

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Bulletin 2011-14- INS

In the matter of

Disability insurance rate and form filing and approval

**Issued and entered
this 22nd day of July 2011
by R. Kevin Clinton
Commissioner**

The purpose of this bulletin is to clarify the filing requirements for policy forms and rates under MCL 500.2242, in light of Order No. 10-005-M and recently released federal regulations regarding rate review processes that were issued pursuant to the Patient Protection and Affordable Care Act ("ACA").

Section 2236 of the Insurance Code of 1956, PA 218 of 1956 (the "Code"), MCL 500.2236, gives the Commissioner the authority to review insurance policy forms to ensure that they conform with the requirements of the Code and are not inconsistent with state or federal law. In addition, Section 2242 of the Code, MCL 500.2242, requires disability policy forms to be filed with, and approved by, the Commissioner.

Section 2242 applies to disability insurance policy forms offering individual or family expense coverage and requires that the policy forms be filed with, and approved by, the Commissioner prior to issuance or delivery in this state. Sections 2242(2) and (3) further provide as follows:

- (2) The commissioner may within 30 days after the filing of a disability insurance policy form applicable to individual or family expense coverage, disapprove the form for any of the following, subject to the requirements as to notice, hearing, and appeal set forth on sections 244 and 2236:
 - (a) The benefits provided therein are unreasonable in relation to the premium charged.
 - (b) It contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive, or encourage misrepresentation of the policy.
 - (c) It does not comply with other provisions of law.

(3) The commissioner may at any time withdraw his or her approval of an individual or family expense policy form on any of the grounds stated in subsection (2), subject to the requirements as to notice, hearing, and appeal set forth in sections 244 and 2236. An insurer shall not issue the form after the effective date of the withdrawal of approval.

On January 29, 1997, pursuant to Section 2236(8)(d) of the Code, Commissioner Olson issued Order No. 97-010-M ("1997 Exemption Order") exempting many policy forms from the filing and approval requirements of the Code, specifically Sections 2236, 2242, 3606, and 4430.

This filing and approval exemption was in effect until January 26, 2010, when Commissioner Ross issued his Order Rescinding 1997 Exemption Order, Order No. 10-005-M. This Order reinstated the filing requirements for all personal lines insurance forms and further clarified that:

- All requirements for filing policies purchased for personal, family, or household purposes contained in Section 2236 are in effect as of August 1, 2010;
- A group policy that is purchased for the person, family, or household purposes of the covered individuals must be filed.

Although Order No. 10-005-M rescinded the 1997 Exemption Order in total and expressly required policy forms to be filed pursuant to Section 2236, the Order was silent as to the filing requirements applicable to disability insurance policies under Section 2242.

The ACA requires state insurance regulators to adopt certain rate review processes in order to ensure that rate increases are reasonable. Federal regulations effective July 18, 2011, require each state to take into account the following factors in its rate review process when increased rates are proposed: 1) the reasonableness of the assumptions used by the health insurance issuer to develop the proposed rate increase and the validity of the historical data underlying the assumptions; and 2) the health insurance issuer's data related to past projections and actual experience. 45 C.F.R. § 154.301(a)(3).

The Commissioner has the authority, under Chapter 35 of the Code and P.A. 350 of 1980, MCL 550.1101 *et seq.*, to review rate increases applicable to health maintenance organizations and Blue Cross Blue Shield respectively, to ensure that rates conform with the requirements of the Code and are not inconsistent with state or federal law. Likewise, through operation of Order No. 10-005-M, the Commissioner has authority to review rates in connection with the benefits provided under Section 2242 of the Code relating to individual or family expense coverage offered in the individual, small group, and large group insurance markets.

Accordingly, effective September 1, 2011, all individual and small group disability insurance policy forms relating to individual or family expense coverage, and the associated rates, must be filed with the Commissioner, as required under Sections 2236 and 2242. Additionally, any revisions to the rates charged under a policy form relating to individual and family expense coverage must be submitted for Commissioner review and approval pursuant to 2242(2), regardless of whether a revision to the form itself is made.

Any questions regarding this bulletin should be directed to:

Office of Financial and Insurance Regulation
Health Plans Division
Product and Provider Class Plan Review Section
611 West Ottawa Street
P.O. Box 30220
Lansing, Michigan 48909-7720

Toll Free: (866) 999-6442



R. Kevin Clinton
Commissioner