

INSURANCE

DEPARTMENT OF BANKING AND INSURANCE

OFFICE OF LIFE AND HEALTH

Actuarial Services

Minimum Reserve Standards for Individual and Group Health Insurance Contracts

Proposed Amendments: N.J.A.C. 11:4-6.1 and 6.2

Authorized By: Richard J. Badolato, Commissioner, Department of Banking and Insurance.

Authority: N.J.S.A. 17:1-8.1, 17:1-15.e, and 17B:19-5.

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

Proposal Number: PRN 2017-101.

Submit comments by August 18, 2017, to:

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The agency proposal follows:

Summary

N.J.S.A. 17B:19-5 requires the Commissioner of Banking and Insurance (Commissioner) to promulgate regulations establishing the minimum standards applicable to the valuation of

health insurance reserves and requires that the Commissioner annually make, or cause to be made, or annually require the insurer to make calculations of policy and loss reserves for health insurance written by insurers authorized to write health insurance in this State as defined in N.J.S.A. 17B:17-4. Further, on December 26, 2014, P.L. 2014, c. 81 (the Act), was enacted which, among other things, made changes to the laws governing the valuation of reserve liabilities for life and health insurance policies and annuities issued in this State. The Act established the use of a Valuation Manual adopted by the National Association of Insurance Commissioners (NAIC) for the purposes of providing the minimum standard of valuation for life, health, and annuities. Pursuant to new N.J.S.A. 17B:19-11b of the Act, the operative date of the Valuation Manual is January 1 of the first calendar year following the first July 1 as of which all of the following have occurred: (1) the Valuation Manual has been adopted by the NAIC by an affirmative vote of at least 42 members, or three-fourths of the members voting, whichever is greater; (2) the NAIC Model Standard Valuation Law (SVL), as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by states representing greater than 75 percent of the direct premiums written as reported in the following annual statements submitted for 2008; life, accident, and health annual statements; health annual statements; or fraternal annual statements; and (3) the NAIC Model SVL, as amended by the NAIC in 2009, or legislation including substantially similar terms and provisions, has been enacted by at least 42 of 55 jurisdictions. On June 10, 2016, members of the NAIC voted unanimously to recognize that all three triggers defining the operative date have been satisfied. Therefore, on August 11, 2016, the Commissioner issued Order No. A16-115 that provided that the Valuation Manual, as defined in N.J.S.A. 17B:19-1.1, shall be operative effective January 1, 2017, for all applicable policies issued in this State on or after that date.

Further, in 2014, the NAIC adopted the 2012 Group Long-Term Disability Valuation Table (2012 GLTD Valuation Table), accompanying Actuarial Guideline, and amendments to the Health Insurance Reserves Model Regulations and, accordingly, updated the NAIC Accounting Practices and Procedures Manual (APPM) to incorporate this new information. New Jersey is among several states that does not refer to the APPM with respect to valuation of applicable policies through statutes or rules, but specifically addresses valuation tables in its rules that need to be updated periodically to incorporate such references.

Accordingly, the Department proposes to amend N.J.A.C. 11:4-6.1, which governs minimum reserves standards for individual and group health insurance contracts, to require that claim reserves for such health insurance coverages issued prior to January 1, 2017, but for claims incurred on and after January 1, 2017, shall follow the requirements in the NAIC APPM, Appendix A, A-010. Claim reserves for such coverages issued prior to January 1, 2017, for claims incurred prior to January 1, 2017, which are still open claims on or after January 1, 2017, shall follow applicable requirements for such open claims in the APPM, Appendix A, A-010. For all such health insurance coverages issued on and after January 1, 2017, the standards and reserve requirements provided in the Valuation Manual apply.

The Department is also proposing to amend the rule to continue the affirmative statement that the rules do not apply to credit insurance as a matter of form.

Consistent with this updated requirement, N.J.A.C. 11:4-6.2 is also proposed to be amended to include a definition of “Valuation Manual.”

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 notice is excepted from the provisions of N.J.A.C. 1:30-3.1 and 3.2 governing rulemaking calendars.

Social Impact

The proposed amendments reflect the statutory requirement that, for all such health insurance coverages issued on and after January 1, 2017, the standards and reserve requirements provided in the Valuation Manual apply. By utilizing the Valuation Manual and utilizing the APPM for those coverages not affected by the Valuation Manual, the rules will reflect the statutory requirements in the Act, for policies issued on or after January 1, 2017, and will otherwise be consistent with the national standards as adopted by the NAIC, for policies issued prior thereto. These amendments, therefore, will have a positive social impact by providing more certainty for the regulated community and by obviating the need to update the rules periodically to modify reserve valuation standards, thereby lending efficiency to the valuation process.

Economic Impact

The proposed amendments may have a minimal economic impact on insurers. Some insurers participated in the experience study that was used to build the new table and several states have already updated their valuation tables to reflect recommended changes following the adoption by the NAIC of the 2012 GLTD Valuation Table and the APPM. Therefore, the proposed changes should have been anticipated and any necessary systems changes were likely already addressed. Overall, the adoption of the new table through reference to the APPM and the Valuation Manual is not expected to lead to large changes in reserves, but the impact may vary from company to company depending on the insurer's block of business. The professional services required to comply with the proposed amendments are actuarial. Insurers should either already possess services in-house or contract for such services as needed to comply with the existing rules and other requirements applicable to health insurers. The proposed amendments

should help to simplify the process for the Department and for the industry because future table updates would be handled by reference to the APPM, providing more timely updates to applicable tables and providing more certainty to insurers. The enhanced ability of health insurers to pay their obligations will benefit insureds. Therefore, any minimal cost is outweighed by the benefits to be achieved. Further, the proposed amendments reflect the statutory requirement that, for all such health insurance coverages issued on and after January 1, 2017, the standards and reserve requirements provided in the Valuation Manual apply. By referencing the Valuation Manual and utilizing the APPM for those policies not affected by Valuation Manual, the rules will be consistent with the national standards as adopted by NAIC.

Federal Standards Statement

A Federal standards analysis is not required because the proposed amendments are not subject to any Federal standards or requirements.

Jobs Impact

The Department does not believe that the proposed amendments will result in the creation or loss of any jobs in the State. The Department invites commenters to submit any data or studies on the potential jobs impact of the proposed amendments together with their comments on other aspects of this notice of proposal.

Agriculture Industry Impact

The Department does not believe that the proposed amendments will have any impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The proposed amendments will apply to "small businesses" as that term is defined in the Regulatory Flexibility Act at N.J.S.A. 52:14B-16 et seq. To the extent the proposed amendments

apply to small businesses, they will apply to New Jersey domestic insurers transacting individual or group health insurance. The professional services required to comply with the proposed amendments and impacts on small businesses are set forth in the Economic Impact statement above.

The proposed amendments provide no differentiation in compliance requirements based on insurer size. The standards in the proposed amendments reflect the statutorily required use of the Valuation Manual for policies issued on or after January 1, 2017, and the use of the APPM, for other health insurance policies, consistent with the national standards adopted by the NAIC. These are uniform standards necessary to ensure proper reserving for the payment of policyholder claims.

Housing Affordability Impact Analysis

The proposed amendments will not have an impact on housing affordability, nor will they have an effect on the average costs of housing in the State, because the proposed amendments address revisions to the Department's minimum reserve standards for health insurance policies issued in this State.

Smart Growth Development Impact Analysis

The proposed amendments will not have an impact on smart growth in this State and there is an extreme unlikelihood that the proposed amendments would evoke a change in housing production in 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 revisions to the Department's minimum reserve standards for health insurance policies issued in this State.

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

SUBCHAPTER 6. MINIMUM RESERVE STANDARDS FOR INDIVIDUAL AND GROUP HEALTH INSURANCE CONTRACTS

11:4-6.1 Purpose and scope

(a) This subchapter applies to all insurers authorized to write health insurance in this State. These standards apply to all individual and group health insurance coverages [except credit insurance] **issued prior to January 1, 2017. Claim reserves for such coverages issued prior to January 1, 2017, for claims incurred on and after January 1, 2017, shall follow the requirements in the NAIC Accounting Practices and Procedures Manual (APPM), Appendix A, A-010. Claim reserves for such coverages issued prior to January 1, 2017, for claims incurred prior to January 1, 2017, but which are still open claims on or after January 1, 2017, shall follow applicable requirements for such open claims in the APPM, Appendix A, A-010. For all such coverages issued on and after January 1, 2017, the standards and reserve requirements provided in the Valuation Manual shall apply. These standards do not apply to credit insurance.**

(b) – (g) (No change.)

11:4-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

...

"Valuation Manual" means the manual of valuation instructions adopted by the National Association of Insurance Commissioners, as specified in N.J.S.A. 17B:19-1.1, 17B:19-2.1, 17B:19-11, 17B:19-12, 17B:19-13, and 17B:19-14 or as subsequently amended.

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