

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
OFFICE OF LIFE AND HEALTH

Life/Health Annuity Forms

Proposed Amendments: N.J.A.C. 11:4-40.4, 40.5 and 40A.4

Proposed Repeal: N.J.A.C. 11:4-40 Appendix

Authorized By: Neil N. Jasey, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17B:17-1 et seq., 17:48-1 et seq., 17:48A-1 et seq., 17:48E-1 et seq., 26:2J-1 et seq., 17B:27A-1 and 17B:27A-19.

Calendar Reference: See Summary below for explanation of exception to calendar requirements.

Proposal Number: PRN 2009-292

Submit comments by November 20, 2009 to:

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The agency proposal follows:

Summary

The Department is proposing amendments as part of its effort to enhance its speed to market initiatives as well as continue to provide service to the public with fewer staff. The Department's amendments mandate the use of the SERFF (System for Electronic Rate and Form Filing) for all Life/Health/Annuity lines of insurance. Some of the advantages of SERFF are:

- Save on time and expense of handling paper filings;
- Eliminate the need to store older filings offsite;

- Quicker and more effective communications with companies on the status of a filing review;
- Eliminate the delays and misdirection that result from the manual processing of mail; and
- Eliminate postage expenses incurred by filers on non-SERFF filings.

The Department is proposing to amend N.J.A.C 11:4-40.4(a)1 and 2 by deleting references to correspondence being submitted to the Department at its mailing address. The Department is merging N.J.A.C 11:4-40.4(a)2 and 3 into paragraph (a)1 and amending this provision to require the use of the National Association of Insurance Commissioners (NAIC) filing system known as SERFF. The amendment also adds additional items that are to be submitted through SERFF (group credit and synthetic guaranteed investment contract forms). The Department is also amending this provision to require insurers to submit a paper copy of any materials submitted via SERFF, if requested.

N.J.A.C 11:4-40.4(a)4 is being recodified as paragraph (a)2 and is being amended by adding the phrase “A day shall end as of 5:00 P.M. Eastern Standard Time (EST).” Additionally, the Department is deleting the reference to the dates upon which the Department would rely regarding the transmitting of documents or correspondence between the Department and an insurer which were listed in this provision.

N.J.A.C. 11:4-40.5(b) is being amended by changing “submit” to “transmit.” The Department is also amending N.J.A.C. 11:4-40.5(b)1 by inserting the URL of the website where the Initial Submission Data Form can be found and deleting the reference to the Appendix. The Department is deleting N.J.A.C. 11:4-40 Appendix, but notes that Appendix, Exhibit A is still required for the SERFF initial filing, and can be found on the Department’s website

[http://www.state.nj.us/dobi/division\\_insurance/pdfs/lhfmsub.pdf](http://www.state.nj.us/dobi/division_insurance/pdfs/lhfmsub.pdf)). In paragraphs (b)2 and 3, the Department is deleting the phrase “in duplicate.” The Department is adding subparagraph (b)3vii to specify that the cover letter shall be included in the Filing Description Field within SERFF or as a separate line entry attached to the supporting documentation tab. The Department is deleting the reference to a service fee in paragraph (b)7 because it is no longer necessary and is recodifying paragraphs (b)8 and 9 as (b)7 and 8. The Department is also adding a new paragraph (b)9 to require that all forms and attachments be in PDF format.

N.J.A.C 11:4-40.5(c) is being amended to change “receipt” to “the date of an initial filing.” The Department is amending N.J.A.C. 11:4-40.5(d)1 by deleting subparagraph (d)1ii which refers to the “Resubmission Data Form” because it is no longer necessary. In subsection (e) of N.J.A.C. 11:4-40.5, the Department is also deleting paragraph (e)1 which also references the Resubmission Data Form. N.J.A.C 11:4-40.5(e)2 is being recodified as paragraph (e)1 and amended to delete “in duplicate” and to add the phrase “submitted as a separate line entry attached to the Supporting Documentation tab.” The Department is also deleting the current cover letter requirements and amending the provision to require that the cover letter indicate all changes made and/or comments which address the Department’s previous objections. The cover letter shall also indicate any changed form number(s) and/or the form number(s) of any new form(s) included. N.J.A.C. 11:4-40.5(e)3 is being recodified as paragraph (e)2 and the Department is adding the sentence “The marked copy shall be underlined such that the changes will be discernable when printed.” Additionally the Department is amending the example in this provision by deleting “a periodic report” and replacing it with “an actuarial memorandum.”

In N.J.A.C. 11:4-40A.4(a) regarding filings under the “40 States” file and use standards and procedures, the Department is adding the requirement that a notary signature be

shown outside of the seal on the certified memorandum signed by a responsible officer of the filing insurer. Subsection (b) is being amended to delete the reference to “first class mail” and to change “receipt” to “the date transmitted.” The Department is amending subsection (c) by changing “receipt” to “the date transmitted,” and changing “submission” to “filing.”

A 60-day comment period is provided for this notice of proposal and therefore, pursuant to N.J.A.C. 1:30-3.3(a)5, the proposal is not subject to the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

#### Social Impact

The proposed amendments and repeal require life/health/annuity rate, rule and form filings to be submitted to the Department electronically. These provisions will have a beneficial social impact as they will expedite the processing of such filings and eliminate the need to store older filings offsite. These rules will also result in quicker and more effective communications with companies on the status of a filing review.

#### Economic Impact

The proposed amendments and repeal will save on the time and expense of handling paper filings. The proposed amendments and repeal are part of the Department’s efforts to enhance its speed to market initiatives. The cost to submit a filing through the SERFF System for a company is no more than a nominal amount per filing. The amended rules will also eliminate postage expenses incurred by filers on non-SERFF filings.

#### Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments and repeal regulate the business of insurance and are not subject to any Federal requirements or standards.

#### Jobs Impact

The Department does not believe that the proposed amendments and repeal will cause any jobs to be generated or lost.

#### Agriculture Industry Impact

The Department does not expect any impact on the agriculture industry as a result of the proposed amendments and repeal.

#### Regulatory Flexibility Analysis

The proposed amendments and repeal will apply to few, if any, “small businesses,” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. To the extent the proposed amendments and repeal apply to small businesses, they will apply to New Jersey domestic insurers seeking to comply with the Department’s speed to market initiatives which these amended rules will enhance. As noted above, the Department does not anticipate any undue economic impact on insurers. Generally, small businesses will be required to incur costs associated with filing the required information. This information is currently required and, in any event, should be readily available to filers. The Department believes that no additional professional services will be required in order to comply with the proposed amendments and repeal.

The proposed amendments and repeal provide no differentiation in compliance requirements based on business size. As noted above, the proposed amendments and repeal are intended to facilitate the fast and efficient processing of life/health/annuity form filings by the Department. Any variations in the requirements based upon business size would not be consistent with these goals.

#### Smart Growth Impact

The proposed amendments and repeal will not have any impact on the achievement of smart growth or the implementation of the State Development and Redevelopment Plan.

#### Housing Affordability Impact

The proposed amendments and repeal will not have an impact on housing affordability because the proposed amendments and repeal relate to the form filing process for life/health/annuity forms.

#### Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that these proposed amendments and repeal would evoke change in housing production Planning areas 1 and 2 or within the designated centers under the State Development and Redevelopment Plan in New Jersey because the proposed amendments and repeal address life/health/annuity forms.

**Full text** of the proposed repeal may be found in the New Jersey Administrative Code at N.J.A.C. 11:4-40 Appendix.

**Full text** of the proposed amendments follows (additions in boldface **thus**; deletions indicated in brackets [thus]):

## SUBCHAPTER 40. LIFE/HEALTH/ANNUITY FORMS

### 11:4-40.4 General requirements

(a) All insurers submitting forms or other correspondence to the Department pursuant to this subchapter shall comply with the following general procedures:

1. All individual health, group health, blanket, prepaid legal contracts, group life and service corporation forms, [and other related correspondence submitted or resubmitted for approval or for file and use pursuant to this subchapter shall be submitted to the Department at the following address:

New Jersey Department of Banking and Insurance  
Health Bureau  
20 West State Street  
PO Box 470  
Trenton, NJ 08625-0470

2. All] individual life, credit life and health, mortgage guaranty, separate account, variable contract and annuity, **group credit, synthetic guaranteed investment contract** forms and other related correspondence pursuant to this subchapter submitted or resubmitted for approval or for file and use shall be submitted to the Department [at the following address:

New Jersey Department of Banking and Insurance  
Life Bureau  
20 West State Street  
PO Box 470  
Trenton, NJ 08625-0470

3. All submissions and resubmissions of forms to the Department shall include a self-addressed, stamped envelope.] **through the use of the National Association of Insurance Commissioners electronic filing system known as System for Electronic Rate and Form Filing (SERFF). As of January 1, 2010, the Office of Life and Health will no longer accept any rate or policy form filings other than through SERFF. Any such filings received after January 1, 2010 in any method other than through SERFF will be closed with no action taken and returned to the company without review. Insurers shall submit a paper copy of any materials submitted via SERFF if requested by the Department.**

[4.] **2.** For purposes of computing time limits in this subchapter, "days" shall mean calendar days, except that when the last day of any specified time period is a Saturday, Sunday or State holiday, then the time period shall end on the next following business day. **A day shall end as of 5:00 P.M. Eastern Standard Time (EST).** [With regard to any specified time period relating to documents or correspondence transmitted between the Department and the insurer, the Department shall rely on one of the following:

- i. The date appearing on a clear, legible postmark affixed by the United States Postal Service;
- ii. The legible date of receipt from the sender appearing on the transmission documents of a private delivery service; or
- iii. In the absence of either (a)4i or ii above, the actual date of receipt by the Department.]

11:4-40.5 Life/health/annuity form approval procedures



(a) (No change.)

(b) An insurer seeking approval of a form shall [submit] **transmit** a complete form filing to the Department, which shall include the items set forth below:

1. A properly completed Initial Submission Data Form as set forth [at Exhibit A in the Appendix to this subchapter, incorporated herein by reference] **on the Department's website at:**

**[http://www.state.nj.us/dobi/division\\_insurance/pdfs/lhfmsub.pdf](http://www.state.nj.us/dobi/division_insurance/pdfs/lhfmsub.pdf)**;

2. A specimen copy of the form [in duplicate];

3. A cover letter [in duplicate], which shall include the following:

i. – iv. (No change.)

v. A statement as to whether the form was previously submitted to the Department, including the date and status of any such submission; [and]

vi. For rider forms or endorsements, an explanation of the manner in which the rider or endorsement affects the mortality basis or premiums for the base policy; **and**

**vii. The contents of the cover letter in (b)3i through vi above shall be included in the Filing Description Field within SERFF or as a separate line entry attached to the Supporting Documentation tab;**

4. – 6. (No change)

[7. The appropriate service fee set forth at N.J.A.C.11:1-32 if required;]

[8.]**7.** Any additional items required to be submitted for forms as specifically set forth at other sections of this subchapter; [and]

[9.]**8.** Where the form submitted is a rider, endorsement, insert page or supplemental form, a listing of the policy form number(s) and approval date(s) of the policy

form(s) with which the form submitted is to be used and a specimen copy of an approved policy form[.]; **and**

**9. All forms and attachments should be in a PDF format.**

(c) The Department shall, within 25 days of [receipt] **the date of an initial filing,** return an incomplete filing to the insurer with a notice indicating that the filing is being returned with no action by the Department, and that time for the Department's substantive review for approval of the form and/or rate filing has not commenced.

(d) A form/rate filing shall be deemed approved upon the expiration of 60 days following submission of the filing to the Commissioner unless the Department approves or disapproves the filing in writing within that 60-day period. If approval is deemed, the insurer shall notify the Department in writing prior to use of its intent to use the form.

1. The Department's written disapproval of a filing shall include [the following:

i. The] **the** specific reasons for the disapproval, which shall be limited to only the standards set forth in this subchapter at N.J.A.C. 11:4-40.3, and in any laws, rules, bulletins or published guidelines applicable to the particular type of form being disapproved,]; and

ii. A Resubmission Data Form for use by the insurer in resubmitting the disapproved filing.]

2. (No change.)

(e) An insurer may resubmit a form filing which has been disapproved by the Commissioner pursuant to (d) above. The resubmission shall include the items set forth below:

[1. A properly completed Resubmission Data Form;

2.]1. A cover letter [in duplicate] **submitted as a separate line entry attached to the Supporting Documentation tab**, which shall include [all the information required to be included in the initial submission cover letter as set forth at (b) above, in addition to] the Department's submission number **and shall indicate all changes made and/or comments which address the Department's previous objections. The** cover letter **shall also indicate any changed form number(s) and/or the form number(s) of any new form(s) included;**

[3.]2. The revised form(s) or page(s) only, if practicable, of the disapproved form(s). One copy shall be marked to show the changes from the prior submission, and one copy shall be unmarked. **The marked copy shall be underlined such that the changes will be discernable when printed.** The resubmission shall also include a marked copy of any revised support material (for example, [a periodic report] **an actuarial memorandum**);

Recodifying existing 4. and 5. as **3. and 4.** (No change in text.)

(f) - (g) (No change.)

## SUBCHAPTER 40A. "40 STATES" FILE AND USE STANDARDS AND PROCEDURES

11:4-40A.4 [Submission] **Filing** procedures

(a) [Submissions] **Filings** pursuant to N.J.A.C.11:4-40A.3(a) shall include the following:

1. For each form submitted, a separate certification memorandum, signed by a responsible officer of the insurer, which shall include: a statement that the form has been made available for sale or use in 40 states, subject to state variations that do not alter the unique features or design of the product; [and] the form number of the form to which it applies; **and a notary signature to be shown outside of the seal.**

i. (No change.)

2. - 3. (No change.)

(b) The Department shall acknowledge receipt of the form and a proper certification by providing the insurer with such acknowledgement [by first class mail] within 30 days of [receipt] **the date transmitted**.

(c) If the Department determines that the form submitted fails to satisfy all of the eligibility requirements set forth at N.J.A.C. 11:4-40A.3, the Department shall return the [submission] **filing** to the insurer for non-action within 30 days of [receipt] **the date transmitted**. Additionally, if the [submission] **filing** fails to satisfy the [submission] **filing** procedures set forth in this section, the Department may return the [submission] **filing** to the insurer for non-action. Any return for non-action shall specify the deficiencies in the [submission] **filing**. Any [submission] **filing** returned for non-action may be resubmitted pursuant to P.L. 2001, c.237 after the identified deficiencies have been cured.

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