



South Carolina Department of Insurance

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BULLETIN NUMBER 2003-13

(Issued Upon November 24, 2003)

To: All Insurers Licensed to Transact Life and/or Accident and Health Insurance Business within the State of South Carolina and All South Carolina Licensed Health Maintenance Organizations

From: Ernst N. Csiszar
Director of Insurance

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar", is written over the printed name.

Re: List of "Exempt" Policy Forms, Filing Procedures for "Exempt" and "Prior Approval" Forms and Rate Filings, Establishing Audit Procedures and Withdrawal of Bulletin 93-2

I. PURPOSE

The purpose of this bulletin is to streamline the exemption standards and procedures for filing life, accident and health insurance policy forms. This bulletin does not exempt rates that are subject to prior approval from prior approval. Accordingly, the exemption standards and filing procedures previously established by this Department have been revised. Specifically, this bulletin will:

1. List the "exempt" policy forms from the requirements of prior approval in accordance with S.C. Code Ann. §38-61-20 (D);
2. Establish filing procedures for filing "Exempt" and "Prior Approval" Forms and Rate Filings;
3. Establish audit procedures for "Exempt" filings; and
4. Withdraw and replace Bulletin 93-2.

II. LIST OF "EXEMPT" POLICY FORMS

Section 38-61-20(D), as amended, permits the Director of Insurance or his designee to exempt from prior approval those policy forms for which, in his opinion, prior approval is not necessary to protect the public. Accordingly, the Department has carefully reviewed the forms currently subject to prior approval to determine which are appropriate for exemption. Based upon this review the following categories of forms have been exempted from prior approval because policy language is somewhat standard and the

Department receives few, if any, consumer complaints related to these policy forms. Until further notice, the following types of forms are hereby exempt from prior approval by this Department unless the circumstances warranting their exemption change:

1. Individual life insurance policies. This applies to both fixed and variable life.
2. Individual annuity policies. This applies to both fixed and variable annuities.
3. Group life insurance policies. Mass-marketed policies as defined in S.C. Code § 38-65-50 will be subject to prior approval as outlined in S.C. Code § 38-65-60 (3).
4. Group annuity policies. This applies to both fixed and variable annuities. (NOTE: Group annuity policies/certificates etc are exempted from filing under any filing procedure including the annual exemption list.)
5. Individual accident and health insurance policies [other than health insurance coverage as defined in Section 38-71-670 (6) (i.e. policies subject to HIPAA of 1996), long term care insurance policies, and Medicare Supplement insurance policies].
6. Group accident and health insurance policies [other than health insurance as defined in Section 38-71-840 (14) (i.e. policies subject to HIPAA of 1996), long term care insurance policies, and Medicare Supplement insurance policies.] Mass-marketed policies as defined in S.C. Code § 38-71-740 will be subject to prior approval as outlined in S.C. Code § 38-71-750 (3).
7. Certificates, applications, riders, endorsements and amendments issued in conjunction with 1 through 6 above.

III. FILING REQUIREMENTS FOR “EXEMPT” FILING (S)

Although the forms specified above are exempt from prior approval, insurers must continue to file such forms with the Department and must continue to follow the procedures outlined in Section IV of this bulletin. The cover letter of each filing (SERFF and paper) must be prominently captioned to indicate the exempt status of the filing and must state that the forms filed are exempt from prior approval. In addition, all forms contained within the filing must be listed in the cover letter or in a separate attachment. If the filing contains certificates, applications, riders, endorsements and/or amendments, the cover letter must state the specific types of policies with which these forms will be used.

Upon the insurer’s receipt of an “Exempt” status from the Department, the insurer may issue or sell the forms in the State. If the filing contains the information required by this bulletin, including the certification required by Section IV (10) below, the Department will, for paper filings, stamp the cover letter "Exempt" and return a copy to the insurer. For SERFF filings, the Department will send a final “Closed Exempt” disposition to the insurer indicating that the forms included in the cover letter are “Exempt”. See Section V of this bulletin for audit procedures.

Each insurer shall submit to the Department an annual list including all the policy forms it issues or sells in South Carolina and which had been accepted as "Exempt" from having to be filed and approved by the Director or his designee. The annual list should cover a 12-month period of filings, as determined by the insurer (example: a January 1 to December 31 period or a July 1 to June 30 period, etc.). The annual list must be submitted to the Department as soon as reasonably possible after the end of the reporting period elected by the insurer. An officer of the insurer shall certify to the best of his knowledge and belief that all policy forms comply fully with the applicable statutes, regulations, and bulletins of the State of South Carolina.

NOTE: Domestic insurers may request a formal full review of "Exempt" filings in order to provide proof of domiciliary approval to other states. Please request this exception via the cover letter.

IV. FILING PROCEDURES FOR "EXEMPT" and "PRIOR APPROVAL" FORMS AND RATE FILINGS

In general the only forms subject to prior approval are individual and group Long Term Care insurance policies, Medicare Supplement insurance policies and health insurance coverage as defined in Sections 38-71-670 (6) and 38-71-840 (14). Mass marketed policies as defined in Section 38-65-50 and 38-71-740 are also subject to prior approval.

1. All paper filings must be directed to the attention of the Life, Accident and Health Section. The submission should include two copies of the cover letter and only one copy of the forms. For SERFF filings, one copy of the cover letter and one copy of the form must be submitted.
2. All submissions must include one self-addressed, stamped return envelope large enough to return the filing(s). This does not apply to SERFF filings.
3. The cover letter must be prominently captioned to indicate the status of the filing (i.e., filing for approval, exempt from prior approval). In addition, all form numbers contained within the filing must be listed on the cover letter or in a separate attachment. The cover letter must describe the filing, including the type of forms, any unusual aspects of the forms, and how and to whom the forms will be marketed. If the filing contains certificates, applications, riders, endorsements and/or amendments, the cover letter must state the specific types of policies with which these forms will be used.
4. All forms must be accompanied by a Certificate of Readability signed by an officer of the insurer as required under Regulation 69-5.1, except those forms excluded under SECTION C of that regulation.
5. A Form SCID 1504 must be furnished with all individual accident and health insurance forms and rate filings pursuant to Bulletin #8-84.

6. All individual accident and health and group Medicare supplement filings must include the premium rates and supporting actuarial memorandum.

7. If a detailed statement of the method of computation of reserves, nonforfeiture values and benefits available under the policy is not incorporated in each life policy submitted for approval, such a statement must accompany the submitted form.

8. Life and annuity filings must include all applicable disclosure materials such as the Statement of Policy Cost and Benefit Information required for individual life policies under Regulation 69-30, the Contract Summary required for individual annuities under Regulation 69-39 and Life Insurance Illustrations required under Regulation 69-40. If the policy is illustrated in accordance with Regulation 69-40, insurers do not need to furnish the Statement of Policy Cost and Benefit Information.

9. Group life and group accident and health insurance policies (other than long term care insurance as provided in Section 38-72-50) issued outside of this State that extend coverage to residents of this State must also be filed for informational purposes only in accordance with Bulletin 89-1. This does not apply to group annuity filings. Upon the insurer's receipt of an "Exempt" status from the Department, the insurer may issue or sell the forms in the State. All exempt form filings may be subject to audit.

10. To ensure that insurers review their forms prior to submission and to ascertain their compliance with South Carolina statutes, regulations and bulletins, the filing must include the following certification by an officer of the insurer:

"I have reviewed or supervised the review of the policy forms contained in this filing and hereby certify to the best of my knowledge and belief that they are in compliance with the applicable statutes, regulations and bulletins of the State of South Carolina. I further certify that the forms will be revised and/or discontinued as appropriate in the event of future changes in the statutes, regulations or bulletins."

V. AUDIT PROCEDURES FOR "EXEMPT" FILING (S)

All forms that are exempt from prior approval may be subject to audit by this Department. SCDOI checklists and supplemental checklists will be used to conduct audits of policy forms and certificates.

Life, Accident and Health Analysts will be required to utilize a statute, regulation, bulletin, and/or a legal opinion with every criteria point and should not submit disapproval points that cannot be referenced by the aforementioned.

If a form is found to be in violation of South Carolina statutes, regulations or bulletins, the insurer must, within fifteen calendar days of notification of the violation, advise the Department if the form has been issued or sold in South Carolina:

- If the form has not been issued, the insurer may revise the form to be in compliance with South Carolina statutes, regulations and bulletins and resubmit the form to the Department in accordance with this Bulletin. If the insurer does not wish to resubmit the form, the insurer must notify the Department within fifteen calendar days from the date it is notified of the violation that it is withdrawing the form.

- If the form has been issued, the insurer should:
 - Submit a plan to the Department within thirty calendar days of date of the violation notification letter detailing the action plan that will be taken to correct the violations. The action plan should address whether steps are necessary to notify current insureds of the revisions to their coverage. These steps may include issuing revised forms and/or explanation letters.
 - Submit any forms necessary to correct the violation(s).
 - The Department will review the action plan and any forms to redress the violations within 30 calendar days of receipt. If acceptable, the cover letter will be stamped “Exempt” and the insurer must implement the action plan within 30 calendar days.

If a filed form is certified to be in compliance with South Carolina statutes, regulations and bulletins, and the director or his designee finds that not to be the case, he may disqualify that insurer from using the “Exempt” certification process provided under this bulletin.

VI. WITHDRAWAL OF BULLETIN 93-2

Bulletin 93-2 previously issued by this Department is hereby withdrawn. This bulletin supersedes and replaces any and all bulletins addressing exemption standards and procedures for filing Life, Accident and Health Insurance Policy Forms, except Bulletin 89-1.

VII. EFFECTIVE DATE

This Bulletin is effective upon the issuance date of November 17, 2003.

VIII. QUESTIONS

Please direct any questions that you may have about this bulletin to the attention of June DuBard, Manager, Life, Accident and Health Section at (803) 737-6230 or jdubard@doi.state.sc.us.