



## State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF THE COMMISSIONER

PO Box 325

TRENTON, NJ 08625-0325

TEL (609) 292-7272

PHIL MURPHY  
*Governor*

SHEILA OLIVER  
*Lt. Governor*

MARLENE CARIDE  
*Acting Commissioner*

### BULLETIN NO. 18 -03

**TO: ALL DOMESTIC INSURANCE COMPANIES, HEALTH MAINTENANCE ORGANIZATIONS, HOSPITAL SERVICE CORPORATIONS, MEDICAL SERVICE CORPORATIONS, HEALTH SERVICE CORPORATIONS, DENTAL SERVICE CORPORATIONS AND DENTAL PLAN ORGANIZATIONS TRANSACTING BUSINESS IN THIS STATE**

**FROM: MARLENE CARIDE, ACTING COMMISSIONER**

**RE: ANNUAL FINANCIAL STATEMENTS – SUPPLEMENTAL COMPENSATION EXHIBIT**

The purpose of this Bulletin is advise all domestic insurers, health maintenance organizations, hospital service corporations, medical service corporations, health service corporations, dental service corporations and dental plan organizations (collectively, “carriers”) of how the Department will handle all requests under the Open Public Records Act (“OPRA”), N.J.S.A. 47:1A-1 et seq., or common law rights of access to government records, for production of the above referenced Supplemental Compensation Exhibits.

Under the laws of this State, annual financial statements are required to be filed by all domestic carriers in accordance with the format adopted by the National Association of Insurance Commissioners on March 1<sup>st</sup> of each year, and such annual financial statements are public. See N.J.S.A. 17:23-1 and 17B:21-1. Supplemental Compensation Exhibits (“SCEs”) are a part of this annual statement filing. For years, upon the receipt of OPRA requests for annual statements or SCEs, the Department released the annual statement including the SCE without redaction. The only items withheld from the annual statement release was the Management Discussion and Analysis and any submitted Actuarial Memoranda as proprietary commercial and/or financial information because such discuss the reporting entity’s financial condition, changes in financial condition and results of operations from the perspective of management and proprietary actuarial analyses, and the Risk-Based Capital report pursuant to N.J.A.C. 11:2-39.10(a).

In the recent past, the Department received a request from a carrier to redact very limited compensation information from the SCE in response to an OPRA request on the basis that the compensation of certain individuals should be withheld as proprietary because it would place the carrier at a competitive disadvantage for retaining/attracting talent. At the time and in a vacuum,

this request seemed reasonable and the Department permitted the redaction based upon the OPRA exemption asserted by the carrier.

In the interests of uniformity since that time, the Department has endeavored to present other carriers with similar opportunities to assert valid objections to the release of the SCEs. These requests have not been uniform and have run the gamut from no redaction to the requested withholding of all information – including names and compensation – from the SCE. These various positions have not been reconcilable in rationale/basis, and to treat domestic carriers in the same market differently on this issue would create an unlevel playing field.

We have reevaluated this issue and determined that the interests of the public, our insurance consuming residents, and our domestic carriers requires uniformity in approach on this issue. The NAIC and this State have determined that the filing of the SCEs that contain compensation data for carriers’ boards, directors, and senior management, is information which the insurance consuming public is entitled to know. Insurance consumers have an interest in understanding how the executives of their insurers are being compensated. Additionally, domestic carriers should be treated similarly on this issue to maintain a level playing field. Overall, annual financial statement information is public under law, and carriers’ assertions of proprietary interests with regard to the SCEs are at times tenuous and ultimately outweighed by the public’s interest in such information. Thus, the Department will be immediately returning to its long-standing position that the SCEs for domestic carriers are public in the same manner and to the same extent as the annual financial statement.

Please be guided accordingly.

3/16/18  
Date

Marlene Caride  
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Acting Commissioner

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