

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF PROPERTY CASUALTY

Personal Lines: Rate Filing Review Procedures

Proposed Amendments: N.J.A.C. 11:1-2A.1 and 45.1, and 11:3-18.

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

Authority: N.J.S.A 17:1-8, 17:1-15e, 17:29A-1 et seq. and 52:27EE-46 et seq.

Calendar Reference: See Summary below for explanation of the exceptions to the calendar requirement.

Proposal Number: PRN 2009-291

Submit comments by November 20, 2009 to:

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The agency proposal follows:

Summary

The Department of Banking and Insurance is proposing amendments to its rules on Personal Lines and Private Passenger Automobile Insurance Rate Filing Review Procedures in order to clarify the requirement that an insurer provide notice to the Public Advocate of certain rate filings as set forth in N.J.S.A. 52:27EE-1 et seq. and when notice shall be provided to policyholders of personal lines insurance rate increases.

Pursuant to N.J.S.A. 52:27EE-48, the Division of Rate Counsel in the Department of the Public Advocate may represent and protect the public interest in significant proceedings that pertain solely to prior approval rate increases for Personal Lines Property Casualty coverage or Medicare supplement coverages. N.J.S.A. 52:27EE-48 limits the Division of Rate Counsel's jurisdiction or authority with respect to insurance. The Division of Rate Counsel has no jurisdiction or authority to participate or intervene in: 1) expedited prior approval rate filings made by an insurer or affiliated group of insurers pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35; 2) prior approval rate filings of seven percent or less; or 3) rule or form filings for any other form of insurance.

N.J.A.C. 11:3-18.1(d)2 currently tracks N.J.S.A. 52:27EE-48. However, for example, the Department has encountered situations when an insurer makes two or more prior approval rate filings for implementation within a 12-month period, the combined effect of which is to increase private passenger automobile insurance rates by more than seven percent. The operative 12-month period is the 12 months immediately preceding the effective date of the current filing which causes the combined rate increase to exceed seven percent. To remain consistent with and implement the legislative intent of N.J.S.A. 52:27EE-48, in such cases the Division of Rate Counsel should receive notice of the filing which will cause the overall rate increase of seven percent so that they have the opportunity to participate or intervene in the Department's review of them and policyholders should also receive notice of such filings. Accordingly, the Department is amending N.J.A.C. 11:3-18.1(d)2 to clarify that because the Division of Rate Counsel shall have authority to participate or intervene when an insurer has filed for one or more prior approval rate filings for implementation within a 12-month

period and the combined filings have an overall impact of an increase in rates of more than seven percent, a copy of the filing that would cause the overall rate increase to exceed seven percent shall be sent to the Public Advocate as set forth in N.J.A.C. 11:3-18.4(a) and notice shall be sent to policyholders as set forth in N.J.A.C. 11:1-45.1.

N.J.A.C. 11:1-2A.1 and 45.1 are being amended to track the amendment being made to N.J.A.C. 11:3-18.1(d)2 above.

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 Department's proposed amendments clarify when the Public Advocate may intervene in a prior approval rate filing as well as when notice is required to be provided to policyholders for all personal lines prior approval rate increases. As a result of these amendments, the affected policyholders will be better informed regarding these actions and better able to shop for lower rates from a different carrier, or to influence the filing carrier's decision to continue with the application to increase its rates. Clarifying that when more than one prior approval rate filing has been filed to be implemented within a 12-month period and the filings have a combined overall increase of more than seven percent, the Public Advocate may intervene and policyholder notice is required, means that the consuming public will be better informed about such applications and better positioned to take actions that contribute to the efficient operation of the insurance marketplace and enhance competition among insurers.

Economic Impact

Insurers will be required to bear any costs associated with providing notice when they submit a personal lines prior approval rate filing that has the effect of imposing a combined overall increase of more than seven percent within a 12 month period. The Department does not believe that the proposed amendments will impose an undue burden on insurers.

Federal Standards Statement

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

Jobs Impact

The Department does not believe that these proposed amendments 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.

Regulatory Flexibility Analysis

The proposed amendments apply to “small businesses” as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The “small businesses” to

which these amendments apply are insurers domiciled in this State transacting personal lines property/casualty coverage. As noted above, such small businesses will be required to bear costs associated with providing notice to policyholders and the Division of Rate Counsel when more than one prior approval rate filing has been filed to be implemented within a 12 month period and the filings have a combined overall increase of more than seven percent. The Department does not believe that the hiring of additional staff or professional services will be necessary to comply with the proposed amendments. As noted above the Department does not anticipate any undue economic impact on insurers. Small businesses are currently required to incur costs associated with providing notice to the Division of Rate Counsel and policyholders of personal lines rate filings that seek increases in excess of seven percent. The Department is clarifying the notice requirements to apply also to cases involving multiple filings as stated above. The Department believes that no additional professional services will be required in order to comply with the proposed amendments.

The proposed amendments provide no differentiation in compliance requirements based on business size. Any variations in the requirements based upon business size would not be consistent with the goals of ensuring that the public is adequately informed of applications for substantial rate increases by personal lines insurers and enhancing competition within the market for all personal lines insurance.

Smart Growth Impact

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

Housing Affordability Impact

The proposed amendments will not have an impact on the housing affordability because the proposed amendments relate to all personal lines prior approval rate filing review procedures.

Smart Growth Development Impact

The Department believes that there is an extreme unlikelihood that these proposed amendments 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 address all personal lines and prior approval rate filing review procedures.

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

SUBCHAPTER 2A. PERSONAL LINES FILINGS: RATE FILING REVIEW PROCEDURES

11:1-2A.1 Purpose and scope

(a) (No change.)

(b) This subchapter applies to all personal lines **prior approval** rate filings [that have] **having** an overall rate impact in excess of [+7.0] **seven** percent **and in cases when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12 month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which event this**

subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.

(c) - (d) (No change.)

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF PERSONAL LINES INSURANCE RATE INCREASES

11:1-45.1 Purpose and scope

(a) (No change.)

(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. 52:27EE-50 and 51. This subchapter shall not apply if the proposed change pertains to:

1. – 4. (No change.)

5. A prior approval rate filing of seven percent or less **except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12 month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case, this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent.**

SUBCHAPTER 18. PRIVATE PASSENGER AUTOMOBILE INSURANCE: RATE FILING REVIEW PROCEDURES

11:3-18.1 Purpose and scope

(a) – (c) (No change.)

(d) The Public Advocate Division of Rate Counsel shall have no jurisdiction or authority to participate or intervene in:

1. (No change.)
2. Prior approval rate filings having an overall impact of seven percent or less **except when an insurer has filed for one or more prior approval rate filing(s) for implementation within a 12 month period and the impact of the filing(s) is a combined overall increase of more than seven percent, in which case this subchapter shall apply to the filing which causes the combined overall increase to exceed seven percent;** or

3. (No change.)