## 62S.267 STANDARDS FOR BENEFIT TRIGGERS.

Subdivision 1. **Benefit payment determinations.** A long-term care insurance policy must condition the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits must not be more restrictive than requiring either a deficiency in the ability to perform not more than two of the activities of daily living or the presence of cognitive impairment.

Activities of daily living include at least the following as defined in section 62S.01 and in the policy: bathing, continence, dressing, eating, toileting, and transferring.

Insurers may use activities of daily living to trigger covered benefits in addition to those contained in this subdivision as long as they are defined in the policy.

Subd. 2. **Additional provisions for determining benefit payments.** An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate if the provisions do not restrict, and are not in lieu of, the requirements contained in subdivision 1.

Subd. 3. **Deficiency determination.** For purposes of this section, the determination of a deficiency must not be more restrictive than requiring the hands-on assistance of another person to perform the prescribed activities of daily living, or if the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed in order to protect the insured or others.

Subd. 4. **Assessments.** Assessments of activities if daily living and cognitive impairment must be performed by licensed or certified professionals, such as physicians, nurses, or social workers.

Subd. 5. **Appeal process.** Long-term care insurance policies must include a clear description of the process for appealing and resolving benefit determinations.

**History:** *2008 c 344 s 34*