

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF PROPERTY CASUALTY

Personal Lines: Rate Filing Review Procedures

Adopted New Rules: N.J.A.C. 11:1-2A

Proposed: February 5, 2007 at 39 N.J.R. 342(a)

Adopted: November 5, 2007 by Steven M. Goldman, Commissioner, Department of Banking and Insurance

Filed: November 5, 2007 as R. 2007d.370, **without change**.

Authority: N.J.S.A. 17:1-8.1, 17:1-15e, 17:29A-1 et seq. and 52:27EE-46 et seq.

Effective Date: December 3, 2007.

Expiration Date: July 30, 2011.

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance (Department) received timely written comments from the following: New Jersey Manufacturers Insurance Group, State Farm Insurance Companies and the New Jersey Association of Mutual Insurance Companies, Inc.

COMMENT: One commenter stated that it believes that the purpose and scope section of N.J.A.C. 11:1-2A.1 should be amended to indicate that the subchapter does not apply to expedited prior approval filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:36-5.35. The commenter believes that such an addition would be consistent with the statutory language governing the jurisdiction of the Public Advocate and a similar provision that has been included in the proposed amendments to N.J.A.C. 11:13-18, PRN 2007-36, Private Passenger Automobile Insurance Rate Filing Review Procedures.

RESPONSE: The Department disagrees with the commenter. The Department's proposed new rules only apply to all personal lines rate filings (except private passenger automobile insurance rate filings) over +7.0 percent. Expedited filings for homeowner's insurance as specified in N.J.A.C. 11:2-42.5 cannot be more than +5.0 percent. Therefore, the Department does not believe that this provision needs to be revised as per the commenter's suggestion.

COMMENT: One commenter requested that the Department clarify the provisions of N.J.A.C. 11:1-2A.3(a) that require insurers, which make their own rates to submit their filings themselves. The commenter noted that it is authorized to and does file rate filings on behalf of its member companies. The commenter stated that these filings may consist of company specific rate filings being made on behalf of itself alone, or on behalf of the member companies as a whole. The commenter questioned whether it is allowed to continue to act and file rate filings for member companies on both company specific and rating organization filings.

The commenter stated that currently all filings are being submitted electronically via SERFF. The commenter believes that the proposal's wording indicates that filings fitting the criteria falling under the Division of Rate Counsel jurisdiction would need to be handled manually and physically mailed to the Department. The commenter asked whether they may continue to be submitted electronically.

RESPONSE: The Department's proposed new rules do not change the current requirements with regard to the submission of personal lines filings by companies, consultants or rating organizations to the Department. Personal lines rate filings submitted to the Division of Rate Counsel are to be submitted manually. However, such filings can be submitted to the Department electronically through SERFF.

COMMENT: One commenter suggested that the Department amend N.J.A.C. 11:1-2A.4(c), (d) and (e). The commenter stated that insurers have 15 days to respond to requests from the Department for more information on auto filings and no particular deadline for non-auto filings. The commenter contends that the Department's proposed amendments to N.J.A.C. 11:1-2A.4(c), (d) and (e) would reduce that response time to 10 days from 15 days, and require the same 10-day response time on requests from the Public Advocate.

The commenter contends that to respond to either the Department or the Public Advocate involves not only formulating a position, but also gathering and putting together any requested data and doing any requested computations along with that data. The commenter believes that for complex requests, the current 15 days is still needed.

The commenter recommended that proposed N.J.A.C. 11:3-18.4(c), (d), and (e) be amended to use a 15-day deadline for insurers to respond.

RESPONSE: The Department believes that the company should be able to provide responses to requests within 10 days because any questions raised in such requests usually concern documentation in support of calculations already used in the submitted rate filing.

COMMENT: One commenter stated that the Department's proposed amendments to N.J.A.C. 11:1-2A.4(d) and (e) allow the Public Advocate to request a filer to provide additional information, or to explain or clarify information contained in the filing, and upon receipt of the requested response, to again request more information or follow-up. The commenter contends that, while they can understand that in some instances the Public Advocate may have some initial questions or require clarification, they believe that the Public Advocate should be provided the

opportunity to make one request only, so as not to prolong the review process. The commenter stated that the Department's proposal pertaining to private passenger automobile rate filings only allows the Public Advocate one opportunity to request additional information or clarification. Accordingly, the commenter recommends that subsection (e) be deleted.

RESPONSE: The Department disagrees with the commenter. Unlike private passenger automobile insurance, there is no specific requirement for the submission of homeowner's prior approval rate filings. Thus, based upon the information requested and submitted, clarifying questions may be necessary. Therefore, the Department believes that providing the Public Advocate an opportunity to ask additional questions is entirely appropriate.

COMMENT: One commenter stated that it notes that N.J.A.C. 11:1-2A.4(h) permits the Public Advocate to request a hearing simultaneously with the filing of its report with the Department. The commenter contends that subsequent provisions appear to contemplate that a request for a hearing may be made by the filer, although no specific provision actually allows such a filing. The commenter believes that the appropriate time for such a request by the filer is after both the Department and the Public Advocate have made their positions on the filing clear. The commenter contends that only then will the filer be able to determine whether it should request a hearing and accurately state the facts and issues in dispute. Additionally, the commenter stated that, as a practical matter, if the Public Advocate does not know the Department's position prior to making a hearing request, it will likely request a hearing in each and every case, even in situations when it might defer to the Department where the Department has indicated its intent to allow less than the requested rate relief. Accordingly, the proposal should be amended to require the Department to advise the filer and the Public Advocate of its position on the filing before

either is required to request a hearing. In addition, the commenter recommends that the regulation be amended to allow the filer at least 10 days from the filing of the Public Advocate's report to make a written request for a hearing.

RESPONSE: The Department disagrees with the commenter. The Department is in contact with the filer once a filing is made with the Department. These rules are similar to the process currently followed in the private passenger automobile rules, which the Department believes are reasonable. Therefore, the Department does not believe they should be amended as suggested in the comment. Based on the Department's previous experience with rate filing procedures, it believes that it is appropriate to maintain the current time frame for the submission of the Public Advocate's report and request for hearing.

Federal Standards Statement

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

Full text of the adopted new rules follows:

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