THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF CONSUMER AFFAIRS
DIVISION OF INSURANCE
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KAY DOUGHTY
COMMISSIONER

September 6, 1991

TO: ALL LIFE AND ACCIDENT & HEALTH COMPANIES LICENSED IN THE COMMONWEALTH OF MASSACHUSETTS

FROM: KAY DOUGHTY, COMMISSIONER OF INSURANCE

RE: DIVISION OF INSURANCE BULLETIN SRB 91-01

FILING REQUIREMENTS FOR LIFE, ANNUITY AND HEALTH POLICIES

In light of the July 3, 1991 Supreme Judicial Court decision in Telles, et al. v. Commissioner of Insurance, which invalidated 211 CMR 35.00, the "unisex" regulation, the Division of Insurance is amending its filing requirements for life, annuity, and accident and health insurance policies as set forth in this bulletin. In all other respects, the general filing requirements outlined in SRB Bulletin 90-02 are still applicable. Insurers should be aware that the Telles decision only addressed the Commissioner's authority to issue regulations requiring "unisex policies". It did not address the legal status of sex-distinct policies under any other Massachusetts law or other constitutional provision.

I. POLICY FILING GUIDELINES

A. SEX-DISTINCT FORMS

1. New forms: Sex-distinct forms are currently being reviewed for approval by the Division.

2. Previously approved forms: If an insurer has sex-distinct forms previously approved by the Division in accordance with M.G.L. c. 175, the company may again issue these policies in Massachusetts without submitting them for further review by the Division. For our records, please submit a transmittal letter in triplicate signed by a company officer listing the policy form number(s), and date(s) of approval or date(s) deemed approved. In addition, each transmittal letter should briefly identify the policy form type and market. One copy of the transmittal letter will be stamped and returned to the company upon verification of the information contained in the letter. A copy of the Division approval letter will expedite verification.

Note: For accident and health submissions, the Telles case has no effect on the Massachusetts maternity mandate, M.G.L. c. 175, s. 47F, or other mandated benefits pertaining to women.

B. UNISEX POLICY FORMS

In accordance with 211 CMR 32.00, 211 CMR 47.00, and the provisions of M.G.L. c. 175, companies are not prohibited from using unisex forms.

1. New forms: Unisex forms are currently being reviewed by the Division.

2. Previously approved forms: Unisex forms already approved can still be marketed in Massachusetts. Please submit a letter signed by a company officer listing the policy form-number(s), the type(s) of insurance, date(s) of approval or date(s) deemed approved, and the market.

3. Conversion from unisex to sex-distinct forms: Companies may file to convert unisex forms that were previously approved or are pending. The following information must be provided: a revised policy form-number, a new policy cover-page, language pages, an actuarial memorandum, and proposed market. For life filings, the appropriate table of values, cost of insurance rates, and settlement tables must also be submitted.

Note: For accident and health submissions, the Telles case has no effect on the Massachusetts maternity mandate, M.G.L. c. 175, s. 47F, or other mandated benefits pertaining to women.

II. WITHDRAWALS

For our records, please submit a listing of existing or currently pending unisex policies you wish to withdraw.

III. FILING FEES

1. Previously approved forms: No fee is required for notification of continued use of previously approved unisex or sex-distinct forms.

2. New forms: A fee is required for any new submission of unisex or sex-distinct forms.

3. Conversion from unisex to sex-distinct forms: No fee is required for converting currently pending forms. A fee is required for converting previously approved unisex forms.

Any questions regarding fees can be directed to Sheri Kennedy at (617) 727-7189 x435. For any other question regarding this bulletin please call (617) 727-7189 x439.