

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Office of the Insurance Claims Ombudsman

Readoption with Amendments: N.J.A.C. 11:25

Proposed: May 19, 2014, at 46 N.J.R. 837(a).

Adopted: October 10, 2014, by Kenneth E. Kobylowski, Commissioner, Department of Banking and Insurance.

Filed: October 10, 2014, as R.2014 d.172, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17:29E-1 et seq.

Effective Date: October 10, 2014, Readoption;

November 17, 2014, Amendments.

Expiration Date: October 10, 2021.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) received timely written comments from: Eric M. Goldberg, Vice President of the American Insurance Association; and Debra L. Wentz, PhD, Chief Executive Officer of the New Jersey Association of Mental Health and Addiction Agencies, Inc.

COMMENT: The commenter believes that the Department's proposed definition of "consumer complaint" is too broad and as a result would capture any number of communications with the Department or Ombudsman that are not intended by consumers to be taken as complaints.

RESPONSE: The Department disagrees with the commenter. The newly added definition of “consumer complaint” is appropriate in scope for use in this subchapter. Pursuant to N.J.S.A. 17:29E-3, the Ombudsman is responsible for both investigating complaints and responding to consumer inquiries. The current text of N.J.A.C. 11:25-1.3 provides that complaints received by the Ombudsman are entered into the data tracking system of the Office of Consumer Protection Services. Upon review of the subchapter, the Department determined that this description was procedurally incomplete because both complaints and inquiries received by the Ombudsman were being entered into data tracking by the Consumer Assistance Unit in the Office of Consumer Protection Services. Thus, for the sake of procedural clarity, the Department, in this readoption with amendments, added a definition of “consumer complaint” to include both inquiries and complaints received by the Ombudsman, and clarified that the Consumer Assistance Unit is and has always been responsible for data tracking entry and referral of both inquiries and complaints for ultimate disposition. Therefore, nothing has changed with regard to the Department’s processes because the Department tracks both complaints and inquiries. This new definition of consumer complaint will not result in increased complaint data results for insurers or other licensees. The Department continues to differentiate during coding in the data tracking system between “inquiries” and “complaints” based upon the definitions of “complaint” and “inquiry” in the NAIC Complaints Database System, Definitions and Basics and only complaints are reported to the NAIC. Namely, a complaint is any written communication that expresses dissatisfaction with a specific person or entity subject to regulation under the State’s insurance laws, and an inquiry is a communication that expresses a general question or opinion, or expresses general dissatisfaction without identification of a specific regulated person or entity.

COMMENT: The commenter recommends that the readoption with amendments should be amended to require the Ombudsman to operate a “Behavioral Health Insurance Claims Advocacy Program” as was proposed in legislation.

RESPONSE: The Department declines to implement the commenter’s recommendation. The bill (S324/A2266) proposing establishment of a “behavioral health insurance claims advocacy program” has not been enacted. As such, there is no statutory authority to establish such a program, and it is beyond the scope of the current readoption with amendments.

Federal Standards Statement

Executive Order No. 27 (1994) and P.L. 1995, c. 65 require State agencies that adopt, readopt, or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a comparison with Federal law. A Federal standards analysis is not required in this instance because the rules readopted with amendments regulate and relate to the business of insurance and are not subject to any Federal standards or requirements.

Full text of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 11:25.

Full text of the adopted amendments follows:

TEXT