



**State of New Jersey**  
DEPARTMENT OF BANKING AND INSURANCE  
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**BULLETIN NO. 08-23**

**TO: ALL CARRIERS SUBJECT TO THE IHC ACT**

**FROM: STEVEN M. GOLDMAN, COMMISSIONER**

**RE: IMPLEMENTATION OF CHANGES TO THE IHC ACT MADE  
PURSUANT TO P.L. 2008, c. 38**

P.L. 2008, c. 38, approved July 8, 2008 and effective January 5, 2009, amended various sections of N.J.S.A. 17B:27A-2 et seq. (the "IHC Act" or the "Act"). The Act, originally effective November 30, 1992, established the Individual Health Coverage ("IHC") Program. In 1993, the Department of Banking and Insurance ("Department") adopted administrative rules, N.J.A.C. 11:20, to implement the IHC Act. Those rules have been amended subsequently since that time. The IHC Act and rules have been the basis for the provision of individual health coverage in New Jersey for over 15 years. While the Act has been amended several times since 1992, P.L. 2008, c. 38 enacted some of the most significant changes since the beginning of the IHC Program.

The Department intends to propose new rules to implement these changes shortly. However, the new rules will not be adopted and become effective prior to the January 5, 2009 effective date of these statutory amendments. Accordingly, the Department is issuing this Bulletin to carriers in the IHC market to provide guidance on compliance with the IHC Act, as amended, beginning on January 5, 2009, consistent with the content of the new rules to be proposed.

The changes addressed in this Bulletin include:

- 1) The permitted age-rating for Standard IHC policies (up to a 350% limit);
- 2) An increase of the minimum loss ratio for IHC business from 75% to 80%; and
- 3) The shift in responsibility for reviewing rates from the IHC Board to the Department.

In addition, the IHC Act, as amended, imposes limits or "caps" on rate increases on Standard policies for existing IHC policyholders and IHC policyholders age 55 or older.

The IHC Act, as amended, also changes the number of standard plans that must be offered and modifies the ability to add riders to standard plans.

### REQUIREMENT TO FILE RATES

N.J.S.A. 17B:27A-9, as amended, requires that individual rates be filed with the Commissioner of Banking and Insurance (“Commissioner”). Generally, carriers will not be required to make an initial rate filing with the Department by January 5, 2009. Under prior law, carriers filed rates with the IHC Board. The Department will consider rates filed with the IHC Board with effective dates prior to January 5, 2009 to be effective until the expiration date of the filing or until replaced by a filing with the Department. However, a carrier that chooses to continue using IHC filed rates must inform the Department of its decision to do so prior to January 5, 2009. The carrier must state the expiration date of the rates, and must confirm compliance with the “rate cap” requirements of N.J.S.A. 17B:27A-3, as amended, which are described below.

Carriers must file rate filings with effective dates of January 5, 2009 or later under the following circumstances:

- Expiration of rate filing with the IHC Board;
- An increase or decrease to rates filed with the IHC Board prior to expiration;
- Rates for a new plan of coverage or rider introduced on or after January 5, 2009; and
- Rates that incorporate age-rating (up to a 350% loss ratio).

Rate filings and notifications of decisions to continue using rates filed with the IHC should be submitted to:

New Jersey Department of Banking and Insurance  
Life and Health Actuarial Attn: IHC Rate Filings  
PO Box 325 (for first class US Mail)  
20 West State Street (for private or express mail delivery)  
Trenton, NJ 08625-0325

The following requirements also should be noted with respect to the rate filings discussed above:

- Rate filings should be in triplicate;
- Rate filings must be submitted prior to the effective date of any coverage using those rates. Approval of the filing is not required for the rates to be used. However, the Commissioner may disapprove the rate filing on the grounds that it is incomplete and not in substantial compliance, or that the rates are inadequate or unfairly discriminatory.

## CONTENT OF RATE FILINGS

Pending repeal (by the IHC Board) and adoption (by the Department) of proposed new N.J.A.C. 11:20-6.3, IHC rate filings submitted to the Department shall follow the requirements of the current (prior to repeal) subchapter except where the rules conflict with the IHC Act, as amended. These conflicts are listed below, with the controlling new statutory requirements indicated:

- N.J.A.C. 11:20-6.3(a)1 - Rates for standard plans may be based on age;
- N.J.A.C. 11:20-6.3(a)2iii - Example should also be given of standard plans with age-rating (if any);
- N.J.A.C. 11:20-6.3(a)4ii - Expected loss ratio should be 80%;
- N.J.A.C. 11:20-6.3(a)4iii - Statement for 350% also applies to any standard plans with age-rating; and
- N.J.A.C. 11:20-6.3(a)4iv - Anticipated loss ratio should be given.

For age-rated standard plans, age factor categories shall be those set forth in current (prior to repeal) N.J.A.C. 11:20-6.5(a)1.

## CERTIFICATION TO THE 80% LOSS RATIO REQUIREMENT

N.J.S.A. 17B:27A-9e(1), as amended, requires that rates be formulated so that the anticipated minimum loss ratio for a contract or policy form shall not be less than 80% of the premium. The rate filing must contain supporting data and an actuarial certification that the rates are so formulated.

The Act does not specifically state at what level of aggregation the 80% loss ratio must be met. Pending adoption of the rules, the Department will interpret the requirement broadly. Rates must be formulated so that the anticipated loss ratio for all standard plans (in the aggregate) is 80% and the anticipated loss ratio for all Basic and Essential (“B&E”) plans (in the aggregate) is 80%, and the actuary must so certify.

## LIMITS ON RATE INCREASES (RATE CAPS)

N.J.S.A. 17B:27A-3, as amended, requires two different caps on rates for a period of four years after the effective date of the section (until January 5, 2013). The first cap (the age cap) states that for a plan that is issued on or after January 5, 2009 to a person age 55 or older, the annual rate increase shall be limited to the lesser of 15% or the medical trend assumption used by the carrier to project claims. The second cap (the existing business cap) states that the rate increase for any plan issued prior to January 5,

2009 shall be limited to the lower of 15% or the medical trend assumption used by the carrier to project claims.

Implementation of these rate caps will depend on the issue date of coverage and age of a covered person. The rate filing does not need a rate for every possible combination. It will be sufficient for the carrier to acknowledge, in the filing, that these caps exist and that the rate charged in any particular case will be the lesser of the filed rate or the rate determined by any applicable caps.

In addition, the following are two common questions regarding caps:

Q1: Does the 15% limit for renewal of coverage issued prior to January 5, 2009 effectively limit the size of the rate increase that can be filed for the plans providing that coverage?

A1: No. If the current rate for a plan is \$100, the highest rate that can be charged for any current covered person on renewal in 2009 is \$115. However, the filed rate (applicable to new issues in 2009) could be higher (\$120 or \$125) if the rate meets all other requirements, such as the 80% loss ratio.

Q2: If a person has coverage issued prior to January 5, 2009, and after January 5, 2009 changes coverage (either to a different plan with the same carrier, or to the same or a different plan with another carrier) does the existing business cap continue to apply?

A2: No. However, if the person is over age 55, the age cap would be applicable. The age cap applies only to renewal of the new coverage; the initial rate for the new coverage would be the filed rate.

Questions regarding this Bulletin should be directed to Neil Vance, Managing Actuary, phone (609) 292-5427 x50338, neil.vance@dobi.state.nj.us.

11/25/08  
Date

/s/ Steven M. Goldman  
Steven M. Goldman  
Commissioner

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