~~CALIFORNIA CODE OF REGULATIONS~~

~~**Title 10, Chapter 5, Subchapter 2 Policy Forms and Other Documents**~~
~~**Article 2.2. Limits on Benefit Reductions in Group Disability Income Insurance Policies**~~

~~**§2232.45.1. Authority and Purpose.**~~

~~This article is promulgated pursuant to the authority granted to the Insurance Commissioner by section 790.10 of the Insurance Code. The purpose of this article is to set forth uniform standards which prohibit certain benefit reduction provisions in group disability income insurance policies. The article also clarifies an insurer's duty of good faith and fair dealing in estimating earnings received by the insured for work performed while disabled. This article applies to all insurers authorized to transact disability insurance in this State.~~

~~Note: Authority cited: Section 790.10, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 790.02, 790.03, Insurance Code.~~

~~**§2232.45.2. Benefit Reductions Shall Not Be Based on Involuntary Retirement.**~~

~~A policy of group disability income insurance which is subject to approval under the California Insurance Code shall not contain any provision that permits the insurer to estimate the amount of the following benefits the insured would receive if the insured retired, and deduct said estimated amounts from the benefits payable to the insured under the policy, when the insured has not voluntarily retired:~~

~~(a) Social security normal retirement age benefits;~~

~~(b) Public disability retirement benefits;~~

~~(c) Private disability retirement benefits;~~

~~(d) Public normal retirement age benefits;~~

~~(e) Private normal retirement age benefits.~~

~~Nothing in this section prohibits an insurer from deducting the amount of a benefit listed above, to the extent the benefit is deductible under existing law, when the benefit has been received by the insured as a result of the insured's voluntary retirement.~~

~~Note: Authority cited: Section 790.10, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 790.02, 790.03, Insurance Code; *Kalvinskas v. California Institute of Technology* (9th Cir. 1996) 96 F.3d 1305; *Gruenberg v. Aetna Insurance Company* (1973) 9 Cal.3d 566; *Smith v. Alum Rock Union Elementary School District* (1992) 6 Cal. App.4th 1651.~~

~~**§2232.45.3. Benefit Reductions Shall Not Be Based on Estimated Workers' Compensation Temporary Disability Benefits Not Actually Received by the Insured.**~~

~~A policy of group disability income insurance which is subject to approval under the California Insurance Code shall not contain any provision that permits the insurer to estimate the amount of workers' compensation temporary disability benefits the insured would receive, but has not actually received, and deduct said estimated amounts from the benefits payable to the insured under the policy.~~

~~Note: Authority cited: Section 790.10, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 790.02, 790.03, Insurance Code; *Silberg v. Cal. Life Ins. Co.* (1974) 11 Cal. 3d 452.~~

~~§2232.45.4. Benefit Reductions Shall Not Be Based on Workers' Compensation Permanent Disability.~~

~~A policy of group disability income insurance which is subject to approval under the California Insurance Code shall not contain any provision that permits the insurer to reduce benefits by deducting for workers' compensation permanent disability benefits.~~

~~Note: Authority cited: Section 790.10, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 790.02, 790.03, Insurance Code; *Erreca v. Western States Life Insurance Co.* (1942) 19 Cal.2d 388; *Russell v. Bankers Life Co.* (1975) 46 Cal. App.3d 405; *Canova v. N.L.R.B.* (1983) 708 F.2d 1498.~~

~~§2232.45.5. Benefit Reductions Based on Earnings Received for Work Performed While Disabled.~~
~~An insurer has a duty of good faith and fair dealing, which includes a duty not to unreasonably withhold payments due under a policy. An insurer shall not estimate the earnings received by the certificate holder for work performed while the certificate holder is disabled, and deduct said estimated earnings from the benefit amount due to the certificate holder under a group disability income insurance policy, unless there is a good faith reasonable basis for the calculation of the amount of estimated earnings.~~

~~Note: Authority cited: Section 790.10, Insurance Code; *CalFarm Ins. Co. v. Deukmejian*, (1989) 48 Cal.3d 805; *20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216. Reference: Sections 790.02, 790.03, Insurance Code; *Gruenberg v. Aetna Insurance Company* (1973) 9 Cal.3d 566.~~