

New Rule, R.2002 d.101, effective April 1, 2002.
 See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).
 Amended by R.2007 d.91, effective April 2, 2007.
 See: 38 N.J.R. 4976(b), 39 N.J.R. 1313(a).

Deleted introductory language and reserved "Exhibit A".

SUBCHAPTER 2A. PERSONAL LINES FILINGS: RATE FILING REVIEW PROCEDURES

11:1-2A.1 Purpose and scope

(a) This subchapter sets forth the timeframes and procedures used by the Department to review, and allow for the Public Advocate's intervention on, significant personal lines rate filings as defined in this subchapter and to implement the applicable provisions of N.J.S.A. 17:29A-1 et seq. and 52:27EE-46 et seq.

(b) This subchapter applies to all personal lines rate filings that have an overall rate impact in excess of +7.0 percent.

(c) This subchapter does not apply to private passenger automobile insurance prior approval rate filings, on which procedures have been established pursuant to N.J.A.C. 11:3-18, Private Passenger Automobile Insurance: Rate Filing Review Procedures.

(d) This subchapter shall be construed so as to be compatible with the rules that set forth requirements for rate filings, N.J.A.C. 11:3-16; the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.; and the administrative procedure rules codified at N.J.A.C. 1:1 and 1:11, Uniform Administrative Procedure Rules and Insurance Filing Hearings, respectively, concerning the disposition of matters after they have been determined to be a contested case.

11:1-2A.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Contested case" means any proceeding so defined in N.J.S.A. 52:14B-2(b), specifically including a personal lines prior approval rate filing when a request for a hearing has been made by any party or when the Commissioner determines that a hearing on the filing is necessary.

"Department" means the New Jersey Department of Banking and Insurance.

"Filer" means a rating organization or any insurer making its own rates or a portion thereof, establishing or proposing to establish a new rate or rate change.

"Parties" means the filer and any other person with a legal right to participate in the proceedings, who has served notice on the Commissioner of an intention to participate therein.

"Personal lines rate filing" means a filing by a rating organization or an insurer for insurance issued for personal, family or household purposes, as set forth at N.J.A.C. 11:13-1.2(a)2. For the purposes of this subchapter, a "personal lines rate filing" does not include private passenger automobile insurance.

"Public Advocate" means the Division of Rate Counsel in the Department of the Public Advocate of New Jersey.

"Rating organization" means every person or persons, corporation, partnership, company, society, or association engaged in the business of making rates or a portion thereof for two or more insurers and licensed in accordance with N.J.S.A. 17:29A-2.

11:1-2A.3 General filing provisions

(a) Personal lines rate filings may be submitted by insurers or licensed rating organizations which are authorized to file rates for insurers that are members or subscribers of the rating organization.

1. Insurers that make their own rates shall submit filings themselves.

2. Filings submitted by rating organizations shall be submitted only for and on behalf of their member companies.

(b) In computing any period of time fixed by this subchapter, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is on a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

(c) All documents filed with the Commissioner, except initial filings, shall contain a statement certifying that the item is being submitted within the time provided by this subchapter.

(d) Provisions of this subchapter that establish time limits may be relaxed or modified by the Commissioner for good cause shown.

(e) All filings submitted to the Commissioner shall be sent to the Department through the use of the NAIC electronic filing system SERFF (System for Electronic Rate and Form Filing).

(f) Any filing or other item submitted to the Public Advocate shall be sent to the Public Advocate at the following address:

Division of Rate Counsel
 Department of the Public Advocate
 31 Clinton Street, 11th Floor
 PO Box 46005
 Newark, NJ 07101

Amended by R.2009 d.190, effective June 15, 2009.
 See: 41 N.J.R. 365(a), 41 N.J.R. 2486(a).
 Rewrote (e).

11:1-2A.4 Procedures for review of personal lines rate filings

(a) The time period for the Department's review of a personal lines rate filing shall commence on the day the filing is received by the Department. The filer shall concurrently provide a copy of the filing to the Public Advocate.

(b) No later than 10 days after its receipt of the filing, the Public Advocate shall notify the Department and the filer if it intends to intervene.

(c) If the Department requests further information from the filer, the filer shall submit that information to the Department and simultaneously to the Public Advocate within 10 days of its receipt of the request.

(d) No later than 20 days after its receipt of a filing, the Public Advocate may request in writing that the filer provide additional information to complete their review or to explain or clarify information contained in the filing. A copy of any such request shall be simultaneously provided to the Department. Not later than 10 days after its receipt of any such request, the filer shall provide the clarifying or explanatory information to the Public Advocate and simultaneously to the Department.

(e) The Public Advocate may, within five days of its receipt of the filer's response providing clarifying or explanatory information pursuant to (d) above, request in writing that the filer provide any additional or follow up information to complete their review. A copy of any such request shall be simultaneously provided to the Department. The filer shall provide the additional or follow-up information to the Public Advocate and simultaneously to the Department within 10 days of its receipt of such a request.

(f) No later than 20 days after its receipt of the final company response, the Public Advocate shall file with the Department its report and recommendations, and simultaneously submit a copy to the filer.

(g) The Commissioner shall render a decision on the filing within 30 days after receipt of the Public Advocate's report, unless the filer or the Public Advocate has submitted a request for a hearing.

(h) Simultaneously with the filing of its report with the Department, the Public Advocate may request in writing a hearing on the filing. A request for hearing shall include a

statement of the facts and issues in sufficient detail so as to notify the Department and any other party of the matters in dispute.

(i) Upon receipt of a request for a hearing by the filer or by the Public Advocate, or not later than 75 days after receipt of a filing by the Department, the Commissioner shall determine whether the matter is a contested case and notify all parties in writing.

1. If no hearing is requested by the filer or by the Public Advocate, the Commissioner shall issue an appropriate final order disposing of all issues raised by the filing. The final order shall be issued no later than 90 days from the receipt of the filing by the Department except, for good cause, the Commissioner may extend the time to issue a final order by not more than 30 days.

2. If a hearing is requested by the filer or by the Public Advocate, the Commissioner may:

i. Hear the matter;

ii. Direct that the matter be transmitted to the Office of Administrative Law; or

iii. Appoint a salaried employee of the Department to hear the matter pursuant to N.J.S.A. 17:29A-14c.

3. The hearing shall be conducted pursuant to the provisions of N.J.S.A. 17:29A-14c and the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and applicable administrative procedure rules, N.J.A.C. 1:1 and 1:11.

SUBCHAPTER 3. DISABILITY DISCRIMINATION GRIEVANCE PROCEDURE

11:1-3.1 Definitions

The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

"ADA" means the Americans with Disabilities Act, 42 U.S.C.A. §12101 et seq.

"Agency" means the New Jersey Department of Banking and Insurance.

"Designated decision maker" means the Commissioner of Banking and Insurance or his or her designee.

Amended by R.2001 d.75, effective March 5, 2001.
 See: 32 N.J.R. 4184(a), 33 N.J.R. 794(a).

11:1-3.2 Purpose

(a) These rules are adopted by the agency in satisfaction of the requirements of the ADA and regulations promulgated pursuant thereto, 28 C.F.R. 35.107.

(b) The purpose of these rules is to establish a designated coordinator whose duties shall include assuring that the agency complies with and carries out its responsibilities under the ADA. Those duties shall also include the investigation of any complaint filed with the agency pursuant to N.J.A.C. 11:1-3.5 through 3.8.

11:1-3.3 Required ADA notice

In addition to any other advice, assistance or accommodation provided, a copy of the following notice shall be given to anyone who inquires regarding the agency's compliance with the ADA or the availability of accommodation which would allow a qualified individual with a disability to receive services or participate in a program or activity provided by the agency.

2. A consumer does not have a continuing relationship with a licensee if:

i. The consumer applies for insurance but does not purchase the insurance;

ii. The licensee sells the consumer airline travel insurance in an isolated transaction;

iii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee;

iv. The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee;

v. The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option;

vi. The customer's policy lapsed, expired or otherwise became inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of 12 consecutive months, except through annual privacy notices, material distributions or mass mailings required by law or regulation, communication at the direction of a State or Federal authority, or promotional materials;

vii. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or

viii. The individual's last known address of record is deemed invalid for the purposes of this subchapter. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

"Licensee" means all licensed insurers, producers and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered pursuant to Titles 17 and 17B of the New Jersey Statutes, health maintenance organizations holding a certificate of authority pursuant to N.J.S.A. 26:2J-1 et seq., and any other person or entity subject to the statute governing information practices at N.J.S.A. 17:23A-1 et seq. "Licensee" shall not include: a purchasing group; or an unauthorized insurer in regard to the surplus lines business conducted pursuant to N.J.S.A. 17:22-6.40 et seq.

"Nonpublic personal information" means "personal information" and "privileged information" as defined in N.J.S.A. 17:23A-2t and w, respectively.

"Service provider" means a person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

11:1-44.3 Information security program

(a) Each licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

(b) A licensee shall maintain and make available appropriate records to enable the Department to determine compliance with the requirements of this subchapter.

11:1-44.4 Objectives of information security program

(a) A licensee's information security program shall be designed to:

1. Ensure the security and confidentiality of customer information;
2. Protect against any anticipated threats or hazards to the security or integrity of customer information; and
3. Protect against unauthorized access to or use of customer information that could result in substantial harm or inconvenience to any customer.

11:1-44.5 Examples of methods of development and implementation

The actions and procedures described in N.J.A.C. 11:1-44.6 through 44.9 are examples of methods of implementation of the requirements of N.J.A.C. 11:1-44.3 and 44.4. These examples are non-exclusive illustrations of actions and procedures that licensees may follow to implement N.J.A.C. 11:1-44.3 and 44.4.

11:1-44.6 Assessment of risk

The licensee identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems; assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information; and assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

11:1-44.7 Management and control of risk

The licensee designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities; trains staff, as appropriate, to implement

the licensee's information security program; and regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

11:1-44.8 Service provider agreements

The licensee exercises appropriate due diligence in selecting its service providers; and requires its service providers to implement appropriate measures designed to meet the objectives of this subchapter, and, where indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.

11:1-44.9 Adjustment of the program

The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

11:1-44.10 Violations

Failure to comply with the provisions of this subchapter shall be deemed to constitute a violation of the statutes governing trade practices at N.J.S.A. 17:29B-1 et seq. and 17B:30-1 et seq., as applicable, and shall result in the imposition of penalties as provided in those statutes, N.J.S.A. 17:22A-26 et seq., 17:23A-1 et seq., 17:33-2, and any other provision of law.

11:1-44.11 Effective date

A licensee shall establish and implement an information security program, including appropriate policies and systems pursuant to this subchapter, by October 19, 2004.

SUBCHAPTER 45. NOTICE TO POLICYHOLDERS OF PERSONAL LINES INSURANCE RATE INCREASES

11:1-45.1 Purpose and scope

(a) This subchapter sets forth the form and manner of notice to be provided to policyholders and the public when an insurer or rating organization files for a personal lines prior approval rate increase, in accordance with N.J.S.A. 52:27EE-51.

(b) This subchapter shall apply to all insurers and rating organizations that file for a consumer insurance rate increase, as required pursuant to N.J.S.A. 52:27EE-50 and 51. This

subchapter shall not apply if the proposed rate change pertains to:

1. A prior approval rate filing made pursuant to N.J.S.A. 17:29A-46.6 or 17:36-5.35;
2. Rating system changes made pursuant to N.J.S.A. 17:29A-46.1 et seq.;
3. A rate filing made pursuant to any statutory change in coverage provided under a policy of private passenger automobile insurance;
4. A rate filing by the New Jersey Personal Automobile Insurance Plan; or
5. A prior approval rate filing of seven percent or less.

Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In (a), substituted "personal lines prior approval" for "consumer insurance" and "52:27EE-51" for "17:29A-53b"; in the introductory paragraph of (b), substituted "52:27EE-50 and 51" for "17:29A-53b"; in (b)3, deleted "or" from the end; in (b)4, substituted "; or" for a period at the end; and added (b)5.

11:1-45.2 Definitions

The following words and terms, as used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Consumer insurance rate increase" means a prior approval rate filing that:

1. For private passenger automobile insurance, would result in an increase in rates for any group of coverages, as defined in N.J.A.C. 11:3-16.2;
2. For homeowners' insurance, would result in an increase in rates for any policy form, that is, owners, tenants, or condominiums;
3. For personal lines property/casualty coverages, other than as set forth in 1 and 2 above, would result in a positive base rate change; and
4. For Medicare Supplement coverages, would result in an increase for any of the standard coverage plans A through L or for any non-standard policy or certificate form used by the filer.

"Department" means the New Jersey Department of Banking and Insurance.

"Division of Rate Counsel" means the Division within the Department of the Public Advocate established pursuant to N.J.S.A. 52:27EE-1 et seq.

"Insurer" means an entity authorized or admitted to transact insurance in this State pursuant to Titles 17 or 17B of the New Jersey Statutes.

“Medicare Supplement coverage” means coverage under a Medicare supplement policy, as defined in N.J.S.A. 17B:26A-1e.

“Personal lines prior approval rate increase” means an increase in rates for personal lines property/casualty coverages, which are those coverages listed in paragraphs 1 through 3 in the definition “consumer insurance rate increase” above in this section.

“Personal lines property/casualty coverages” means insurance issued for personal, family or household purposes, as set forth at N.J.A.C. 11:13-1.2(a)2.

“Private passenger automobile insurance” means direct insurance on an “automobile,” as defined in N.J.S.A. 39:6A-2.

“Rating organization” means every person or persons, corporation, partnership, company, society, or association engaged in the business of ratemaking for two or more insurers, and licensed as such pursuant to N.J.S.A. 17:29A-2.

Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In 4 of definition “Consumer insurance rate increase”, substituted “Supplement” for “Supplemental” and “L” for “J”; added definition “Division of Rate Counsel”; substituted definition “Medicare Supplement coverage” for definition “Medicare supplemental coverage”; and added definition “Personal lines prior approval rate increase”.

11:1-45.3 Form of notice required

(a) Subject to N.J.A.C. 11:1-45.1(b), insurers shall provide notice, in the form set forth in Exhibit A in the Appendix to this subchapter, incorporated herein by reference, of any filing for a personal lines prior approval rate increase, as set forth in N.J.S.A. 52:27EE-51, filed directly by the insurer or on its behalf by a rating organization. The notice shall be communicated through either regular or electronic mail to the named policyholders who use the products and services subject to the consumer insurance rate increase, and shall be provided within seven business days of the filing with the Department. In the case of regular mail, the notice shall be sent to the last known address of the named policyholder. The insurer may request policyholders to supply their electronic mail address, if they have one. If the policyholder does not have an electronic mailing address, then the insurer shall use regular mail. Insurers shall, as part of any filing for a consumer insurance rate increase, affirm that they are aware of and will comply with this notice requirement.

(b) Insurers shall not be responsible to assure receipt of the notice by all policyholders, provided the insurer has complied with N.J.A.C. 11:1-45.3. The failure of any policyholders to receive the notice shall not impact the effectiveness of any rate change that may subsequently be approved.

(c) Rating organizations shall publish notice, in the form set forth in Exhibit A in the Appendix to this subchapter, of any filing for a consumer insurance rate increase, in three newspapers of general circulation in this State, and on the

rating organization’s website, within seven business days of the filing with the Department.

(d) Nothing in this rule prevents the insurer from supplementing its notice with any other explanatory information that it may wish to supply to its policyholders with respect to the rate increase.

(e) Pursuant to N.J.S.A. 52:27EE-50, insurers and rating organizations shall file notice of a prior approval rate filing seeking a consumer insurance rate increase with the Department and shall concurrently provide a copy of the filing to the Division of Rate Counsel in the Department of the Public Advocate.

Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).

In (a), substituted “personal lines prior approval” for “consumer insurance”, “set forth” for “defined”, “52:27EE-51” for “17:29A-53b” and “seven” for “10”; in (c), substituted “seven” for “10”; and added (e).

11:1-45.4 Penalties

Failure to comply with this subchapter shall result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 17:33-2.

APPENDIX

Dear Policyholder:

(Salutation may be omitted by rating organizations.)

This is to provide notice as required pursuant to N.J.S.A. 52:27EE-51 that (COMPANY NAME) filed on (DATE) with the New Jersey Department of Banking and Insurance a request for a rate increase in the amount _____% for (TYPE OF COVERAGE(S)).

[For PPA only] Under the proposed filing, the average liability-only policy would see a rate change of _____%. The average Full Coverage policy (includes comprehensive and collision coverage) will see a rate change of _____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For homeowners’ only] Under the proposed filing, the average Owners policy (or equivalent term used by the filer) will see a rate change of _____%. The average Tenants policy will see a rate change of _____%. The average Condominiums policy (or equivalent term used by the filer) will see a rate change of _____%. The impact of the filing on your rates may vary substantially, depending on the terms of your policy and your individual circumstances.

[For all other personal lines property/casualty coverages] Under the proposed filing, the average policy will see a rate change of _____%. The impact of the filing on your rates

may vary substantially, depending on the terms of your policy and your individual circumstances.

The request for a rate increase is subject to review and approval by the Department of Banking and Insurance pursuant to law, and the request ultimately may not be approved or may not be approved for the full amount requested. If approved in whole or in part, the rate change will not affect existing policies until they come up for renewal.

Amended by R.2006 d.307, effective September 5, 2006.
See: 37 N.J.R. 4156(a), 38 N.J.R. 3586(a).
Rewrote section.

SUBCHAPTER 46. WORKERS' COMPENSATION SECURITY FUND

11:1-46.1 Purpose and scope

(a) This subchapter sets forth procedures for the assessment of carriers for purposes of making contributions to the Workers' Compensation Security Fund pursuant to N.J.S.A. 34:15-108.

(b) This subchapter shall apply to all carriers authorized or admitted to transact workers' compensation insurance in this State pursuant to Title 17 of the Revised Statutes.

Amended by R.2007 d.365, effective December 3, 2007.
See: 39 N.J.R. 3275(a), 39 N.J.R. 5083(a).

In (a), deleted "stock" preceding "carriers" and "Stock" preceding "Workers'"; and in (b), substituted "carriers" for "stock insurers".

11:1-46.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Carrier" means any stock corporation, reciprocal or association organized and operating on the mutual plan, authorized or admitted to transact workers' compensation insurance in this State, except an insolvent carrier.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Department" means the New Jersey Department of Banking and Insurance.

"Fund" means the Workers' Compensation Security Fund established pursuant to N.J.S.A. 34:15-103 et seq.

"Insolvent carrier" means a carrier which has been determined to be insolvent, or for which, or for the assets of which, a receiver has been appointed by a court or public officer of competent jurisdiction and authority.

Amended by R.2007 d.365, effective December 3, 2007.
See: 39 N.J.R. 3275(a), 39 N.J.R. 5083(a).

Added definitions "Carrier" and "Fund"; substituted definition "Insolvent carrier" for "Insolvent stock carrier"; and deleted definitions "Stock carrier" and "Stock fund".

11:1-46.3 Contributions to fund

(a) The Department shall periodically evaluate the amount of funds in the fund. When the aggregate amount of all payments into the fund, together with accumulated interest thereon, less all its expenditures and known liabilities of all carriers for the payment of benefits, shall be reduced below three percent of the loss reserves of all carriers for the payment of benefits under N.J.S.A. 34:15-1 et seq. or 33 U.S.C. § 901 et seq. by reason of payments from and known liabilities of the fund, then the Commissioner shall by Order require that contributions to the fund be made based on the net premiums of each carrier, as shown on the carrier's most recently filed annual statement and that such contributions continue until the fund, over and above its known liabilities, shall be equal to not less than three percent nor more than five percent of such reserves.

(b) All payments shall be made in the amount specified in and pursuant to the Order of the Commissioner.

Amended by R.2007 d.365, effective December 3, 2007.
See: 39 N.J.R. 3275(a), 39 N.J.R. 5083(a).

Section was "Contributions to stock fund". In (a), deleted "stock" preceding "fund" and "carriers" throughout, and substituted "carrier's" for "insurer's".

11:1-46.4 Penalties

Failure to comply with the provisions of this subchapter may result in the imposition of penalties as authorized by law, including, but not limited to, penalties authorized pursuant to N.J.S.A. 34:15-109.

SUBCHAPTER 47. ELECTRONIC TRANSACTIONS

11:1-47.1 Purpose and scope

(a) This subchapter recognizes and permits electronic transactions between carriers or producers, and applicants, insureds, or other parties.

(b) This subchapter applies to all transactions between carriers or producers, and an applicant, insured or other party for all kinds of insurance pursuant to Titles 17 and 17B of the New Jersey Statutes. This subchapter shall also apply to transactions involving the PAIP and CAIP. This subchapter shall not apply to cancellation, nonrenewal or termination of any insurance coverage. This subchapter shall not apply to filings required to be made with the Department.

11:1-47.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.