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DIVISION OF INSURANCE

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BULLETIN 2008-19

To: Rating Organizations and Insurance Carriers, including Commercial Insurance Companies, Fraternal Benefit Societies, Legal Service Plans, Health Maintenance Organizations and Hospital, Medical, Dental and Vision Service Corporations

From: Nonnie S. Burnes, Commissioner of Insurance

Date: December 2, 2008

Re: Guidelines for the Submission of Fees Associated with Form, Rate and Rule Materials Filed with the Massachusetts Division of Insurance

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This Bulletin expands and clarifies provisions of Division of Insurance ("Division") Bulletin 2008-08, which established "Guidelines for the Submission of Form, Rate and Rule Filing Materials for Review by the Division of Insurance." This Bulletin applies to fee filing requirements associated with form, rate and rule filings submitted to the Division by rating organizations and insurance carriers, including commercial insurance companies, fraternal benefit societies, legal service plans, Health Maintenance Organizations or hospital, medical, dental or vision service corporations ("Insurance Carriers") doing business in the Commonwealth of Massachusetts with regard to the following products:

- Personal and commercial lines property and casualty products;
- Individual and group life and annuity products;
- Credit life, accident and health, and involuntary unemployment products;
- Individual accident and sickness products; and
- Insured health benefit plans.

This Bulletin does not apply to the following products, which are not required to be submitted to the Division for review.

Certain Property and Casualty Products

- Forms, rates and rules for certain large commercial policyholders that are exempt from filing requirements under M.G.L. c. 175, §§ 224 and 225, as identified in Bulletin 2004-08;
- Manuscript or single-case policies;
- Inland marine and aircraft rates for certain products exempt from filing requirements under M.G.L. c. 174A;
- Individual risk rate applications; and
- So-called (a) rates for classes of certain special risks.[1]

Certain Accident, Sickness and Health Products

- Advertising and marketing materials for non-Medicare Supplement products; and
- The following coverages that are offered through an employer or association: group accident, group disability income, group specified disease, group hospital indemnity or group long-term care insurance products.

Filings Required to be Submitted on SERFF Beginning January 1, 2009

As was noted in Bulletin 2008-08, to streamline the Division's review processes, *all* rating organizations and Insurance Carriers will be required to submit form, rate and rule filings to the Division through the National Association of Insurance Commissioner's ("NAIC") System for Electronic Rate and Form Filing ("SERFF"), as of January 1, 2009. Insurance Carriers that have not yet enrolled in SERFF may do so by contacting Jennifer Franz with the NAIC at (816) 783-8494 or jfranz@naic.org.

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[1] So-called (a) rates are for classes of risks where the premium and loss data are not of sufficient homogeneity to calculate meaningful rates. This Section applies to all (a) rates, whether they are any of the following:

guide (a) rates: Class average rates for special classes of risks, which require more frequent individual risk modification than manual rates.
"pure" (a) rates: Rates for classes where a class average rate, even if calculable, cannot reasonably be used for most individual risks without substantial modifications.
unfiled (a) rates: All "pure" (a) rates and modifications to published guide (a) rates.

Except with regard to guide (a) rates suggested by any licensed rating organization, there are no formal filing requirements for (a) rates *per se*. Any Insurance Carrier issuing a policy of insurance which is in whole or in part rated on an (a) rate basis need not to file any material with the Division, but must maintain complete and accurate documentation for each policy rated on this basis. Such documentation is subject to any reasonable demand by the Division for review of such files for premium, loss, claim or other approved statistical plan records, on an individual basis or summarized. With regard to guide (a) rates suggested by any licensed rating organization, any Insurance Carrier departing above the suggested rate(s) must annually submit a summary of those policies affected by the departure.

Insurance Carriers also must submit the following filings to the Division through SERFF beginning January 1, 2009.

- Group Marketing Plans;
- Motor Vehicle Direct Payment Plans;
- Installment Plans;
- Workers' Compensation Rate Deviations; and
- Medicare Supplement Advertising Materials

Availability of EFT in SERFF

Rating organizations and Insurance Carriers now may submit filing fees for form, rate and rule filings to the Division through the Electronic Funds Transfer ("EFT") function in SERFF. The Division will continue to accept filing fees for form, rate and rule filings submitted via SERFF through the Division's lockbox system until December 31, 2008. As of January 1, 2009, the Division will only accept filing fees for form, rate and rule filings submitted via SERFF through the SERFF EFT system. Effective January 1, 2009, if a form, rate or rule filing submitted through SERFF does not include the appropriate EFT payment, the Division will suspend the review of such filing until the appropriate payment is made.

The Lockbox Filing Fee Form (SRB LB-1) is not required for form, rate or rule filings submitted to the Division via SERFF for which filing fees are paid using the SERFF EFT system.

Additionally, rating organizations and Insurance Carriers should ensure that they appropriately enter the Type of Insurance (TOI) and Sub-TOI into SERFF when submitting a form, rate or rule filing to the Division. Misstating this information in SERFF may delay the Division's processing of such filings.

Filing Fees

This Bulletin formalizes the Division's fee protocols to make these protocols consistent for all rating organizations and Insurance Carriers regarding the amount of filing fees required to be submitted to the Division in conjunction with form, rate and rule filings.

Form Filings

The Division charges a fee of $75.00 for each form filing submitted to the Division for review, pursuant to 804 CMR 4.00. The Division considers a form filing to be any document intended to be issued or delivered to a Massachusetts person for the purpose of identifying or amending a contract of insurance. A form includes, but is not limited to: a group or individual policy, an individual certificate of coverage under a group policy, an annuity contract, a legal service plan or an insured preferred provider plan written by an insurance company; a subscriber agreement or certificate delivered by an organization legally authorized as a hospital, medical, dental or vision service plan; a benefit certificate written by a fraternal benefit society; and an evidence of coverage delivered by a Health Maintenance Organization. Riders, form endorsements, outlines

of coverage, disclosure statements and other required notices or documents that are submitted to the Division as part of a form filing are not subject to a separate filing fee.

Rating organizations and Insurance Carriers may include more than one form within a single submission to the Division. Any submission that includes multiple forms must include a separate filing fee of $75.00 for each and every form that may be issued or delivered separately to any person in the Commonwealth. Riders, form endorsements, outlines of coverage, disclosure statements or other required notices or documents that are submitted to the Division separately from the form with which they are intended to be used in the Commonwealth will be considered to be a form filing and must be accompanied by a filing fee of $75.00. If more than one rider, form endorsement, outline of coverage, disclosure statement or other required notice or document is combined in a single submission to the Division, however, such submission is subject to only one filing fee.

Materials submitted to the Division by rating organizations and Insurance Carriers to amend previously submitted forms, including any material submitted by rating organizations and Insurance Carriers to amend forms that are part of biennial managed care accreditation files, will be considered form filings and must be accompanied by a filing fee of $75.00.

If an Insurance Carrier submits a form filing to the Division that is intended to be used by more than one company in that Insurance Carrier's company group, such Insurance Carrier must submit a filing fee of $75.00 for each company within the company group that will be authorized to use such form in the Commonwealth.

Initial filings for insured preferred provider health plans continue to be subject to a special fee of $100.00, as established by M.G.L. c. 176I. Such filings are not subject to an additional form filing fee of $75.00.

Rate and Rule Filings

The Division charges a fee of $150.00 for each rate or rule filing submitted to the Division for review, pursuant to 804 CMR 4.00. The Division considers a rate or rule filing to include materials submitted to the Division by a rating organization or an Insurance Carrier including, but not limited to, group marketing plans, motor vehicle direct payment plans, installment plans and workers' compensation rate deviations.

Rating organizations and Insurance Carriers may include more than one rate or rule filing within a single submission to the Division. Any submission that includes multiple rate or rule filings must include a separate filing fee of $150.00 for each and every rate or rule filing that may be used separately from any other rate or rule filing included in the same submission. Each rate or rule filing submitted for riders or endorsements that are submitted to the Division separately from the associated form's rate or rule filing will be considered to be a separate rate or rule filing and must be accompanied by a filing fee of $150.00.

If an Insurance Carrier submits a rate or rule filing to the Division that is intended to be used by more than one company within that Insurance Carrier's company group, such Insurance Carrier must submit a filing fee of $150.00 for each company within the company group that will be authorized to use such rate or rule in the Commonwealth.

Adoption of Rating Organization Filings

If an Insurance Carrier, or group of Insurance Carriers, submits a filing to the Division that adopts any form, rate or rule filing submitted by another Insurance Carrier or group of Insurance Carriers, or by a rating organization, such filing will be subject either to a form filing fee of $75.00 or a rate filing fee of $150.00 for each Insurance Carrier adopting such filing.

The Division does not require an Insurance Carrier, or group of Insurance Carriers, that authorizes a rating organization to submit filings on its behalf to send a filing to the Division when the Insurance Carrier, or group of Insurance Carriers, is merely adopting forms, rates, rules, manual pages or disclosures that the rating organization has filed for use by its members in the Commonwealth. This exclusion only applies if the Insurance Carrier or group of Insurance Carriers uses such materials filed by the rating organization without making any alteration to the same, other than to include identifying information about the Insurance Carrier, or group of Insurance Carriers.

If an Insurance Carrier or group of Insurance Carriers authorizes a rating organization to submit form, rate or rule filings to the Division on its behalf, but is either not adopting a rating organization's filing or wants to delay the adoption of a rating organization's filing, the Insurance Carrier or group of Insurance Carriers must do either of the following:

- Submit a separate rate, form or rule filing to the Division, along with the appropriate filing fee, which identifies any new rate, form or rule the Insurance Carrier or group of Insurance Carriers will be using in the Commonwealth instead of the rating organization's filing; or

- Submit a letter to the Division, without any filing fee, indicating that the Insurance Carrier or group of Insurance Carriers does not intend to use the rating organization's new form, rate or rule filing in the Commonwealth. Such letters must identify which previously approved forms, rates or rules the Insurance Carrier or group of Insurance Carriers will use in the Commonwealth.

Contact Information

If there are any additional questions about the filing process or appropriate fees for a filing, please contact Edward Charbonnier at 617-521-7481, or at edward.charbonnier@state.ma.us, for life, annuity, and property/casualty filings, or Nancy Schwartz at 617-521-7347, or at nancy.schwartz@state.ma.us, for health filings.