

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Administration

Readoption with Amendments: N.J.A.C. 11:1

Proposed: November 7, 2005 at 37 N.J.R. 4156(a)

Adopted: July 31, 2006 by Steven M. Goldman, Commissioner, Department of Banking and Insurance

Filed: July 31, 2006 as R. 2006 d. 307, with substantive and technical changes not requiring additional public notice or comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:17-1 et seq., 17B:17-1 et seq. and 52:27EE-51

Effective Date: July 30, 2006, Readoption;  
September 5, 2006, Amendments.

Expiration Date: July 30, 2011.

Summary of Public Comment and Agency Response:

The Department of Banking and Insurance (Department) timely received one written comment from America's Health Insurance Plans.

COMMENT: The commenter expressed concern with the proposed amendment to the Appendix to N.J.A.C. 11:1-45 and with this subchapter in general, as it applies to Medicare supplement policies. Specifically, the commenter expressed concern regarding the existing requirement that, with respect to Medicare supplement policies, insurers provide notice to all policyholders of any proposed rate increase to any of the standard plans A through L, regardless of whether that policyholder has one of the specific plans affected by the proposed increase. The commenter also expressed concern regarding the proposed amendment that the notice provide the "average increase for all plans." The commenter stated that the concerns related to the proposed

amendment parallel its concerns related to the current requirement, which were set forth in its 2004 comments to other proposed amendments to N.J.A.C. 11:4-23.13. The commenter believed that an average proposed rate increase provides no meaning to any given Medicare supplement policyholder and could lead to further confusion. The commenter requested that the Department reassess its approach to implementing N.J.S.A. 17:29A-53, and revise the rules so that Medicare supplement insurers are required to provide notice to policyholders only of a prior approval rate increase that affects the policy they hold. The commenter believed that this would significantly reduce the likelihood that policyholders would be confused or unnecessarily concerned by the information received. The commenter further stated that, for Medicare supplement insurance, it continues to believe and to discuss with New Jersey legislators that the statutory requirement to provide notice to policyholders of prior approval rate increase requests is not in the best interest of policyholders. Rate increases approved by the Department are not necessarily equal to the amount requested, and there may be long intervals between the date that a rate increase request is filed and the date on which an approved rate increase is implemented.

RESPONSE: The issues raised by the commenter are essentially moot, in that P.L. 2005, c. 155, effective January 17, 2006 (N.J.S.A. 52:27EE-1 et seq.), which restores the Public Advocate as a principal department in the Executive Branch of State Government, eliminates the requirement that notice of the filing of certain rate increase requests be sent to each policyholder for Medicare supplement policies. This new statute supersedes the existing requirements set forth in N.J.A.C. 11:1-45 as they apply to Medicare supplement insurers. N.J.S.A. 17:29A-53b, which was repealed by the new act, had required that insurers and rating organizations notify their policyholders of any “consumer insurance overall rate increase,” which was defined to mean

prior approval rate filings for certain personal lines property casualty coverages and Medicare supplemental coverages. N.J.S.A. 52:27EE-12 essentially retained that definition. However, N.J.S.A. 52:27EE-51 addresses public notices of “certain” consumer insurance rate increases and requires a notice to be communicated through regular or electronic mail to named policyholders only where an insurer or rating organization files for a “personal lines prior approval rate increase.” Thus, in enacting N.J.S.A. 52:27EE-51, the Legislature did not require that notices of the filing of requests for rate increases for Medicare supplement insurance be mailed to individual policyholders. Accordingly, and in order to be consistent with the new law, in N.J.A.C. 11:1-45.3, the Department is changing “consumer insurance rate increase” to “personal lines prior approval rate increase,” which as defined does not include Medicare supplement insurance and is deleting reference to Medicare supplement insurance from the Appendix to N.J.A.C. 11:1-45, to render them consistent with N.J.S.A. 52:27EE-51.

N.J.S.A. 52:27EE-51 also revised the timeframe for the provision of the notice to policyholders regarding personal lines prior approval rate increases from 10 business days to seven business days. Accordingly, N.J.A.C. 11:1-45.3(a) and (c) are being changed upon adoption to reflect the new statutory timeframe for the provision of such notices. N.J.S.A. 52:27EE-51 provides an additional exception to the notice requirement where any prior approval rate filing is seven percent or less. The Department is also revising N.J.A.C. 11:1-45.1(b) upon adoption to reflect this new statutory exception.

The Department is also adding N.J.A.C. 11:1-45.3(e) upon adoption to reflect the statutory requirement in N.J.S.A. 52:27EE-50, wherein insurers and rating organizations that file notices of consumer insurance rate increases (which term includes Medicare supplement

coverage) with the Department shall concurrently provide a copy of such filings to the Division of Rate Counsel in the Department of the Public Advocate.

Finally, upon adoption, the Department is revising the rule to refer to what are now the appropriate statutory citations and to Medicare “supplement” insurance, rather than “supplemental,” to reflect the terminology customarily used to reference these policies.

Summary of Agency-Initiated Change:

The organization chart in N.J.A.C. 11:1.1 is changed upon adoption to reflect the organization of the Department and current unit designations instituted under the Commissioner, who was appointed subsequent to the proposal of the chapter readoption with amendments.

Federal Standards Statement

A Federal standards analysis is not required because the readopted rules and adopted amendments relate to the business of insurance and are not subject any Federal requirements or standards.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C.

11:1.

Full text of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks \*[thus]\*):

11:1-1.1 Organization

(a) – (b) (No change.)

(Office of Administrative Law Note: An amendment to the Department's organizational chart cannot be published using Register standard addition and deletion format. The organizational chart reproduced below includes the amendment and is intended to replace the chart in the current rule.)

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF \*[CONSUMER]\* **PERSONAL LINES**\* INSURANCE RATE INCREASES

11:1-45.1 Purpose and scope

(a) This subchapter sets forth the form and manner of notice to be provided to policyholders and the public when an insurer or rating organization files for a \*[consumer insurance]\* **personal lines prior approval**\* rate increase, in accordance with N.J.S.A. \*[17:29A-53b]\* **52:27EE-51**\*.

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. \*[17:29A-53b]\* **52:27EE-50 and 51**\*. This subchapter shall not apply if the proposed rate change pertains to:

1. - 2. (No change.)
3. A rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance; \*[or]\*
4. A rate filing by the New Jersey Personal Automobile Insurance Plan **;** **or**
- 5. A prior approval rate filing of seven percent or less**\*.

11:1-45.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

...

"Consumer insurance rate increase" means a prior approval rate filing that:

1. - 3. (No change.)

4. For Medicare \*[Supplemental]\* **Supplement** coverages, would result in an increase for any of the standard coverage plans A through L or for any non-standard policy or certificate form used by the filer.

...

**“Division of Rate Counsel” means the Division within the Department of the Public Advocate established pursuant to N.J.S.A. 52:27EE-1 et seq.**

...

"Medicare \*[supplemental]\* **Supplement** coverage" means coverage under a Medicare supplement policy, as defined in N.J.S.A. 17B:26A-1e.

**“Personal lines prior approval rate increase” means an increase in rates for personal lines property/casualty coverages, which are those coverages listed in paragraphs 1 through 3 in the definition “consumer insurance rate increase” above in this section.**

...

11:1-45.3 Form of notice required

(a) Subject to N.J.A.C. 11:1-45.1(b), insurers shall provide notice, in the form set forth in Exhibit A in the Appendix to this subchapter, incorporated herein by reference, of any filing for a \*[consumer insurance]\* **personal lines prior approval** rate increase, as \*[defined]\* **set forth** in N.J.S.A. \*[17:29A-53b]\* **52:27EE-51**, filed directly by the insurer or on its behalf by a rating organization. The notice shall be communicated through either regular or electronic mail to the named policyholders who use the products and services subject to the consumer insurance rate increase, and shall be provided within \*[10]\* **seven** business days of the filing with the Department. In the case of regular mail, the notice shall be sent to the

last known address of the named policyholder. The insurer may request policyholders to supply their electronic mail address, if they have one. If the policyholder does not have an electronic mailing address, then the insurer shall use regular mail. Insurers shall, as part of any filing for a consumer insurance rate increase, affirm that they are aware of and will comply with this notice requirement.

(b) (No change.)

(c) Rating organizations shall publish notice, in the form set forth in Exhibit A in the Appendix to this subchapter, of any filing for a consumer insurance rate increase, in three newspapers of general circulation in this State, and on the rating organization's website, within \*[10]\* seven business days of the filing with the Department.

(d) (No change.)

**\*(e) Pursuant to N.J.S.A. 52:27EE-50, insurers and rating organizations shall file notice of a prior approval rate filing seeking a consumer insurance rate increase with the Department and shall concurrently provide a copy of the filing to the Division of Rate Counsel in the Department of the Public Advocate.**

## APPENDIX

Dear Policyholder:

(Salutation may be omitted by rating organizations.)

This is to provide notice as required pursuant to N.J.S.A. \*[17:29A-53b]\* **\*52:27EE-51\*** that (COMPANY NAME) filed on (DATE) with the New Jersey Department of Banking and Insurance a request for a rate increase in the amount \_\_\_\_\_% for (TYPE OF COVERAGE(S)).

[For PPA only] Under the proposed filing, the average liability-only policy would see a rate change of \_\_\_\_%. The average Full Coverage policy (includes comprehensive and collision coverage) will see a rate change of \_\_\_\_%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For homeowners' only] Under the proposed filing, the average Owners policy (or equivalent term used by the filer) will see a rate change of \_\_\_\_%. The average Tenants policy will see a rate change of \_\_\_\_%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of \_\_\_\_%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

\*[[For Medicare Supplemental coverages only, list the increase for each of the standard plans A through L, and the increase for each non-standard coverage policy or certificate form used by the filer to which a requested rate increase applies. In addition, list the average increase for all plans.] The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.]\*

[For all other personal lines property/casualty coverages] Under the proposed filing, the average policy will see a rate change of      %. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

The request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law, and the request ultimately may not be approved or may not be approved for the full amount requested. If approved in whole or in part, the rate change will not affect existing policies until they come up for renewal.

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