

CHAPTER 4
ACTUARIAL SERVICES

Authority

N.J.S.A. 17:1C-6e.

Source and Effective Date

R.2001 d.7, effective November 30, 2000.
See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Executive Order No. 66(1978) Expiration Date

Chapter 4, Actuarial Services, expires on November 30, 2005.

Chapter Historical Note

Chapter 4, Actuarial Services, was adopted and became effective prior to September 1, 1969.

Subchapter 2, Replacement of Life Insurance Policy, was adopted as R.1972 d.21, effective April 1, 1972.

Subchapter 7, Procedure for the Regulation of Consent to Higher Rate Filings, was adopted as R.1973 d.82, effective April 15, 1973. See: 4 N.J.R. 220(a), 5 N.J.R. 113(b).

Subchapter 8, Charitable Annuities, was adopted as R.1974 d.258, effective September 20, 1974. See: 6 N.J.R. 315(a), 6 N.J.R. 399(c).

Subchapter 11, Life Insurance Solicitation, was adopted as R.1976 d.329, effective October 18, 1976. See: 8 N.J.R. 336(a), 8 N.J.R. 517(a).

Subchapter 13, Group Student Health Insurance, was adopted as R.1977 d.309, effective August 22, 1977. See: 9 N.J.R. 343(c), 9 N.J.R. 438(d).

Subchapter 14, Home Health Care Insurance Coverage, was adopted as R.1977 d.476, effective December 15, 1977. See: 9 N.J.R. 479(f), 10 N.J.R. 16(d).

Subchapter 15, Alcoholism Benefits, was adopted as R.1978 d.165, effective May 22, 1978. See: 10 N.J.R. 162(a), 10 N.J.R. 257(a).

Subchapter 20, Blindness; Partial Blindness or other Physical or Mental Impairments; Unfair Discrimination, was adopted as R.1979 d.434, effective December 6, 1979. See: 11 N.J.R. 384(a), 11 N.J.R. 627(f).

Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were adopted as new rules by R.1980 d.176, effective April 21, 1980. See: 11 N.J.R. 348(a), 12 N.J.R. 342(c).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings, were readopted as R.1980 d.343, effective August 5, 1980. See: 12 N.J.R. 420(c), 12 N.J.R. 538(b).

Subchapter 21, Limited Death Benefits Forms, was adopted as R.1980 d.265, effective June 18, 1980. See: 12 N.J.R. 279(b), 12 N.J.R. 423(c).

Subchapter 2, Replacement of Life Insurance Policy, was repealed and Subchapter 2, Replacement of Life Insurance Policy, was adopted as new rules by R.1982 d.16, effective February 1, 1982, operative June 1, 1982. See: 13 N.J.R. 18(e), 14 N.J.R. 158(d).

Pursuant to Executive Order No. 66(1978), Subchapter 15, Alcoholism Benefits, expired on May 22, 1983.

Subchapter 22, Individual Life Insurance: Use of Gender Blended Mortality Tables, was adopted as R.1984 d.478, effective November 5, 1984. See: 16 N.J.R. 1452(a), 16 N.J.R. 3040(a).

Pursuant to Executive Order No. 66(1978), Subchapter 6, Reserve Standards for Individual Health Insurance Policies, was readopted as R.1984 d.512, effective November 5, 1984. See: 16 N.J.R. 2225(a), 16 N.J.R. 3039(a).

Subchapter 23, Medicare Supplement Policies and Contracts, was adopted as R.1985 d.70, effective February 19, 1985, operative June 19, 1985. See: 16 N.J.R. 2945(a), 17 N.J.R. 460(a).

Pursuant to Executive Order No. 66(1978), Subchapter 20, Blindness; Partial Blindness or Other Physical or Mental Impairments; Unfair Discrimination, was readopted as R.1985 d.161, effective April 1, 1985. See: 17 N.J.R. 168(a), 17 N.J.R. 820(a).

Pursuant to Executive Order No. 66(1978), Subchapter 16, Minimum Standards for Individual Health Insurance, Subchapter 17, Health Insurance Solicitation, and Subchapter 18, Individual Health Insurance Rate Filings were readopted as R.1985 d.221, effective April 15, 1985. See: 17 N.J.R. 554(a), 17 N.J.R. 1129(a).

Subchapter 21 was readopted as R.1985 d.325, effective June 3, 1985. See: 17 N.J.R. 891(a), 17 N.J.R. 1660(a).

Subchapter 24, Smoker and Nonsmoker Mortality Tables, was adopted as R.1985 d.617, effective December 2, 1985. See: 17 N.J.R. 2348(a), 17 N.J.R. 2907(a).

Subchapter 26, Annuity Mortality Tables, was adopted as R.1985 d.616, effective December 2, 1985. See: 17 N.J.R. 2349(a), 17 N.J.R. 290(a).

Subchapter 15, Alcoholism Benefits, was adopted as R.1986 d.228, effective June 16, 1986. See: 18 N.J.R. 607(a), 18 N.J.R. 1302(a).

Subchapter 19, Optional Coverage for Pregnancy and Childbirth Benefits, was adopted as R.1988 d.455, effective September 19, 1988. See: 20 N.J.R. 43(a), 20 N.J.R. 2377(c).

Subchapter 28, Group Coordination of Benefits, was adopted as new rules by R.1988 d.499, effective October 17, 1988. See: 20 N.J.R. 1773(b), 20 N.J.R. 2581(a).

Subchapter 29, Homeowners Comparison Survey, was adopted as R.1989 d.50, effective January 17, 1989. See: 20 N.J.R. 2181(a), 21 N.J.R. 164(a).

Subchapter 31, Term Life Insurance Comparison Survey, was adopted as R.1989 d.122, effective February 21, 1989. See: 20 N.J.R. 2990(a), 21 N.J.R. 566(a).

Subchapter 32, Health Service Corporation Notice of Increased Rates, was adopted as R.1989 d.522, effective October 2, 1989. See: 21 N.J.R. 973(b), 21 N.J.R. 3173(c).

Subchapter 33, Excess Interest Reserve Adjustment, was adopted as R.1989 d.523, effective October 2, 1989. See: 21 N.J.R. 1308(a), 21 N.J.R. 3175(c).

Subchapter 34, Long-Term Care Insurance, was adopted as R.1989 d.571, effective November 6, 1989. See: 21 N.J.R. 1964(a), 21 N.J.R. 3465(a).

Subchapter 25, Medicare Supplement Interim Standards, was adopted as R.1990 d.214, effective April 16, 1990. See: 22 N.J.R. 320(a), 22 N.J.R. 1266(b).

Pursuant to Executive Order No. 66(1978), Chapter 4 was readopted as R.1991 d.3, effective November 30, 1990, Subchapter 1, Contracts on a Variable Basis, was repealed by R.1991 d.3, effective January 7, 1991. See: 22 N.J.R. 1689(a), 23 N.J.R. 111(a).

Subchapter 35, Annual Medicare Supplement Policy Survey, was adopted as R.1991 d.122, effective March 4, 1991. See: 22 N.J.R. 1226(b), 23 N.J.R. 698(a).

Petition for Rulemaking. See: 23 N.J.R. 2546(c), 23 N.J.R. 3827(a).

Subchapter 25, Medicare Supplement Interim Standards, was repealed by R.1993 d.26, effective January 4, 1993. See: 24 N.J.R. 12(a), 25 N.J.R. 141(a).

Subchapter 37, Selective Contracting Arrangements of Insurers, was adopted as R.1994 d.45, effective January 18, 1994. See: 25 N.J.R. 4554(b), 26 N.J.R. 381(a).

Subchapter 9, Personal Lines Insurance: Prospective Loss Costs Filing Procedures, was adopted as R.1995 d.406, effective August 7, 1995. See: 27 N.J.R. 1356(b), 27 N.J.R. 2931(a).

Subchapter 30, Accelerated Death Benefits, was adopted as R.1995 d.521, effective September 18, 1995. See: 27 N.J.R. 2046(a), 27 N.J.R. 3613(c).

Subchapter 40, Life/Health/Annuity Forms, was adopted as R.1995 d.569, effective November 6, 1995. See: 27 N.J.R. 2857(a), 27 N.J.R. 2867(a), 27 N.J.R. 4317(a).

Administrative correction. See: 27 N.J.R. 4728(a).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.1996 d.4, effective November 30, 1995, and Subchapter 5, Amendment to Instructions to Life and Accident and Health Annual Statement Blank, Subchapter 10, Expense Experience, Subchapter 32, Health Service Corporation Notice of Increased Rates, Subchapter 35, Annual Medicare Supplement Policy Survey, and Exhibits A and B of the Appendix to Subchapters 16 and 23 were repealed by R.1996 d.4, effective January 2, 1996. See: 27 N.J.R. 3557(a), 28 N.J.R. 165(a).

Subchapter 47, Actuarial Requirements for Flexible-Factor Policy Forms, was adopted as new rules by R.1996 d.83, effective February 5, 1996. See: 27 N.J.R. 3750(a), 28 N.J.R. 1215(a).

Subchapter 44, Standards for Contracts on a Variable Basis, was adopted as new rules by R.1996 d.149, effective March 18, 1996. See: 27 N.J.R. 3743(a), 28 N.J.R. 1546(a).

Subchapter 45, Periodic Reports, was adopted as new rules by R.1996 d.150, effective March 18, 1996. See: 27 N.J.R. 3744(a), 28 N.J.R. 1548(a).

Subchapter 43, Individual Annuity Contract Form Standards, was adopted as new rules by R.1996 d.181, effective April 1, 1996. See: 27 N.J.R. 3740(a), 28 N.J.R. 1885(a).

Subchapter 48, Unfair Discrimination, was adopted as new rules by R.1996 d.182, effective April 1, 1996. See: 27 N.J.R. 3756(a), 28 N.J.R. 1887(a).

Subchapter 23A, Medicare Supplement—Under 50 Coverage, and Subchapter 23B, Medicare Supplement—Age 50 through 64 Coverage were adopted as new rules by R.1996 d.195, effective April 15, 1996. See: 27 N.J.R. 3719(a), 28 N.J.R. 1987(a).

Subchapter 42, Group Life, Group Health and Blanket Insurance: General Standards for Contract Provisions, was adopted as new rules by R.1996 d.196, effective April 15, 1996. See: 27 N.J.R. 3735(a), 28 N.J.R. 2003(a).

Subchapter 41, Standards for Individual Life Insurance Policy Forms, was adopted as new rules by R.1996 d.197, effective April 15, 1996. See: 27 N.J.R. 3727(a), 28 N.J.R. 1992(a).

Subchapter 25, Funeral Insurance Policies, was adopted as new rules by R.1996 d.328, effective July 15, 1996. See: 28 N.J.R. 1656(a), 28 N.J.R. 3671(a).

Subchapter 49, Mandated Diabetes Benefits, was adopted as new rules by R.1997 d.86, effective February 18, 1997. See: 28 N.J.R. 4340(a), 29 N.J.R. 562(a).

Subchapter 46, Synthetic Guaranteed Investment Contract Forms, was adopted as new rules by R.1997 d.332, effective August 4, 1997. See: 29 N.J.R. 1472(a), 29 N.J.R. 3452(b).

Subchapter 50, Reimbursement of Inmate Health Care Costs, was adopted as new rules by R.1997 d.513, effective December 1, 1997. See: 29 N.J.R. 2232(a), 29 N.J.R. 5066(a).

Subchapter 52, Life Insurance Illustrations, was adopted as new rules by R.1998 d.338, effective July 6, 1998. See: 30 N.J.R. 47(a), 30 N.J.R. 2495(a).

Subchapter 32, Valuation of Life Insurance Policies, was adopted as new rules by R.1999 d.442, effective December 20, 1999 (operative January 1, 2000, except as provided in N.J.A.C. 11:4-32.6). See: 31 N.J.R. 2845(a), 31 N.J.R. 4268(c).

Pursuant to Executive Order No. 66(1978), Chapter 4, Actuarial Services, was readopted as R.2001 d.7, effective November 30, 2000. See: Source and Effective Date.

Subchapter 54, Benefit Standards for Infertility Coverage, was adopted as new rules by R.2003 d.160, effective April 21, 2003. See: 34 N.J.R. 2521(a), 35 N.J.R. 1692(b).

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SUBCHAPTER 1. NEW JERSEY INSOLVENT HEALTH MAINTENANCE ORGANIZATION ASSISTANCE ASSOCIATION

Authority

N.J.S.A. 17:1-8.1; 17:1-15e; and 17B:32B-1 et seq.

Source and Effective Date

R.2001 d.122, effective April 2, 2001.
See: 32 N.J.R. 3907(a), 33 N.J.R. 1109(a).

9. A description of all termination events, discontinuance triggers and options, notice requirements, corrective action procedures and all other contractual safeguards, including events that allow the insurer to terminate the contract immediately, and any special termination features of the contract whereby interest rate movements or participant withdrawal activity (or any combinations thereof) might terminate the insurer's contractual obligations;

10. A description of the procedures to be followed when a termination event occurs, but the insurer waives its right to terminate the contract;

11. A statement as to whether the assets in the segregated portfolio may be chargeable with liabilities unrelated to the assets of and services performed under the contract, together with a full explanation of the conditions under which such assets would be so chargeable; and

12. A description of the procedures to be followed in reporting in the Annual Statement for any risk charges.

(b) All data or information submitted to the Department under this section is confidential and shall not be disclosed by the Department to any person.

11:4-46.5 Contract requirements

(a) The contract shall include at least the following:

1. The permissible levels and timing of any new deposits to the segregated portfolio;

2. If the contract does not have a set maturity, settlement options at termination permitting the contractholder to receive the contract value record over time except in the case of unilateral termination;

3. For contracts having a crediting rate formula, the maximum permissible rate period between crediting rate recalculations;

4. A provision that the insurer shall have the right to perform audits and inspections of assets held in the segregated portfolio upon reasonable notice to the custodian;

5. A provision that the insurer shall receive prior notice of any change in custodian, investment manager or investment guidelines;

6. A clear description of the insurer's obligations under the contract, and the contingencies and circumstances under which payments shall be made by the insurer to the contractholder;

7. If a market value adjustment formula is to be used in calculating the effect on the contract value record of certain withdrawals from the segregated portfolio, a clear description of the types of withdrawals subject to market value adjustment;

8. The investment guidelines and any subsequent changes thereto attached to and made a part of the contract;

9. A provision permitting the insurer to unilaterally terminate the contract within 30 business days of the occurrence of any of the following events, except that (a)9i and ii below shall not apply in situations where the investment manager is controlled by the insurer pursuant to N.J.S.A. 17:27A-1:

i. The investment guidelines are changed without the advance consent of the insurer;

ii. The segregated portfolio is invested in a manner that does not comply with the investment guidelines;

iii. Investment discretion over the segregated portfolio is exercised by or granted to anyone other than the investment manager or successor thereof; or

iv. Any act of fraud, misrepresentation of material facts, deceit or any breach of the contract that materially and adversely affects or would have affected the intent, structure or risk profile of the contract;

10. The Department shall permit qualifiers such as "material" or "reasonable" to modify the termination provision referred to in (a)9 above and any other provisions in the contract so long as such qualifiers are adequately quantified in the plan of operation. The adequacy of any such terms shall be within the sole discretion of the Department; and

11. A waiver provision as follows:

No waiver of remedies by the insurer following the breach of any contractual provision or of the investment guidelines, or failure to enforce such provisions or guidelines by the insurer, shall be effective against any insurance commissioner with regulatory jurisdiction over this contract, including the domiciliary insurance commissioner, unless approved in writing by such domiciliary insurance commissioner and any other insurance commissioner with regulatory jurisdiction over this contract.

11:4-46.6 General requirements

(a) The insurer shall monitor the market value record for each contract. Upon each recalculation of the crediting rate, but no less frequently than quarterly, the insurer shall update the market value record to reflect the market value of the segregated portfolio.

(b) No contract shall be delivered or issued for delivery in this State unless the assets which it supports and for which a contract value is established are maintained in a segregated portfolio of a custodian.

(c) The investment guidelines shall be submitted to the insurer for underwriting review prior to the effective date of the contract.

(d) The investment guidelines shall permit investments of the segregated portfolio to be only in instruments for which market values are ascertainable pursuant to N.J.S.A. 17B:28-10.

(e) No contract shall obligate the insurer to purchase any assets at greater than market value or assets that would not be permitted investments pursuant to N.J.S.A. 17B:20-1 et seq.

(f) For group annuity contracts that make available to the contractholder the purchase of immediate or deferred annuities for the benefit of individual members of the group, no annuity shall be purchased without the delivery of the agreed consideration to the insurer for allocation to the insurer's general account or separate account as appropriate.

(g) In the case of unilateral termination of a contract pursuant to N.J.A.C. 11:4-46.5(a)9, the insurer shall refund any unearned risk premium or investment management fees, which shall terminate all future liability of the insurer or obligation to provide further benefits.

(h) In the case of an insurer's waiver of its right to terminate a contract when a termination event occurs, the Department shall require the insurer to submit a report describing the corrective action taken by the insurer.

(i) The insurer shall acknowledge in its submission that it shall maintain adequate reserves and collect adequate consideration for the cost of annuities purchased under contract option by transfer from the segregated portfolio.

11:4-46.7 Reserves

(a) Reserves shall be held by the insurer in the general account and shown on Exhibit 10 of the Annual Statement. The assets supporting those reserves, together with the assets in the segregated portfolio, shall be sufficient to mature the liabilities under moderately adverse conditions. Annual asset adequacy analysis shall be performed and reported on by the appointed actuary in the annual actuarial opinion submitted pursuant to the Standard Valuation Law. Asset adequacy analysis must consider the nature of the assets and liabilities, and the anticipated effect on contract value crediting rates of possible future changes in the interest rate environment.

(b) Following is one method of reserve calculation that may be set forth in the plan of operation. The Department shall also consider alternative methods that have been adopted by the NAIC or otherwise supported by detailed actuarial analysis.

1. Project future liability cash flows using the guaranteed rate(s) of interest. For contracts that do not have defined maturity structures (such as "evergreen" or constant duration contracts), use the maturity structure of the assets as a proxy for the maturity structure of the liabilities.

2. Discount the liability cash flows at spot rates of interest that do not exceed 105 percent of Treasury spot yields, and that are adjusted, if necessary, so that the internal rate of return on the liabilities does not exceed the internal rate of return on the assets.

3. Hold reserve equal to the excess, if any, of the sum of the discounted liability cash flows calculated in (b)2 above over the market value of the assets.

4. Hold as additional reserves whether reserves are indicated by asset adequacy analysis in the opinion of the appointed actuary.

11:4-46.8 Severability

If any provision of this subchapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the subchapter and the application of such provision(s) to other persons or circumstances shall not be affected thereby.

SUBCHAPTER 47. ACTUARIAL REQUIREMENTS FOR FLEXIBLE-FACTOR POLICY FORMS

11:4-47.1 Purpose and scope

(a) These rules set forth requirements regarding actuarial reports and memorandum which are to be developed in connection with flexible-factor life insurance forms for such forms to be filed by the Commissioner for use and delivery for use in this State pursuant to N.J.S.A. 17B:25-18, 17B:27-25, 17B:28-5 and P.L. 1995, c.73.

(b) These rules shall apply to any insurer seeking to deliver, or issue for delivery, a policy of life insurance under a flexible-factor form in this State.

11:4-47.2 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.

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

"Experience factors" means factors of future anticipated or emerging experience upon which changes to flexible factors could be based.

"Flexible factors" means premiums, premium factors (interest, mortality, expenses) or benefits (death benefits, cash or loan values) that the insurer reserves the right to modify on the basis of future anticipated or emerging experience.

“Flexible-factor form” means any life insurance policy, rider or endorsement, whether participating or nonparticipating, where the insurer reserves the right to modify (upward or downward) premiums, premium factors (interest, mortality, expenses) or benefits (death benefits, cash or loan values) on the basis of future anticipated or emerging experience.

“Insurer” means any person or persons, corporation, partnership, or company authorized or admitted to transact the business of life insurance in this State pursuant to Title 17B of the New Jersey Statutes.

“Minimum guarantee premium” means the minimum premium as established by the insurer to maintain coverage in force and avoid lapse.

“Persistency bonus” means credit either to an explicit or implicit accumulation account which varies by duration in a manner which encourages or rewards persistency.

“Qualified actuary” means an individual who is a member in good standing of the American Academy of Actuaries and who is qualified to provide a Public Statement of Actuarial Opinion in accordance with standards set forth by the Actuarial Standards Board of the American Academy of Actuaries.

Amended by R.1997 d.444, effective October 20, 1997.

See: 29 N.J.R. 3409(a), 29 N.J.R. 4459(c).

Amended “Qualified actuary”.

Amended by R.2001 d.7, effective January 2, 2001.

See: 32 N.J.R. 3546(a), 33 N.J.R. 101(a).

Amended by R.2001 d.411, effective November 5, 2001.

See: 33 N.J.R. 2268(a), 33 N.J.R. 3749(a).

Added “Experience factors” and “Flexible factors” and deleted “Tiered factors”.

11:4-47.3 General requirements

(a) No form to which this subchapter applies may be delivered or issued for delivery in this State unless submitted to the Commissioner for review and filed by the Commissioner pursuant to all applicable law, including, but not limited to, N.J.A.C. 11:4-40.

(b) All forms to which this subchapter applies shall specify the experience factors upon which changes to flexible factors could be based.

Amended by R.2001 d.411, effective November 5, 2001.

See: 33 N.J.R. 2268(a), 33 N.J.R. 3749(a).

Designated existing paragraph as (a) and added (b).

11:4-47.4 Pricing assumptions—actuarial certification

(a) Each form submitted for filing shall be accompanied by a certification from a qualified actuary that the insurer has prepared an actuarial memorandum which specifies the formulas used in calculating initial flexible factors and that the actuarial memorandum shall be available for review by the Department upon request. The certifications and the actuarial memorandum shall be signed by a qualified actu-

ary who shall indicate his or her professional qualifications and his or her relationship to the insurer (for example, company officer, consultant, etc.).

1. For purposes of (a) above, “formula” means the methodology used to set the flexible factors. When asset shares or profit margins are used, the memorandum shall describe the method of calculating profits (that is, the accounting basis) and shall state the internal rate of return or other profit target. If the pricing target varies by pricing cell, the target shall be listed for a representative sample of pricing cells.

2. The memorandum shall address the manner in which the cost of coverage is distributed among various factors (interest crediting rates, cost of insurance charges, expense charges, etc.), and the distribution of these factors over age and duration.

(b) The actuarial memorandum shall specify the projected assumptions as to investment earnings, mortality, persistency, and expense on which the initial flexible factors are based, together with comparable assumptions for guaranteed factors set forth in the policy. The assumptions shall be set forth in sufficient detail to permit the Department to determine the profit factors implicit in the initial premium or factor tables. Assumptions that shall be indicated include, but are not limited to, reserve basis, if the pricing method includes profit; required surplus contributions treated as reserves; Federal income tax, if pricing is on an after-tax basis; and premium per unit of insurance, for flexible premium policies (that is, any policy where the policyholder may unilaterally change premium or choose not to pay premium).

1. The expense assumptions shall indicate whether expenses are on a marginal or a fully allocated basis. Expenses should be consistently allocated over the life of the block of business. For purposes of this section, “block of business” means all policies issued on the particular form by the insurer.

2. The profit factor(s) implicit in the initial flexible factors also shall be included. The profit factor may be expressed as either a rate of return, a present value of profits, or explicit margins associated within the flexible factors.

(c) The actuarial memorandum shall include tables of all standard and preferred risk premiums or factors on both the initially intended non-guaranteed basis and the guaranteed basis. These tables are not required to include figures for substandard or rated policies.

1. All factors and premiums shall be provided in tabular form on both a current and guaranteed basis. For cost of insurance rates, a formula which reproduces the rates shall be deemed sufficient. Pricing factors (for example, expense charges) which are guaranteed and not subject to change should also be shown. The insurer shall distinguish between factors which are guaranteed

and not subject to change, and factors for which the current value is equal to the guaranteed value but which may be decreased, on a non-guaranteed basis, in the future.

2. The interest rate(s) used at the time of submission shall also be provided. Insurers shall advise the Department of any change in this (or any other factor) prior to the filing of the form by the Commissioner.

3. Minimum guarantee premiums, critical values for tiered factors, persistency bonuses, or similar information shall be included.

4. Surrender charges shall be included if they are a flexible factor (subject to change) or if they are not included in conjunction with the memorandum required pursuant to N.J.A.C. 11:4-47.5.

(d) Each form submitted for filing shall be accompanied by a statement of the intended conditions under which flexible factors may be adjusted and the method by which these adjustments will be accomplished. This statement shall be construed as a statement of intention rather than a "guarantee" as to the insurer's future actions. The statement shall include the following:

1. An explanation of the methodology used to determine initial flexible factors and the amount of future adjustments to these flexible factors. This explanation shall:

i. Identify the type(s) of profit measures used to determine the initial flexible factors and the value(s) of these measures; and

ii. Include either:

(1) A statement that the methodology used to determine the amount of changes to flexible factors is the same as that used to determine the initial flexible factors; or

(2) A description of and rationale for any differences in these methodologies.

2. A detailed description of the effect of current pricing assumptions and revised pricing assumptions on the amount of future adjustments to flexible factors. If this description does not indicate that current assumptions will be incorporated up to the point of the changes and revised assumptions afterward, the description shall demonstrate how the procedures described do not distribute prior profits or recoup past losses.

(e) All flexible factor formulas, initial flexible factors and changes to flexible factors shall be approved by the insurer's board of directors, an executive committee of the board of directors, or a company officer (identified by name and title) duly authorized by the board of directors for this purpose. Each form submitted for filing shall be accompanied by either a statement or certification to this effect that identifies the source of such approval.

(f) The insurer shall indicate in its form submission that pricing assumptions for in-force policies will be reviewed whenever the flexible factors for comparable new issues are changed, but in no event more often than once every policy year nor less often than once every five policy years. This review shall not be required during any period that flexible factors are subject to an initial guarantee period.

(g) Each form submitted for filing shall be accompanied by a certification from a qualified actuary that the assumptions are reasonable, and in the actuary's judgment, self-supporting and that the assumptions do not unfairly discriminate between new issues and in-force policies.

(h) In the case of non-participating policies, and with respect to the specific experience factors that apply to each flexible factor, each form submitted for filing shall be accompanied by a certification that future adjustments in flexible factors will not be such as to distribute prior profits or to recoup past losses and that changes will be based solely on future expectations as to the applicable experience factors. If the applicable experience factors differ among flexible factors, the certification shall so indicate. The experience factors shall be consistent with those stated in the policy forms.

(i) In the case of participating policies, and with respect to the specific experience factors that apply to each flexible factor, each form submitted for filing shall be accompanied by a certification that future adjustments in flexible factors, other than dividends, will not be such as to distribute prior profits or to recoup past losses, and that changes will be based on future expectations as to the applicable experience factors. If the applicable experience factors differ among flexible factors, the certification shall so indicate. The experience factors shall be consistent with those stated in the policy forms.

(j) Any adjustments in flexible factors made after the filing of the form, including changes in a non-guaranteed interest, shall be filed with the Department at least 30 days prior to implementation. The insurer may utilize the new premiums or factors provided the Commissioner has not disapproved such changes within the 30-day period.

1. The Commissioner shall waive the prior notice requirement set forth in (j) above in the case of interest rates when the insurer demonstrates to the Commissioner that credited rates are determined by a formula subject to (l) below.

2. Notification to the Department of any flexible factor change shall include the following information, without limitation:

i. An identifying form number(s) and filing date(s) of the form(s) to which the flexible factor change applies;

ii. An indication of the factor(s) which is being changed and the implementation date of such change, which shall be no sooner than 60 days after the notification of the change is filed with the Department;

iii. A specification of the categories (for example, face amount, date of issue, etc.) of new and in-force business to which the revised factors will apply. If the change is applicable only to new or only to in-force business, the submission should so indicate and include an explanation of the reasons for limited application of the change;

iv. The differences between the new factors and the last previously submitted factors for representative plans, ages and durations, and an indication whether the change represents an increase, decrease or no change from the prior filing, as well as a specification of the relative magnitude of any such change;

v. The rationale for the change, describing changes in experience or expectations leading to that change;

vi. Certifications from a qualified actuary that:

(1) An actuarial memorandum has been prepared with respect to the change(s);

(2) This memorandum is available for review by the Department upon request;

(3) The change(s) does (do) not increase the profit factor or, if increased, includes an explanation of the manner and reasons by which the profit factor is increased;

(4) The change(s) does (do) not unfairly discriminate between existing policies and new issues; and

(5) The change(s) otherwise satisfy(ies) the requirements set forth in (k) below.

vii. A statement that the board of directors, executive committee, or officer duly authorized by the board has approved a flexible factor change as required by (e) above.

(k) The actuarial memorandum required pursuant to (j)2vi above shall contain a certification from the qualified actuary who prepared it that adjustments are such to retain or reduce the profit factor that was inherent in the rate formulas at issue. If, in the actuary's judgment, the profit factor for in-force policies should be increased, the actuarial memorandum shall provide all justifications for that increase.

1. The Commissioner shall disapprove changes in flexible factors which increase the profit factor for in-force business if he or she determines that the actuarial assumptions on which such change is based are unreasonable, not self-supporting, discriminate unfairly between new issues and in-force business, or are otherwise contrary to law.

2. Adjustment in flexible factors which increase profits (before consideration of dividends) shall be acceptable if

the Commissioner determines that future dividends will also be adjusted so that profit to the insurer, after dividends, is the same as was inherent in the rate formulas and anticipated dividends at issue.

(l) The Commissioner shall waive the requirement that the insurer provide 30 days' advance notice of changes to interest rates as set forth in (j) above, provided that the insurer specifically requests such a waiver, the insurer includes as part of its initial submission a statement of methodology for deriving the rate, and interest rates and/or investment earnings, as appropriate, are the sole experience factors upon which changes to the rate can be based. The insurer shall provide 30 days' advance notice when the methodology, including any changes to the assumed spread between the market (index) rate or earned rate on all or a segment of the insurer's portfolio and/or any provisions and/or assumptions as to investment expenses, allowances for asset risks and/or allowances for default risks, is changed. The methodology shall tie the credited rate to a market (index) rate or earned rate on all or a segment of the insurer's portfolio, and the spread between this rate and the credited rate shall be fixed with a variation of no more than 25 basis points from the formula rate. Any interest rate methodology submitted pursuant to this subsection shall include, but not be limited to, the following:

1. The formula used to determine the credited rate;

2. If the formula involves the insurer's "earned rate," the following information:

i. The earned rate shall be identified as that earned by the general portfolio or by a specific block of assets. In the case of the latter, the specific assets shall be identified, either by listing each asset or by providing a summary which includes the amount and percentage of assets by issuer, duration to maturity, credit quality, payment structure, and call provisions;

ii. A description of the earnings of the assets used in determining the earned rate, including an indication of the manner by which capital gains (both realized and unrealized) and the earnings of subsidiaries are used in the calculation;

iii. An indication of whether the earned rate is net or gross of investment expenses and/or allowances for asset/default risks, as well as a description of and specifics as to any provisions and/or assumptions for investment expenses, allowances for asset risks and/or allowances for default risks.

iv. The formula used to calculate the earned rate from investment earnings and asset values;

3. The frequency with which the credited rate is recalculated and redeclared; and

4. The frequency of compounding of the credited rate, and the earned or external index rate. Any implicit interest margin resulting from an inconsistency between the frequency of compounding of the earned or external rate and the credited rate shall be indicated.

(m) Any insurer seeking to utilize the alternative procedure set forth in (l) above shall provide to the Department the history of its interest rates upon request.

Amended by R.1997 d.444, effective October 20, 1997.

See: 29 N.J.R. 3409(a), 29 N.J.R. 4459(c).

In (d), added the third sentence; and inserted (d)1 through (d)3.

Amended by R.2001 d.411, effective November 5, 2001.

See: 33 N.J.R. 2268(a), 33 N.J.R. 3749(a).

Rewrote section.

11:4-47.5 Nonforfeiture benefits—actuarial memorandum

(a) Each form submitted for filing shall be accompanied by certifications by a qualified actuary that the nonforfeiture benefits provided under the form(s) are in compliance with N.J.S.A. 17B:25-19, and that an actuarial memorandum has been prepared and signed by a qualified actuary which demonstrates such compliance. This memorandum shall be available for review by the Department upon request, and a qualified actuary shall so certify. These certifications shall be provided regardless of whether or not the insurer is asserting that the form(s) submitted for filing are exempt from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19.

1. Nonforfeiture compliance for term insurance riders that create a “target” death benefit based upon the combined coverage provided by the base policy form and rider shall be based upon the total coverage provided by the base plan/rider combination.

2. All other term insurance riders shall be tested for nonforfeiture compliance as if they provide stand-alone term insurance coverage.

(b) For forms where the principal variable is the insurer’s right to change (either increase or decrease) premiums subject to a maximum premium amount, policy provisions relating to nonforfeiture shall satisfy the requirements set forth in N.J.S.A. 17B:25-19. For purposes of determining compliance with this statute, “premiums specified in the policy” shall mean the initial scale, rather than the maximum scale, of guaranteed premiums, unless the latter would produce larger cash values. In this case, the minimum nonforfeiture benefits shall be based on the assumption that guaranteed maximum premiums shall apply wherever possible.

(c) For policies where cash values are determined retrospectively as an accumulation of gross premiums less expense charges, with interest increments and mortality decrements, the excess of expense charges in the first policy year over renewal expense charges may not be greater than the maximum initial expense allowance as set forth in N.J.S.A. 17B:25-19h(i) and a qualified actuary shall so certify. For purposes of determining the maximum initial expense allowance, the insurer at its option may adopt the method described in either (c)1 or 2 below. Each form submitted for filing shall be accompanied by a certification from a qualified actuary that specifies which method has been used.

1. The plan of insurance may be considered to be either that which would result from an indefinite continuation of initial interest, mortality, and expense factors (that is, the apparent plan), or by the assumption that maximum guaranteed interest, mortality, and expense factors will apply at all durations (that is, the guaranteed plan). Except as provided in (c)1ii below, it shall be assumed that the premiums will continue to be paid at the initial level and frequency and the amount of death benefit will continue unchanged from the initial amount. The resulting plan of insurance shall be either an endowment to the age at which the cash value equals the initial insurance amount or term insurance to the age at which the cash value is exhausted. The maximum initial expense allowance shall be the smaller of the amounts so calculated for the apparent or the guaranteed plan of insurance.

i. The standards set forth in (c)1 above limit the excess first year expenses to an amount equal to the lesser of the maximum initial expense allowance for the apparent plan and the maximum initial expense allowance for the guaranteed plan.

ii. For the apparent plan and the guaranteed plan, insurers shall assume that the initial premium and initial death benefit continue unchanged, except that for policies having either a minimum guarantee provision or a minimum premium test provision as defined in N.J.A.C. 11:4-41.2 effective for a period of 11 or more years after issue (16 or more years for last survivor policies), it shall be assumed that the stipulated minimum premium is paid as required to avoid lapse in all years.

iii. For front end loaded policies without surrender charges, in order to satisfy the requirements set forth in (c)1 above, insurers may be required to express the front end load as a percentage of premium rather than as a flat amount. In the alternative, the insurer may be required to set forth a minimum first year premium which is sufficient to mature the policy.

2. The plan of insurance may be assumed to be whole life, subject to the following conditions:

i. A disclosure statement shall be provided to the prospective policyowner at the time of application and shall be printed prominently (that is, on or in close proximity to the initial schedule page and in bolder or larger type) on the schedule page of the policy form for any policy for which the initial premium is lower than that premium which, when paid in level amounts at the initial frequency, would provide coverage to the earlier of policy maturity or age 100, assuming indefinite continuation of initial interest, mortality and expense factors. For policies having either a minimum guarantee provision or a minimum premium test provision effective for a period of 11 or more years after issue (16 or more years for last survivor policies), the initial premium shall be deemed to be the stipulated minimum premium. The disclosure statement shall be substantially similar in form and content to the following:

Assuming current (Note: insurers to include listing of interest, mortality and expense factors, as such factors are described in the form) continue indefinitely and a premium equal to the initial premium (or minimum premium, if applicable) is paid (insert premium mode selected by owner), this policy will provide coverage for xx years; based on guaranteed (Note: insurers to include listing of interest, mortality and expense factors, as such factors are described in the form), this policy will provide coverage for yy years. Other policy forms designed specifically to provide term insurance may offer similar benefits for such periods at a lower cost or with higher cash surrender values. You should consider whether this policy or such alternative policy is right for you.

ii. The specimen disclosure statement(s) submitted with the form shall specify or clearly reference the premiums assumed and shall specify the lengths of coverage provided based upon the current and guaranteed assumptions.

iii. Regardless of initial premium, no disclosure statement shall be required for last survivor policies with a face amount greater than or equal to \$500,000 or to variable contracts (that is, those which are issued pursuant to N.J.S.A. 17B:28-1 et seq. and delivered or issued for delivery in this State).

(d) All policy forms may incorporate surrender charges of specified amounts at specified durations, provided that the resulting cash values are at least as large as those developed under (c) above assuming a maximum initial expense allowance and no surrender charges. For purposes of this subsection, "specified" surrender charges means that the policyholder can determine at issue the exact amount of surrender charge applicable at any future time. Surrender charges provided by a table included in the policy or surrender charges as a percentage of initial premiums or death benefits shall be specified, but surrender charges as a percentage of variable future premiums, values or benefits are not specified.

1. The scale of surrender charges shall be such as to satisfy the tests regarding detection and avoidance of discontinuities in life insurance policies set forth in Exhibit 1 in the Appendix to this subchapter, incorporated herein by reference. The actuarial memorandum prepared pursuant to (a) above shall include a certification from a qualified actuary that surrender charges, if any, are in compliance with these tests for representative issue ages and premium/benefit arrangements on an "apparent plan" basis or, in the alternative, provide justification for instances where the tests may not be satisfied.

2. The insurer may satisfy the requirements set forth in (d) above by demonstrating that surrender charges are less than the unamortized unused initial first year expense allowance. The initial expense allowance shall be derived pursuant to (c) above. Further, the expense allowance

shall be amortized over the period for which coverage was purchased.

(e) In order to demonstrate compliance with the requirements set forth in (c) and (d) above, the actuarial memorandum prepared pursuant to (a) above shall contain the following:

1. A description of the calculation of the maximum initial expense allowance, including a specific reference to the guaranteed plan purchased by the initial premium;

2. A demonstration, either algebraically or by comparing the maximum initial expense allowance to the excess first year expenses for all ages and classes, that the requirements set forth in (c) are satisfied; and

3. If there are surrender charges, a comparison, either tabular or by algebraic formula, of surrender charges to unused unamortized expense allowance at all durations.

(f) In addition to surrender charges as permitted pursuant to (d) above, a policy may contain provision for surrender charges in the form of withholding portions of credited excess interest or similarly calculated percentages of accumulated amounts. This type of surrender charge shall be considered a protection against possible asset liquidation loss at time of cash value payment, and the insurer shall state in the actuarial memorandum prepared pursuant to (a) above the circumstances under which such a surrender charge would be imposed. If the charge is to be imposed unconditionally, the minimum value test required pursuant to (d) above shall include the unspecified surrender charge in all calculations, and the insurer, in policy summaries and sales illustrations, may not display any accumulation amounts greater than the cash values assuming imposition of all surrender charges.

(g) Each form submitted for filing, which the insurer asserts is exempt from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19, shall be accompanied by a certification from a qualified actuary:

1. Stating that an actuarial memorandum has been prepared and signed by a qualified actuary which demonstrates that the form is exempt from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19, which actuarial memorandum shall be available for review by the Department upon request; and

2. Stating the specific exemption from providing guaranteed nonforfeiture benefits as described in N.J.S.A. 17B:25-19 claimed by the insurer.

Amended by R.1997 d.444, effective October 20, 1997.

See: 29 N.J.R. 3409(a), 29 N.J.R. 4459(c).

Rewrote (c) as (c) and (c)1; recodified (c)1 through (c)3 as (c)1i through (c)1iii; inserted new (c)2; in (g), substituted "certification" for "memorandum", and deleted "company officer or" preceding "qualified actuary"; and added (g)1 and (g)2.

Amended by R.2001 d.411, effective November 5, 2001.

See: 33 N.J.R. 2268(a), 33 N.J.R. 3749(a).

Rewrote section.

11:4-47.6 Recordkeeping

Any actuarial memorandum prepared as required by this subchapter shall be retained by the insurer, and submitted to the Department upon request, until such time as the policy form is no longer being issued or delivered to persons residing in this State.

11:4-47.7 Penalties

Failure to comply with this subchapter shall result in the disapproval of any flexible-factor form for delivery in this State, as well as imposition of any other penalties as may be authorized by law.

3. For the time being, we recommend a set of limits be used to separate whole life policies that are to be subjected to regulatory consideration which produces a manageable volume of identified policies. The upper limits of the test measure we recommend for acceptable policies are:

Issue Age	Test Limit
25 and under	300
35	500
45 and over	600

(Limits for other ages to be obtained by interpolation.) These limits apply to all policy sizes tested and isolated five percent of all of the policies in our test sample.

APPENDIX

EXHIBIT 1

DETECTION AND AVOIDANCE OF DISCONTINUITIES IN LIFE INSURANCE POLICIES

Detecting Possible Manipulation: The Mechanical Approach

Manipulation is manifested in irregularities in the otherwise smooth progression of the net result of offsetting the dividends and the changes each year in cash values against the annual premiums, i.e., irregularities in the annual policy cost from the policyowner's viewpoint. We have examined several ways of testing for such irregularities and of arriving at limits beyond which they may be cause for inquiry by the regulators.

The method that we regard as most likely to work satisfactorily is described technically as follows:

1. The test measures irregularities in policy values which are identified by the yearly prices of protection. Yearly prices are based on premiums, illustrated dividends, cash surrender values, death benefits, and an imputed interest rate of five percent.

2. The test is applied to the sum of the squares of the second backward differences in yearly prices. This measure is obtained as follows: First, the differences between successive changes in yearly prices are calculated. These "second differences" are then squared to avoid the offsetting effect of positive and negative values. Finally, the squared second differences are added for policy years 8-23. Because the test omits from the calculation yearly prices prior to year 6, it will not detect irregularities in yearly prices during the first five policy years. The use of the mechanical approach in early policy years is burdened by variations in expense amortization and in early year cash surrender values. It was the judgment of the committee that incorporation of yearly prices beyond policy year 23 is currently unnecessary.

Example 1

The first example is a participating whole life policy issued to a male aged 35. The calculation is made on a per \$1,000 basis:

Policy Year	Guaranteed Cash Value	Illustrated		Premium
		Annual Dividend	Terminal Dividend	
1	0.0	0.0	0.00	21.40
2	8.77	2.40	0.00	21.40
3	31.27	2.65	0.00	21.40
4	54.28	2.90	0.00	21.40
5	77.82	3.16	0.00	21.40
6	94.24	3.16	0.00	21.40
7	110.93	3.16	0.00	21.40
8	127.88	3.41	0.00	21.40
9	145.09	3.41	0.00	21.40
10	162.54	3.66	8.00	21.40
11	180.22	4.16	8.00	21.40
12	198.11	4.67	8.00	21.40
13	216.20	5.17	8.00	21.40
14	234.46	5.68	8.00	21.40
15	252.88	6.18	8.00	21.40
16	271.43	6.69	8.00	21.40
17	290.10	7.19	8.00	21.40
18	308.87	7.95	8.00	21.40
19	327.73	8.46	8.00	21.40
20	346.65	9.47	25.00	21.40
21	365.62	10.48	25.00	21.40
22	384.60	11.49	25.00	21.40
23	403.57	12.50	25.00	21.40
24	422.50	13.51	25.00	21.40
25	441.37	14.52	25.00	21.40
26	460.14	15.53	25.00	21.40
27	478.78	16.54	25.00	21.40
28	497.28	17.55	25.00	21.40
29	515.60	18.56	25.00	21.40
30	533.70	19.57	25.00	21.40

The yearly prices, (backward) second differences in yearly prices, and their squares for this policy are:

Policy Year	(1) Yearly Price	(2) Second Difference in Yearly Price	(3) Second Difference Squared
2	10.76	—	NA

Policy Year	(1)	(2)	(3)	Policy Year	Guaranteed Cash Value	Illustrated		Premium
	Yearly Price	Second Difference in Yearly Price	Second Difference Squared			Annual Dividend	Terminal Dividend	
3	-2.13	-2.25	NA	2	0.0	0.0	0.0	11.34
4	-1.79	13.23	NA	3	0.02	0.0	0.0	11.34
5	-1.44	.01	NA	4	9.77	0.0	0.0	11.34
6	6.46	7.55	NA	5	19.84	0.0	0.0	11.34
7	6.98	-7.38	NA	6	30.23	0.0	0.0	11.34
8	7.29	-.21	.0441	7	40.95	0.0	0.0	11.34
9	7.85	.25	.0625	8	52.01	0.0	0.0	11.34
10	.59	-7.82	61.1524	9	63.41	0.0	0.0	11.34
11	8.72	15.39	236.8521	10	75.17	0.0	0.0	11.34
12	8.88	-7.97	63.5209	11	87.27	0.0	0.0	11.34
13	9.06	.02	.0004	12	99.71	0.0	0.0	11.34
14	9.28	.04	.0016	13	112.48	0.0	0.0	11.34
15	9.52	.02	.0004	14	125.54	0.0	0.0	11.34
16	9.78	.02	.0004	15	138.90	0.0	0.0	11.34
17	10.08	.04	.0016	16	152.53	0.0	0.0	11.34
18	10.15	-.23	.0529	17	166.43	0.0	0.0	11.34
19	10.47	.25	.0625	18	180.59	0.0	0.0	11.34
20	-5.84	-16.63	276.5569	19	195.03	0.0	0.0	11.34
21	11.05	33.20	1,102.2400	20	224.12	0.0	0.0	11.34
22	10.98	-16.96	287.6416	21	230.80	0.0	0.0	11.34
23	10.93	.02	.0004	22	253.71	0.0	0.0	11.34
24	10.91	.03	NA	23	268.85	0.0	0.0	11.34
25	10.91	.02	NA	24	284.20	0.0	0.0	11.34
26	10.94	.03	NA	25	299.73	0.0	0.0	11.34
27	11.00	.03	NA	26	315.43	0.0	0.0	11.34
28	11.06	.00	NA	27	331.29	0.0	0.0	11.34
29	11.15	.03	NA	28	347.29	0.0	0.0	11.34
30	11.27	.03	NA	29	363.43	0.0	0.0	11.34
				30	379.67	0.0	0.0	11.34

The column (1) yearly prices are the values of the Yearly Price of Death Benefits per (1000).

Column (2) is calculated by subtracting the change observed in the yearly price in year t-1 from the change observed in the yearly price in year t. For example, the second difference of -16.63 in year 20 is calculated:

$$\begin{aligned}
 & -16.63 - (-5.84 - 10.47) - (10.47 - 10.15) \\
 & \quad - -16.31 - .32 \\
 & \quad - -16.63
 \end{aligned}$$

Column (3), second difference squared, is the square of the figure in column (2). The sum of the squared second differences between years 8 and 23 is 2028. This sum exceeds by 1528 the test limit for issue age 35 of 500. A company actuary would be required to justify the abrupt discontinuities in yearly prices in policy years 10 and 20. These discontinuities are attributable to the unusual annual dividend scale and terminal dividend scale.

The second example is a guaranteed cost policy issued to a male age 25. It has a six percent policy loan rate. The calculation is made on a per \$1,000 basis.

Example 2

Policy Year	Guaranteed Cash Value	Illustrated		Premium
		Annual Dividend	Terminal Dividend	
1	0.0	0.0	0.0	11.34

Policy Year	(1)	(2)	(3)
	Yearly Price	Second Difference in Yearly Price	Second Difference Squared
1	11.34	—	NA
2	11.34	—	NA
3	11.32	-.02	NA
4	2.06	-9.24	NA
5	2.21	9.41	NA
6	2.39	.03	NA
7	2.57	.00	NA
8	2.76	.01	.0001
9	2.96	.01	.0001
10	3.16	.00	.0000
11	3.40	.04	.0016
12	3.65	.01	.0001
13	3.93	.03	.0009
14	4.26	.05	.0025
15	4.59	.00	.0000
16	4.97	.05	.0025
17	5.37	.02	.0004
18	5.78	.01	.0001
19	6.19	.00	.0000
20	-7.08	-17.68	187.1424
21	15.65	36.00	1,296.0000
22	.51	-37.87	1,434.1369
23	9.00	23.63	558.3769
24	9.52	-7.97	NA
25	10.08	.04	NA
26	10.66	.02	NA
27	11.26	.02	NA
28	11.88	.03	NA
29	12.51	.01	NA

Policy Year	(1) Yearly Price	(2) Second Difference in Yearly Price	(3) Second Difference Squared
30	13.18	.04	NA

The sum of the squared second differences between years 8 and 23 for example two is 3476. It exceeds by 3176 the test limit for issue age 25 of 300. A company actuary would be required to justify the abrupt discontinuities in yearly prices between years 20 and 23. These discontinuities are attributable to the unusual cash surrender value progression during these years.

SUBCHAPTER 48. UNFAIR DISCRIMINATION

11:4-48.1 Purpose and scope

(a) This subchapter sets forth standards and requirements that all life and health insurance policy forms and annuity contract forms are required to meet in order to comply with the prohibition against unfair discrimination as provided at N.J.S.A. 17B:30-12.

(b) These rules shall apply to all insurers delivering or issuing for delivery life insurance and health insurance policies or annuity contracts in this State.

11:4-48.2 Definitions

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

“Annuity” means a contract not coming within the definition of life insurance as set forth in N.J.S.A. 17B:17-3, or health insurance as set forth in N.J.S.A. 17B:17-4, under which an insurer obligates itself to make periodic payments for a specified period of time, such as for a number of years, or until the happening of an event, or for life, or for a period of time determined by any combination thereof.

“Commissioner” means the Commissioner of the New Jersey Department of Banking and Insurance.

“Department” means the New Jersey Department of Banking and Insurance.

“Health insurance” is as defined at N.J.A.C. 11:4-40.2.

“Insurer” means any person or persons, corporation, partnership, or company authorized or admitted to transact the business of life insurance, health insurance or annuities in this State pursuant to Title 17 and 17B of the New Jersey statutes.

“Life insurance” is as defined at N.J.A.C. 11:4-40.2.

“Tiered factors” means accumulation account factors, such as interest rates, cost of insurance or mortality charges, and expense charges, which vary by a policy amount, such as accumulation account value, cash surrender value, face value, or net amount at risk, or which differ for various components or tiers of a policy amount. Tiered factors reflect economies of scale or other economies so that credits will increase with size and charges will decrease with size. Tiered factors do not include factors which vary by policy duration.

Amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).
Amended by R.2003 d.54, effective February 3, 2003.
See: 34 N.J.R. 3194(a), 35 N.J.R. 618(a).
Deleted “Persistency bonus”.

11:4-48.3 General requirements

(a) No insurer shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged, dividends or other benefits payable thereon, or in any other of the terms and conditions for any policy of life insurance or contract of annuity.

(b) No insurer shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium policy fees, or rates charged for any policy or contract of health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such policy or contract, or in any other manner whatsoever.

11:4-48.4 Conversion credits

The Department shall approve life insurance policy forms that provide conversion credits pursuant to N.J.S.A. 17B:30-14e.

Recodified from N.J.A.C. 11:4-48.6 and amended by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).
Rewrote (a). Former N.J.A.C. 11:4-48.5, Tiered factors, repealed.
Recodified from N.J.A.C. 11:4-48.5 by R.2003 d.54, effective February 3, 2003.
See: 34 N.J.R. 3194(a), 35 N.J.R. 618(a).
Former N.J.A.C. 11:4-48.4, Persistency bonus, repealed.

11:4-48.5 Non-smoker only coverage

The Department shall not approve life insurance policy forms intended for sale to non-smokers. Insurers may decline or not offer insurance to smokers if underwriting considerations based on mortality risk exposure would result in such smokers being ineligible. Insurers shall not decline or refuse to offer insurance to smokers if non-smokers having elevated mortality at least equal to that of smokers are accepted.

Recodified from N.J.A.C. 11:4-48.7 by R.2000 d.130, effective March 20, 2000.
See: 31 N.J.R. 3910(a), 32 N.J.R. 1024(a).