

INSURANCE  
DEPARTMENT OF BANKING AND INSURANCE  
DIVISION OF INSURANCE

Medicare Supplement Coverage

Filing Requirements for Policies, Certificates and Premium Rates

Notice to Policyholders of Rate Increases

Proposed Amendment: N.J.A.C. 11:4-23.13

Authorized By: Holly C. Bakke, Commissioner, Department of Banking and Insurance

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and P.L. 2003, c. 89, section 44

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

Proposal Number: PRN 2004-44

Submit comments by April 2, 2004 to:

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The agency proposal follows:

Summary

P.L. 2003, c. 89, effective June 9, 2003 (the "Act") provides a well-balanced approach to addressing the automobile insurance availability crisis facing New Jersey consumers, insurers and regulators. The Act includes numerous pro-consumer provisions, including notification to consumers when certain insurers file rate increase requests with the Department. Section 44b of

the Act (N.J.S.A. 17:29A-53b) requires an insurer or rating organization that files for a consumer insurance overall rate increase to notify the public of the proposed rate change. A consumer insurance rate increase is defined at Section 44d of the Act to mean certain rate increases requiring the prior approval of the Department for personal lines property/casualty coverages, and Medicare supplement coverages. Under Section 44b, a filer is not required to notify the public of a proposed rate increase if it pertains to: a limited prior approval rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35; rating system changes made pursuant to N.J.S.A. 17:29A-46.1 et seq.; or a rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance.

Section 44c of the Act (N.J.S.A. 17:29A-53c) requires that, with respect to insurers, the notice be communicated by regular or electronic mail to the named policyholders who use the products and services subject to the rate increase, within 10 business days of the applicable filing, and to be in a form prescribed by the Department of Banking and Insurance (Department). Proposed new rules N.J.A.C. 11:1-45 (see 35 N.J.R. 3517(a)) require insurers providing Medicare supplement coverage and other consumer insurance to provide the required notice to policyholders and prescribes the form of the notice.

In accordance with Section 44c of the Act, the Department is proposing an amendment to the Medicare supplement coverage rules at N.J.A.C. 11:4-23.13(c). The amendment makes reference to proposed N.J.A.C. 11:1-45, so as to prescribe the timing, content and form of notice to be provided to policyholders regarding filings for Medicare supplement coverage rate increases. The amendment indicates that the required notice is to be provided to individual policyholders and, in the case of group policies, to the group policyholder so as to enable it to

notify certificateholders of the filing of the rate increase request. The providing of such notification to certificateholders by group policyholders would be consistent with the Legislative intent that those persons who directly benefit from medicare supplement policies and who will be most directly affected by a rate increase should receive notice of applications for rate increases other than those specifically excluded by N.J.S.A. 17:29A-53b as amended.

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

As noted in the Summary above, the proposed amendment implements Section 44 of the Act. The proposed amendment implements the intent of the Legislature to provide the public and policyholders with notice of proposed actions by insurers providing Medicare supplement coverage seeking a rate increase. It is anticipated that affected policyholders will be better informed regarding these actions and, consequently, will have an enhanced ability to shop for lower rates from a different carrier, or even influence the carrier's decision to continue with the application for the rate increase. The notice, however, will make clear that these increases are only proposed, are subject to prior approval by the Department, and ultimately may not be approved for the amount requested.

The amendment will have a stabilizing effect on the rates for Medicare supplement coverage. As a result of policyholders being better informed about requests for rate increases and better able to shop for lower rates, competing carriers offering more attractive rates will be more

likely to attract new business. Lastly, the carriers' knowledge that existing customers may be more inclined to shop for coverage as a result of their greater awareness of requests for substantial rate increases may induce carriers to moderate the magnitude of their rate increases. In sum, requiring advance disclosure of potential rate increases will lead to a more informed consuming public and thereby 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 implementing systems necessary to provide the required notice under these proposed amendments pursuant to Section 44 of the Act. The Department, however, does not believe that the proposed amendment will impose an undue burden on insurers. The underlying requirement that notice be provided to the public and policyholders is required by statute, and the amendment merely reiterates that requirement and informs interested parties of the fact that the rule which sets forth the timing, content and form of notice is codified at N.J.A.C. 11:1-45.

While there may be some additional costs in developing systems to provide the notice to the public and policyholders as required by Section 44 of the Act and this proposed amendment, once the systems are in place, minimal if any additional costs should be imposed. The Department does not believe that insurers will need to employ additional staff in order to comply with these proposed amendments. Existing systems and staff utilized to provide other notices could be utilized in providing the notices required under this proposed amendment. The costs

ultimately imposed will be consistent with those associated with providing other notices in the normal course of business.

#### Federal Standards Statement

A Federal standards analysis is not required because the proposed amendment relate to the provision of notice to the public regarding applications for Medicare supplement insurance rate increases in this State and are not subject to any Federal requirements or standards.

#### Jobs Impact

The Department does not anticipate that the proposed amendment will result in the generation or loss of jobs. The Department invites interested persons to submit any data or studies about the jobs impact of these proposed amendments with their written comments.

#### Agriculture Industry Impact

The proposed amendment will not have any impact on the agriculture industry in New Jersey.

#### Regulatory Flexibility Analysis

The proposed amendment may impose compliance requirements on “small businesses,” as 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 Medicare supplement coverage. As noted above, small businesses will be required to bear costs in

developing and implementing systems to provide the required notice to policyholders and the public with respect to filings seeking Medicare supplement coverage rate increases. As was previously mentioned, the Department does not believe that the hiring of any additional staff will be necessary to comply with these proposed amendments.

The proposed amendment provides no different reporting, recordkeeping or other requirements based on business size. The proposed amendment implements section 44 of the Act, requiring insurers to provide notice to policyholders and the public of requests for rate increases filed with the Department in order that the public and policyholders may be aware of these actions. The goal of the statute does not vary based on business size, and variation of compliance requirements based on business size will not be feasible or consistent with the intent of the Legislature as set forth in section 44. Moreover, while implementing the intent of the Legislature by specifying the requirement that the notice be provided to policyholders and the public, the proposed amendment imposes minimal burdens on insurers. Accordingly, the proposed amendment provides no differentiation in compliance requirements based on business size.

#### Smart Growth Impact

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

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

SUBCHAPTER 23. MINIMUM STANDARDS FOR MEDICARE SUPPLEMENT  
COVERAGE

11:4-23.13 Filing requirements for policies, certificates and premium rates

(a) – (b) (No change.)

(c) No carrier shall use or revise premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule and supporting documentation have been submitted to and filed by the Commissioner in accordance with (a) and (b) above. **Pursuant to N.J.S.A. 17:29A-53, and in accordance with N.J.A.C. 11:1-45, notices of requests for prior approval rate increases shall be given to individual policyholders, and to group policyholders so as to enable them to notify certificateholders of the filing of the rate increase request.**

(d) – (f) (No change.)