

**WEST VIRGINIA  
SECRETARY OF STATE  
BETTY IRELAND  
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY WV Code §§33-2-10 and 33-6C-3

AMENDMENT TO AN EXISTING RULE: YES X NO \_\_\_\_\_

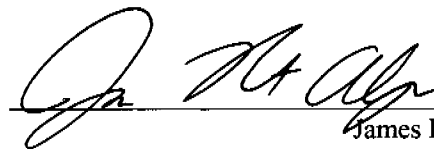
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 31

TITLE OF RULE BEING AMENDED: Guaranteed Loss Ratios as Applied to Individual Sickness and  
Accident Insurance Policies

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



James Robert Alsop  
Cabinet Secretary  
West Virginia Department of Revenue

## QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period, Proposed Rule, and if needed, Emergency and Modified Rule.)

**DATE:** July 27, 2007

**TO:** LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

**FROM:** OFFICE OF THE INSURANCE COMMISSIONER  
ATTN: Legal Division  
1124 Smith Street  
Post Office Box 50540  
Charleston, West Virginia 25305-0540

**LEGISLATIVE RULE TITLE:** Guaranteed Loss Ratios as Applied to  
Individual Sickness and Accident Insurance  
Policies - Title 114, Series 31

**1. Authorizing statute(s) citation:**

WV Code §33-2-10 and 33-6C-3.

**2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:**

May 30, 2007 - Comment Period.

**b. What other notice, including advertising, did you give of the hearing?**

N/A

**c. Date of Public Hearing(s) or Public Comment Period ended:**

Comment period ended July 2, 2007.

**d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.**

Attached \_\_\_\_\_ No comments received   X  

**e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)**

July 27, 2007 (following Public Comment Period).

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all written correspondence regarding this rule: (Please type)

Timothy R. Murphy, Associate Counsel  
West Virginia Insurance Commission  
Legal Division  
P.O. Box 50540  
Charleston, WV 25305-0540  
Phone: (304) 558-6279, Ext. 1210  
Fax: (304) 558-1362  
E-mail: timothy.murphy@wvinsurance.gov

- g. IF DIFFERENT FROM ITEM 'f', please give Name, title, address and phone number(s) of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

Same.

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

N/A

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

- b. Date of hearing or comment period:

N/A

- c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

- d. Attach findings and determinations and reasons:

N/A

Insurance Commissioner  
Legislative Rule  
Title 114, Series 31

**GUARANTEED LOSS RATIOS AS APPLIED TO INDIVIDUAL  
SICKNESS AND ACCIDENT INSURANCE POLICIES**

**TITLE 114, SERIES 31**

**BRIEF SUMMARY OF RULE**

This rule would adopt a statutory change enacted by the legislature in 1993 that raised the minimum guaranteed loss ratio for health plans from 55% to 60%. In the years since that change became law, Series 31 has never been amended to reflect that change.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 31

**GUARANTEED LOSS RATIOS AS APPLIED TO INDIVIDUAL  
SICKNESS AND ACCIDENT INSURANCE POLICIES**

**TITLE 114, SERIES 31**

**STATEMENT OF CIRCUMSTANCES**

The usual rate filing for individual health insurance products must demonstrate that the insurer will meet an anticipated loss ratio of at least 65%; an alternative is through the use of guaranteed loss ratio by which the insurer promises to pay out a minimum level of benefits for every dollar of earned premium (per year) over the life of a product; failure to meet the ratio results in a refund to policyholders. The commissioner has discretion to approve or disapprove an application to be permitted on a GLR basis; if approved, the insurer would be exempt from having to file for rate increases.

When Series 31 was initially implemented the minimum guaranteed loss ratio was 55%. SB 510 changed the minimum loss ratio in the statute (33-6C-2(a)) to 60% effective July 8, 1993. Series 31 was never amended to reflect that change.

This rule would merely adopt a statutory change from a number of years ago (code 33-6C-2(a), 1993) that increased the minimum allowable guaranteed loss ratio for individual health plans from 55 to 60%.

APPENDIX B  
**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Guaranteed Loss Ratios As Applied To Individual Sickness and Accident Insurance Policies (Title 114 - Series 31)

Type of Rule:  Legislative  Interpretive  Procedural  Emergency

Agency: Insurance Commissioner

Address: Post Office Box 50540  
1124 Smith Street, Greenbrooke Building  
Charleston, West Virginia 25305-0540

Phone Number: (304) 558-0401 Email: \_\_\_\_\_

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule will have no additional fiscal impact upon state government.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	None	None	None
Personal Services	None	None	None
Current Expenses	None	None	None
Repairs & Alterations	None	None	None
Assets	None	None	None
Other	None	None	None
<b>2. Estimated Total Revenues</b>	None	None	None

Rule Title: Guaranteed Loss Ratios As Applied To Individual Sickness and Accident Insurance Policies (Title 114 - Series 31)

3. **Explanation of above estimates (including long-range effect):**  
Please include any increase or decrease in fees in your estimated total revenues.

N/A

### MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Date: July 27, 2007

Signature of Agency Head or Authorized Representative

  
\_\_\_\_\_  
Jane L. Cline, Insurance Commissioner

**TITLE 114  
LEGISLATIVE RULE  
OFFICES OF THE INSURANCE COMMISSIONER**

**SERIES 31  
GUARANTEED LOSS RATIOS AS APPLIED TO  
INDIVIDUAL SICKNESS AND ACCIDENT INSURANCE POLICIES**

Section

- 114-31-1. General.
  - 114-31-2. Application to Operate on a Guaranteed Loss Ratio Basis.
  - 114-31-3. Guaranteed Loss Ratio Filings.
  - 114-31-4. Annual Audit.
  - 114-31-5. Rejection or Cancellation of Loss Ratio Guarantee.
  - 114-31-6. Separability.
- Appendix A Application to Operate on a Guaranteed Loss Ratio Basis

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LEGISLATIVE RULE  
OFFICES OF THE INSURANCE COMMISSIONER

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SERIES 31  
GUARANTEED LOSS RATIOS AS APPLIED TO  
INDIVIDUAL SICKNESS AND ACCIDENT INSURANCE POLICIES

SECRETARY OF STATE  
STATE OF WEST VIRGINIA

**§114-31-1. General.**

1.1. Scope. -- This legislative rule implements the provisions of Article 6C, Chapter 33 thirty-three of the West Virginia Code. That article permits, but does not require, an insurer offering individual sickness and accident insurance policies to operate on the basis of a guaranteed loss ratio established by the Insurance Commissioner. Any such insurer that is approved to operate on a guaranteed loss ratio basis shall be exempt from filing rate increase applications as would otherwise be required by the Commissioner.

1.2. Authority. -- W. Va. Code §§33-2-10 and 33-6C-3, 33-2-10.

1.3. Filing Date. -- May 19, 1992.

1.4. Effective Date. -- May 19, 1992.

**§114-31-2. Application to Operate on a Guaranteed Loss Ratio Basis.**

2.1. In order to implement a guaranteed loss ratio as established by the Commissioner, an insurer offering individual sickness and accident insurance policies must make application to the Commissioner on the form described in Section 2.2 of this regulation rule. The Commissioner shall have the discretion to approve or reject any such application after reviewing the same. The application form is set forth in Appendix A to this regulation.

2.2. Each application filed with the Commissioner pursuant to this regulation must include a written loss ratio guarantee that at minimum contains the following information:

~~2.2.1~~ a. ~~policy~~ Policy form number;

~~2.2.2~~ b. ~~the~~ The anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum filed with the policy form when it was originally approved;

~~2.2.3~~ c. a A designation of the first calendar year in which the loss ratio guarantee is to be effective;

~~2.2.4~~ d. a A guarantee that the actual West Virginia or, if applicable, national loss

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ratios for each experience period shall meet or exceed the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum described in ~~subsection 2.2.2 subdivision b of this subsection~~;

~~2.2.5 e. the~~ The source and dates of data used by the insurer in determining lifetime and durational target loss ratios and credibility data;

~~2.2.6 f. a~~ A guarantee that the actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue will be independently audited as described more fully in Section 4 of this ~~regulation~~ rule;

~~2.2.7 g. the~~ The name and qualifications of the independent auditor who will perform the annual audit described in Section 4 ~~herein~~ of this rule;

~~2.2.8 h. a~~ A guarantee that if the actual loss ratio during an experience period is less than the anticipated loss ratio for that period, then West Virginia policyholders shall receive proportional refunds based on premium earned, which refunds shall be calculated and paid pursuant to W. Va. Code §33-6C-5;

~~2.2.9 i. a~~ A sample calculation and illustration of the refund methodology used to comply with this regulation;

~~2.2.10 j. a~~ A non-discrimination guarantee as required by W. Va. Code §33-6C-4(c)(5); and

~~2.2.11 k. the~~ The signature of an officer of the insurer.

2.3. The Commissioner shall notify an insurer of the acceptance or rejection of an application to operate on a guaranteed loss ratio basis within sixty (60) days of the date that such an application is received.

**§114-31-3. Guaranteed Loss Ratio Filings.**

3.1. The initial filing of a loss ratio guarantee must include the policy form, schedule of rates and an actuarial memorandum which shall include information prescribed in the National Association of Insurance Commissioners' rate filing guidelines, durational and lifetime target loss ratios, and a projection of the actual loss ratio which shall include interest and lapse rates.

3.2. All rate increase filings shall include information prescribed in the National Association of Insurance Commissioners' rate filing guidelines, as well as the following:

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- 3.2.1 ~~a.~~ a. ~~an~~ An outline of coverage;
- 3.2.2 ~~b.~~ b. ~~any~~ Any change in rate relationships;
- 3.2.3 ~~c.~~ c. ~~the~~ The cumulative, to-date loss ratios; and
- 3.2.4 ~~d.~~ d. ~~the~~ The projected lifetime loss ratios.

**§114-31-4. Annual Audit.**

4.1. An independent audit of the actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue shall be conducted and filed with the Commissioner on an annual basis. The audit must be conducted during the second quarter of the year following the end of the experience period and be filed with the Commissioner no later than June 30 of that year.

4.2. The audit must include at minimum:

- 4.2.1 ~~a.~~ a. A statement of the durational and lifetime loss ratio guarantees;
- 4.2.2 ~~b.~~ b. A statement of the earned premium and incurred claims for the audited experience period;
- 4.2.3 ~~c.~~ c. A statement of the experience by duration of the most recent calendar year;
- 4.2.4 ~~d.~~ d. A statement of claim reserves included in incurred claims;
- 4.2.5 ~~e.~~ e. A statement that no active life reserves are included in the calculation of the actual loss ratio;
- 4.2.6 ~~f.~~ f. A statement that no reinsurance premiums are included in the calculation of the actual loss ratio;
- 4.2.7 ~~g.~~ g. A statement of refunds paid during any previous years; and
- 4.2.8 ~~h.~~ h. A statement of any refunds due for the current experience period and the calculation of the refunds due.

**§114-31-5. Rejection or Cancellation of Loss Ratio Guarantee.**

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5.1. The Commissioner may reject a loss ratio guarantee or cancel an existing loss ratio guarantee for any of the following reasons which shall be a non-exclusive list:

5.1.1 ~~a. the~~ The insurer has demonstrated an inability to adequately monitor its loss ratios;

5.1.2 ~~b. the~~ The insurer has failed to take timely rate increases in accordance with sound actuarial principles during the three-year period prior to filing the loss ratio guarantee;

5.1.3 ~~c. the~~ The insurer has not complied with the terms of a previously filed loss ratio guarantee;

5.1.4 ~~d. the~~ The insurer has submitted false, misleading or fraudulent material or information to the Commissioner.

5.1.5 ~~e. the~~ The insurer is impaired, insolvent, in hazardous financial condition or such other similar financial condition as defined in W. Va. Code §§33-10-1 et seq., 33-24-1 et seq., 33-34A-1 et seq., or any other article of this chapter;

5.1.6 ~~f. the~~ The Commissioner determines that the insurer has not complied with the provisions of the guarantee or this article.

5.1.7 ~~g. the~~ The insurer's data reflects a guaranteed loss ratio of less than ~~fifty-five~~ sixty percent (~~55~~ 60%);

5.1.8 ~~h. the~~ The insurer has failed to comply with W. Va. Code §33-6-34, form and rate filing fee requirement or other department filing procedure;

5.1.9 ~~i. the~~ The insurer fails to provide information, data, or documentation reasonably requested by the Commissioner;

5.1.10 ~~j. the~~ The insurer violates any provision of W. Va. Code §33-1-1 et seq. or the rules and regulations promulgated thereunder;

5.1.11 ~~k. the~~ The insurer refuses to permit the Commissioner to examine and copy such records as the Commissioner deems necessary to determine compliance with W. Va. Code §33-6C-1 et seq.

5.1.12 ~~l. the~~ The insurer fails or refuses to pay the reasonable costs of the Commissioner arising out of the Commissioner's examination of the insurer's records to

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determine compliance with W. Va. Code §33-6C-1 et seq.

**§114-31-6. Separability.**

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

**APPENDIX A**

**INSURANCE COMMISSIONER  
STATE OF WEST VIRGINIA**

**GUARANTEED LOSS RATIOS  
INDIVIDUAL SICKNESS AND ACCIDENT INSURANCE POLICIES**

**INSTRUCTIONS:** All questions must be answered; if no answer is applicable, enter the reason for such determination.

I. Policy form number: \_\_\_\_\_

II. Anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum filed with the policy form when it was originally approved:

---

III. First calendar year in which the loss ratio guarantee is to be effective:

---

IV. Source and dates of data used in determining lifetime and durational target loss ratios and credibility data:

---

V. Name and qualifications of the independent auditor who will perform the annual audit:

---

VI. Attach a sample calculation and illustration of the refund methodology used to comply with the Insurance Commissioner's regulation (Title 114, Series 31) entitled "Guaranteed Loss Ratios as Applied to Individual Accident and Sickness Insurance Policies."

VII. Guarantees:

(A) The actual West Virginia loss ratios for the experience period in which the new rates take effect, and for each experience period thereafter until new rates are filed, will meet or exceed the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum noted above.

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(B) The actual West Virginia, or, if applicable, national, loss ratio results for the experience period at issue will be independently audited, at this company's expense, as described more fully in Section 4 of ~~the Insurance Commissioner's regulation in Title 114, Series 31~~ this rule.

(C) If the actual loss ratio during an experience period is less than the anticipated loss ratio for that period, West Virginia policyholders shall receive proportional refunds based on premium earned, which refunds shall be calculated and paid pursuant to W. Va. Code §33-6C-5.

(D) This company does not engage in any discriminatory practices prohibited by W. Va. Code §33-11-4 [part of the West Virginia Unfair Trade Practices Act], or any such practice which discriminates against any individual on the basis of his or her legal occupation, race, religion or residence.

I hereby certify that the information and guarantees contained in this application are true and correct to the best of my knowledge and belief.

Company Officer's Signature: \_\_\_\_\_

(TITLE): \_\_\_\_\_

(DATE): \_\_\_\_\_