documentations
(See following specific financial returns required)

Any reference to tax returns refers to Federal returns.

Personal Financial Information is required to be completed on all DI applications.

Include amounts in force with all companies when determining DI tax requirements.

For eligible Quick Issue cases, financial returns are not required; however, the financial section of the application must be fully complete. For more details about the Quick Issue Program, refer to the Program Section.

Specific financial returns required

Specific Financial Returns Required

Type of Business

Employee

Joint Returns

Sole Proprietor (or Independent Contractor)

Partnership

C Corporation

S Corporation

Limited Liability Company (LLC or LLP)

Documentation Required

Form 1040 or W-2 or payroll stub with year-to-date earnings.

Form 1040 and W-2.

Form 1040 with all schedules.

Form 1040 with all schedules, Form 1065 with all schedules.

Form 1040 with all schedules and W-2.

For closely held or one-person C Corporation, include Form 1120.

Form 1040 with all schedules, W-2, Form 1120S with all schedules.

Form 1040 with all schedules, W-2, Form 1065 with all schedules.

Additional financial documentation may be required whenever financial history dictates.

Applicants with employment contracts for W2/salaried positions

We will consider an employment contract when the applicant is within 6 months of starting employment. The contract must specifically outline a guaranteed base salary for the applicant as a W2 employee. Any disability coverage available through the new employer must be disclosed and factored into the financial evaluation. An amendment will be required outlining the employer, position and guaranteed base salary.

Applicants with employment contracts for new 1099 positions

We understand that applicants in their first year of business under a 1099 contract might not be able to provide necessary documentation to appropriately determine their insurable income. Applicants under a new 1099 contract who have not yet filed a tax return can submit a 1099 contract that clearly defines their 1099 income (e.g., guaranteed salary, hourly wage and guaranteed hours worked). In these instances, we will use a 50% expense ratio in conjunction with documented 1099 income to determine insurable income.

If the 1099 contract clearly indicates that the applicant’s contracted client will be paying most of the expenses, we may, at underwriter discretion, be able to utilize an expense ratio as low as 25%. **Exception:** Dentists and Dental Specialists are not eligible for an expense ratio of less than 50%.

Per-diem Employees, Locum Tenens, or employees of Staffing Services

We will consider Per-diem Employees, Locum Tenens, or employees of Staffing Services only when tax returns/pay stubs support stability of income. The documentation must also support at least a one-year history of full-time (minimum of 30 hours per week), year-round employment. For these types of employees, the amount of income used when determining issue amounts may be limited at underwriter discretion. For traveling nurses, the amount of income used when determining issue amounts will be limited to a maximum of 50%.

Real estate and financial industry occupations

Financial services and real estate-related occupations often have volatile incomes that are highly dependent on the overall performance of the economy and subject to business cycles. In times of economic downturn, such as the 2009 recession, financial services and real estate-related occupations can experience severe reductions in earnings. This guideline does not apply to financial planners or other insurance related occupations.

Real estate and financial industry occupations eligible for consideration

- Bonds Brokers (office duties only, not on exchange floor)
- Mortgage Bankers (salaried)
- Real Estate Appraisers
- Commodity Brokers (not on exchange floor)
- Mortgage Brokers (salaried or commission)
- Real Estate Brokers
- Derivative Managers
- Mortgage Originators (commission)
- Real Estate Developer (no on-site duties)
- Futures Brokers
- Options Brokers
- Real Estate Investor (no on-site duties)
- Hedge Fund Managers
- Private Equity Analysts
- Residential Construction
- Investment Analysts
- Private Equity Bankers
- Stocks Brokers (office duties only, not on exchange floor),
- Investment Bankers
- Real Estate Agents
- Venture Capitalists (office duties only)

Occupations ineligible for coverage: Bond/stock/commodity brokers on the exchange floor, “house flippers”, property managers with manual duties, superintendents and those that do not meet the requirements in the table above.

The occupations outlined in the table on the previous page are not eligible for consideration under any of our published underwriting programs (e.g., EQI, BOA, Start-Up Savvy).

Underwriting Requirements:

- A minimum of three years in the industry.
- Three years of complete corporate and personal federal tax returns with all schedules and supporting statements.
- Current year financial documentation such as pay stubs (for W-2) or profit/loss statements (for business owners).

Financial Underwriting:

Tax returns can be complex for these occupations. Capital gains income from sources such as stocks or real estate will not be counted as income for the purposes of determining issue limits. Only business income will be included.

The stability of earned income will play a key factor in determining appropriate issue limits. If income is trending upward, three-year income averaging will be used. If income is trending downward, we will use the lowest income of the past two years. In addition, if there is a variation/fluctuation in annual income over the last three years greater than 50% we will require an adjusted limit to account for the financial volatility. This adjusted limit will be 75% of the average annual income over the last three years.

Physician Recruitment Agreements/contracts

A recruitment agreement/contract is a financial arrangement used by hospitals to encourage physicians to relocate their practice into the community serviced by the hospital – typically because there are too few doctors in the area to support the hospital. Since the physician does not work for the hospital, payment detailed in such agreements is not the doctor’s earned income. Rather, it is money the physician must use as the practice’s gross revenue, with a portion going to pay business expenses. Amounts paid by such agreements will be viewed as gross revenue and not earned income. Earned income will be considered based on the highest of the following amounts:

- The pre-relocation earned income
- First year physician limits
- 60% of the recruitment contract-amount

Note: Employment Agreements and Physician Recruitment Agreements will only be considered when the employment start date is within 60 days of issue.

Overhead expense (including option exercises)

Overhead Expense

Type of Business	Documentation Required
Sole Proprietor, 1099 Employee or Independent Contractor	Schedule C only.
Partnership	Form 1065 with all schedules.
C Corporation	Form 1120 with all schedules.
S Corporation	Form 1120S with all schedules.
Limited Liability Company (LLC)	May file as any one of the above entities.
Limited Liability Partnership (LLP)	Appropriate forms required accordingly.

Disability buy-out (including future purchase/increase option exercises)

Disability Buy-Out

Type of Business	Documentation Required
Professional/Person Services Business	Three years of Corporate Tax Returns are required for all amounts.
Commercial Business	Two years of Corporate Tax Returns are required for all amounts.

Note: Personal Financial Information section must be completed on all applications.

Income

In order to issue the appropriate amount of individual disability coverage it is first necessary to determine an applicant's insurable income. In order to do this the company considers the applicant's "earned income." Earned Income means the income you are required to report to the Internal Revenue Service ("IRS") for income tax purposes. This includes W-2 wages, salary, bonuses, your share of net business income, and all other compensation you received for work or services. It does not include unearned or passive income and it is not Adjusted Gross Income for federal tax purposes.

The minimum income requirement for disability insurance is \$18,000 in annual earnings.

Section 179 deductions

Section 179 of the IRS Tax Code allows businesses to deduct the full purchase price of qualifying equipment and/or software purchased or financed during the tax year. Underwriting will deduct 50% of qualifying Section 179 deductions from a business owner's otherwise insurable income for underwriting purposes.

Bonus income

Bonus payments can be included in insurable income if it has been earned for at least two years showing it is a regular feature of the insured's income and indications are that it will continue. This applies where there has been no change of employment or business during that two years and the employer/business are the same.

Pension and profit-sharing plans

Except as noted below, pension and profit-sharing contributions of small business owners may be added to earned income for purposes of determining the amount of individual disability coverage available; however, the maximum additional amount is limited to 25% of earnings, up to \$100,000.

Exceptions

Sole proprietors and partnership owners: pension contributions may not be added to earned income, as they are included in the net reportable income figure.

Pension contributions for stockholders/employees of C corporations (including PCs) and S corporations in excess of 25% of base earnings will be considered, providing the amount of the contribution can be verified and the contributions are not covered by a waiver of premium insurance provision.

For more information, see [Product Manual \(Pub7493BL\)](#) for details.

Another way to help insure certain pension contributions is to obtain a separate policy under the Retirement Protection Plus (RPP) program. Under this program certain contributions may be insured at up to 100% (133% if employer-paid). Thus, the total amount of coverage can be greater than when contributions are included with insurable earned income.

If, however, the RPP program is used, benefits from the policy are paid into a trust and are generally not available to the insured until age 65. For details on this program see the Underwriting Program Section.

Short Term Disability Coverage

Short Term Disability (STD) coverage will not be considered if an applicant has Group Long Term Disability (GLTD) coverage in force. On the other hand, if an applicant has STD but no GLTD and the STD benefit period exceeds the elimination period of the IDI coverage being applied for, Underwriting may have to either adjust the applied-for elimination period or include the STD coverage in the financial calculations (utilizing the same discount criteria and issue and participation limits for GLTD).

Financial documentation

The financial section of the disability insurance application must be fully completed, even though other substantiating financial documentation is required. Underwriting reserves the right to request additional verifying data at the underwriter's discretion.

Issue and Participation for individual products

Once an applicant's income is determined, the next step is to use this income to determine how much coverage they are eligible for. This can be done using the Individual Disability Illustration system, or can be calculated manually by applying the guidelines outlined in the following pages. If earnings fall between those shown on the table, interpolate between the amounts listed.

We will consider issuing a disability policy when the applicant's total disability income coverage, both in-force and applied-for in all companies (including Berkshire and Guardian), does not exceed the limits given in the Issue and Participation Limit tables, subject to set maximums.

For Future Increase/Purchase Options, additional rules may apply. See Issue and Participation tables for additional details.

Issue means the maximum amount of monthly benefit which we will consider issuing, including any disability coverage already in force with Berkshire and Guardian.

Participation means the maximum amount of monthly benefit applied for and in force with all companies, including Berkshire and Guardian.

The maximum Issue and Participation amounts include base, and if included on the policy, Future Increase/Purchase Option, Automatic Benefit Enhancement/Increase rider and Social Insurance Substitute riders, as well as any in-force coverage.

The Maximum Participation with Group LTD Limit is not applicable when determining the allowable amount of a Future Increase Option Rider; however, this limit will apply when exercising a Future Increase Option.

There are special limits for applicants who qualify under one of our special programs. Please refer to the Underwriting Programs section for further information regarding:

New Professionals Program (NPP)

Retirement Protection Plus (RPP)

Enhanced Quick Issue Program (EQI)

Start Up Savvy Underwriting Program (SSU)

Business Owner Advantage Program (BOA)

Home Based Business Program (HBB)

Student Loan Protection Program (SLP)

Government Employee Program (PERS/SERS)

Federal Employee Program (FERS)

Maximum Issue and Participation Limits: Provider Choice (18ID/18UD)

Medical Occupation Classes 6M–2M					
Occupation Class	Issue Ages (determined by age last birthday)	Maximum Issue Limit*	Maximum Participation with Other Company’s Individual Coverage**	Maximum Participation with Group LTD (not all benefits taxable)***	Maximum Participation with Group LTD (all benefits taxable)***
6M, 5M, 4M, 3M	18 – 60	\$30,000	\$30,000	\$35,000	\$42,000
	61+	\$15,000	\$15,000	N/A ^{††}	N/A ^{††}
4D, 3D	18 – 60	\$17,000	\$25,000	\$35,000	\$42,000
	18 – 60 CA only	\$16,000	\$20,000	\$25,000	\$30,000
	61+	\$10,000	\$10,000	N/A ^{††}	N/A ^{††}
2M [†]	18 – 60	\$7,500	\$7,500	N/A ^{††}	N/A ^{††}
	61+	\$6,000	\$6,000	N/A ^{††}	N/A ^{††}

Non-Medical Occupation Classes 6–1					
Occupation Class	Issue Ages (Determined by age last birthday)	Maximum Issue Limit*	Maximum Participation with Other Company’s Individual Coverage**	Maximum Participation with Group LTD (not all benefits taxable)***	Maximum Participation with Group LTD (all benefits taxable)***
6, 5, 4	18 – 60	\$30,000	\$30,000	\$35,000	\$42,000
	61+	\$15,000	\$15,000	N/A ^{††}	N/A ^{††}
3	18 – 60	\$15,000	\$15,000	\$20,000	\$25,000
	61+	\$10,000	\$10,000	N/A ^{††}	N/A ^{††}
2, 1 [†]	18 – 60	\$7,500	\$7,500	N/A ^{††}	N/A ^{††}
	61+	\$6,000	\$6,000	N/A ^{††}	N/A ^{††}

See next page for important Notes and Footnotes.

*Social Insurance Substitute rider; Future Increase Option rider amounts and the Berkshire applied-for coverage amount are included in the “Maximum Issue Limit.”

**Social Insurance Substitute rider; Future Increase Option rider amounts and the Berkshire applied-for coverage amount; and any in-force, non-group coverage, including Association, are included in the “Maximum Participation with Other Company’s Individual Coverage.”

***The Maximum Participation with Group LTD Limit is not applicable when determining the allowable amount of a Future Increase Option Rider; however, this limit will apply when exercising a Future Increase Option.

†For classes 2, 2M and 1, SIS is required (where available) after the first \$500 of monthly benefit issued. The next \$1,500 will be comprised of coverage issued under the SIS rider (off-set by any in-force SIS or GLTD coverage). The minimum SIS amount is \$200; amounts thereafter will be issued as monthly benefit to the stated maximum. Classes 2, 2M, and 1 are limited to a 2- or 5-year benefit period. Other than the required SIS, the other riders available are the Partial Disability rider (known as Residual in CA), Severe Disability Benefit Rider (also known as the Basic Catastrophic Disability Rider), the Enhanced Catastrophic Disability Rider, and the Unemployment Waiver of Premium Rider.

††For individuals in occupation classes 2/2M and 1 and those over age 60 (regardless of occupation class), only the Individual Paid Issue and Participation column should be used; and, any in-force or applied for Group LTD coverage will be considered as in-force individual coverage and will not be discounted.

- Product provisions and features may vary from state to state.
- Refer to Underwriting Program section for special limits through programs such as New Professionals, Business Owner Advantage, Federal Employees, Government Employees, Retirement Protection Plus, Home Based Business, Student Loan Protection, etc.

Note: Lifetime Issue Limit Restrictions — Inforce or applied for Lifetime benefits from all sources may reduce maximum issue limits. See Lifetime Issue Limit Restrictions section for more details.

Note: Several factors are considered in determining the amount of disability coverage available to an applicant and considered by the Company in using the Issue and Participation tables. These factors include, but are not limited to: 1) earned income; 2) employment status (business owner or employee); 3) disability insurance in force at the time of application with Berkshire, Guardian and all other insurers; 4) disability insurance or coverage provided by the employer, 5) disability insurance benefits available to the applicant within 12 months of the policy date; and 6) the tax treatment of all inforce disability insurance. Disability coverage for which an insured is eligible to obtain, but which is not in force pursuant to Berkshire and Guardian policies containing the following riders will count as in-force coverage in determining overall participation limits: Automatic Increase Rider, Automatic Benefit Enhancement Rider, Future Increase Option Rider (FIO); and Future Purchase Option Rider (FPO). “Earned Income” for purposes of this paragraph has the same meaning as it has in the insured’s application for coverage, or in the insured’s application to exercise a Future Purchase Option or Future Increase Option, respectively.

All of the above factors are also considered in the underwriting of an application to exercise an FIO, FPO, and Benefit Purchase Rider (BPR), as they relate to an insured at the time the insured applies for additional coverage through an FIO, FPO, or BPR. These factors may be different than at the time the insured applies for additional coverage through an FIO, FPO, or BPR, in comparison with the same factors as they existed at the time the insured applied for the policy to which the FIO, FPO, or BPR is attached.

For FIO or FPO exercises while an insured is disabled, the amount of the insured’s Participation reflected in the Issue and Participation tables will include all disability insurance in force with all insurers (including but not limited to Berkshire or Guardian), as well as disability insurance or benefits provided by any employer, regardless of whether any claim pursuant to such insurance is payable. As per the Issue and Participation Table, the amount of coverage available to an insured through the exercise of an FIO or FPO may be reduced by virtue of the insured’s disability coverage in force with Berkshire, Guardian, any other insurer or insurers, the disability coverage provided by the insured’s employer, and the tax treatment afforded all such coverage. The amount of coverage available to an insured at the time of exercising an FIO or FPO may also be impacted by virtue of changes to the Issue and Participation Tables made after the issuance of the policy from which the option is being exercised.

Overview

We will consider issuing a disability policy when the applicant’s total disability income coverage, both in-force, applied for, and for which the applicant is eligible to receive from all companies (including Berkshire and Guardian), does not exceed the limits given in the Issue and Participation Limit tables. If earnings fall between those shown on the table, interpolate between table income amounts listed.

Calculating the issue amount

The issue amount can be calculated using the illustration system, or it can be manually calculated by using the Issue and Participation limit tables themselves. The manual calculation involves a number of different columns based the type of in-force or applied for coverages, such as Group LTD or Individual, and if the premiums for the in-force and applied for coverages are paid for by the individual/applicant or the employer.

The “Individual Pay Issue and Participation” column should be used in the following circumstances:

- When all in-force and applied-for coverages are paid for by the individual/applicant and there is no in-force or applied-for Group LTD coverage.
- When there is no in-force or applied for Group LTD coverage and the applicant’s earned income is generated from any of the following business entities:
 - Sole Proprietorship
 - Partnership
 - S-Corporation
 - Limited Liability Company¹⁵
 - Limited Liability Partnership¹⁶

Participation with other companies’ individual coverage

For Maximum Issue and Participation Tables, see [page 8-7](#).

PayGuard Plus and Association coverage are treated as Individual coverage for subtraction from issue and participation limits.

¹⁵A Limited Liability Company may in rare instances file as a C-Corporation and thereby qualify to use the Employer-Paid column. In such a situation contact the underwriting department for assistance.

¹⁶A Limited Liability Partnership may in rare instances file as a C-Corporation and thereby qualify to use the Employer-Paid column. In such a situation contact the underwriting department for assistance.

Employer Paid Limits

Generally, if the employer pays the entire premium for disability coverage, the benefits paid under the policy are taxable. To help compensate for the reduction in benefits due to taxes, increased limits are available in an employer-paid program.

To use the Employer Paid Limits follow these ground rules:

12. These limits are intended for all non-owner employees of any business entity, and for employee/owners of C-Corporations. Sole Proprietors, partners of partnerships, and principals of S-Corporations, Limited Liability Companies, and Limited Liability Partnerships are not eligible for employer-paid limits.
 13. For these limits to apply, the employer must pay the premiums for all disability income coverage (existing and applied for with all companies) in such a way that the premiums are not taxable to employees.
 14. The additional coverage available through an employer paid plan must fall within the maximum issue and participation limits for the class being insured.
 15. These limits must always be used when the business has a qualified sick pay plan and is deducting the premium, or is a plan funded in accordance with IRC – Cafeteria Plan (pre-tax).
 16. The application question that asks for the portion of premium paid by the employer must be completed. The employer-pay credit will not increase the maximum issue and participation limit, benefit period, or occupation class.
- Employer-Paid Limits apply when an employer pays the premiums for all disability income coverage (existing and applied for with all companies). On occasion, we encounter “split dollar” or “co-pay” situations where some of the coverage is employer-paid and some is employee-paid. In these instances, proportionate weight will be given to the amount that is taxable vs. non-taxable.

Participation with Group LTD

Some companies provide group disability insurance coverage for their employees. Group long-term disability plans usually provide for integration of the benefits with disability income benefits payable to the insured from other individual income sources.

For issue ages 18-60, if the applicant has in-force or applied for group coverage, and occupation classes 6/6M thru 3/3M/3D are illustrated, the following will outline which Issue and Participation column to use in the given situation:

1. When the applied-for individual coverage is being paid by the applicant, and the group coverage is employer paid, discount the group by 30% and subtract the discounted group amount from the “Individual Paid Participation with Group LTD” column. Use the lower of this amount, or the amount calculated without factoring in the group coverage, but based on the “Individual Paid Issue and Participation” column.
2. When both the individual and group coverage are being paid by the applicant subtract the non-discounted group amount from the “Individual Paid Participation with Group LTD” column. Use the lower of this amount, or the amount calculated without factoring in the group coverage, but based on the “Individual Paid Issue and Participation” column.
3. When the owner of an S-Corp, Partnership, Sole Proprietorship, Limited Liability Company¹⁷ or Limited Liability Partnership¹⁸ has Group LTD coverage always subtract the non-discounted group amount from the “Individual Paid Participation with Group LTD” column. Use the lower of this amount, or the amount calculated without factoring in the group coverage, but based on the “Individual Paid Issue and Participation” column.
4. When all in-force and applied for individual and Group LTD coverages are employer paid, and therefore fully taxable, subtract 100% of the group amount from the “Employer Paid Participation with Taxable Group LTD” column. Use the lower of this amount, or the amount calculated without factoring in the group coverage, but based on the “Employer Pay Participation” column.

¹⁷ A Limited Liability Company may in rare instances file as a C-Corporation and thereby qualify to use the Employer-Paid column. In such a situation contact the underwriting department for assistance.

Tax treatment of disability insurance products

The table below provides a brief guide to the tax treatment of disability insurance products. For an overview of the general tax considerations with respect to disability insurance policies based on current federal tax law see [Pub3953BL Disability insurance and general tax considerations](#).

Disability insurance tax guide¹⁹

Disability Insurance Tax Guide				
Premiums Paid By	Benefits Paid To	Policy-owner	Tax Treatment	
			Premiums	Benefits
Personal Disability Income Insurance				
Individual (including a sole proprietor)	Individual	Individual	Nondeductible	Tax-Free
Employer (key person coverage)	Employer	Employer	Nondeductible	Tax-Free
Employer (under a Traditional Qualified Sick Pay Plan)	Employee	Employee	Deductible by employer. Employer-paid premium excluded from employee’s taxable income	Reportable as Income
Partnership, LLC, S Corporation, or C Corporation	Business Owner (assume more than 2% S Corp Owner)	Business Owner (assume more than 2% S Corp Owner)	Deductible by employer; included in business owner’s taxable income.	Tax-Free
Employer (under an Executive Bonus Plan)	Employee	Employee	Bonus is deductible by employer and included in employee’s taxable income if bonus is deemed “reasonable.”	Tax-Free
Overhead Expense				
Business or Owner	Business or Owner	Business or Owner	Tax Deductible	Reportable as Income*
Business Reducing Term				
Business or Owner	Loss Payee	Business or Owner	Unclear and may depend upon facts and circumstances.	N/A benefits go to loss payee.
Disability Buy-Out				
Partnership or Corporation (under Entity Purchase Agreement)	Partnership or Corporation	Partnership or Corporation	Nondeductible	Tax-Free
Partnership or Corporation (under a Cross Purchase Agreement)	Insured’s Partner or Fellow Shareholder	Insured’s Partner or Fellow Shareholder	Nondeductible	Tax-Free

*Although the benefits are taxable as income, the actual business expenses are deductible.

¹⁹This guide is provided for informational purposes only and should not be considered tax or legal advice. Your client should contact their tax or legal advisor regarding the tax treatment of the policy and the policy benefits. Your client should consult with their own independent tax and legal advisors regarding their particular set of circumstances. The information provided is not intended or written to be used, and cannot be relied upon, to avoid penalties imposed under the Internal Revenue Code or state and local tax law provisions.

