

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
KEN HECHLER  
**ADMINISTRATIVE LAW DIVISION**

Form #6

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FILED  
1992 MAY 19 AM 2:15  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED  
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

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

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: Series 31


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

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) Senate Bill 1

SECTION 64-7-2(1), PASSED ON March 14, 1992

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON  
THE FOLLOWING DATE: May 19, 1992

  
\_\_\_\_\_  
Hanley C. Clark  
Insurance Commissioner

2.90

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

CHAPTER 33-6C  
SERIES 31

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

§ 114-31-1. General

1.1 Scope - This legislative rule implements the provisions of Article 6C, Chapter 33 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 - West Virginia Code §§ 33-6C-3, 33-2-10.

1.3 Filing Date -

1.4 Effective Date -

§ 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. 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:

(A) policy form number;

(B) the anticipated lifetime and durational target loss ratios contained in the original actuarial memorandum filed with the policy form when it was originally approved;

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Series 31, Sec. 3

(C) a designation of the first calendar year in which the loss ratio guarantee is to be effective;

(D) a guarantee that the actual West Virginia or if applicable National loss 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 (B);

(E) the source and dates of data used by the insurer in determining lifetime and durational target loss ratios and credibility data;

(F) 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;

(G) the name and qualifications of the independent auditor who will perform the annual audit described in Section 4 herein;

(H) 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 West Virginia Code §33-6C-5;

(I) a sample calculation and illustration of the refund methodology used to comply with this regulation;

(J) a non-discrimination guarantee as required by West Virginia Code §33-6C-4(c)(5); and

(K) 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:

- (A) an outline of coverage;
- (B) any change in rate relationships;
- ~~(C) the experience by duration of the most recent calendar year;~~
- ~~(D)~~ (C) the cumulative, to-date loss ratios; and
- ~~(E)~~ (D) 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:

- (A) a statement of the durational and lifetime loss ratio guarantees;
- (B) a statement of the earned premium and incurred claims for the audited experience period;
- (C) a statement of the experience by duration of the most recent calendar year;
- ~~(D)~~ (D) a statement of claim reserves included in incurred claims;
- ~~(E)~~ (E) a statement that no active life reserves are included in the calculation of the actual loss ratio;
- ~~(F)~~ (F) a statement that no reinsurance premiums are included in the calculation of the actual loss ratio;

~~(F)~~ (G) a statement of refunds paid during any previous years; and

~~(G)~~ (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

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:

(A) The insurer has demonstrated an inability to adequately monitor its loss ratios;

(B) 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;

(C) The insurer has not complied with the terms of a previously filed loss ratio guarantee;

(D) The insurer has submitted false, misleading or fraudulent material or information to the commissioner;

(E) The insurer is impaired, insolvent, in hazardous financial condition or such other similar financial condition as defined in West Virginia Code Chapter Thirty-Three, Article Ten, Article Twenty-Four or Article Thirty-Four A [§§ 33-10-1 et seq., 33-24-1 et seq., 33-34A-1, et seq.], or any other article of this chapter;

(F) The commissioner determines that the insurer has not complied with the provisions of the guarantee or this article.

(G) The insurer's data reflects a guaranteed loss ratio of less than fifty-five percent;

(H) The insurer has failed to comply with § 33-6-34, form and rate filing fee requirement or other department filing procedure;

(I) The insurer fails to provide information, data, or documentation reasonably requested by the commissioner;

(J) The insurer violates any provision of West Virginia Code Chapter Thirty-Three (§ 33-1-1 et seq.) or the rules and regulations promulgated thereunder;

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(K) The insurer refuses to permit the commissioner to examine and copy such records as the commissioner deems necessary to determine compliance with West Virginia Code Chapter Thirty-Three, Article Six C (§ 33-6C-1 et seq.)

(L) 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 determine compliance with Chapter Thirty-Three, Article Six C (§ 33-6C-1 et seq.)

~~§-114-31-5~~ § 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.

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.

- (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.
- (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 West Virginia Code §33-6C-5.
- (D) This company does not engage in any discriminatory practices prohibited by West Virginia 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): \_\_\_\_\_

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

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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. Separability Rejection or Cancellation of Loss Ratio Guarantee
- 114-31-6. Separability

WEST VIRGINIA LEGISLATIVE RULE  
SERIES 31  
CHAPTER 33-6C



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(Plus all the volunteer  
help we can get)

STATE OF WEST VIRGINIA

SECRETARY OF STATE

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Linda Gav

AGENCY: Insurance Commission

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: February 23, 1993

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 31 TITLE: 114 Insurance Commission

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: Linda Gav

TITLE OF PERSON SIGNING: Assoc. Counsel, WV Insurance Comm'n

DATE: March 5, 1993

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.

Bill Insurance, Guaranteed loss ratios

114-31

H. B. 4295

(By Delegate Grubb)

(Introduced January 27, 1992; referred to the

Committee on Banking and Insurance then  
the Judiciary)

1  
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9  
10 A BILL to amend and reenact section two, article seven, chapter  
11 sixty-four of the code of West Virginia, one thousand nine  
12 hundred thirty-one, as amended, relating to authorizing the  
13 insurance commissioner to promulgate legislative rules  
14 relating to guaranteed loss ratios as applied to individual  
15 sickness and accident insurance policies.

16 **Be it enacted by the Legislature of West Virginia:**

17 That section two, article seven, chapter sixty-four of the  
18 code of West Virginia, one thousand nine hundred thirty-one, as  
19 amended, be amended and reenacted, to read as follows:

20 **ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO**  
21 **PROMULGATE LEGISLATIVE RULES.**

22 **§64-7-2. Agency of insurance commissioner.**

23 (a) The legislative rules filed in the state register on the  
24 eighteenth day of October, one thousand nine hundred

1 eighty-three, relating to the insurance commissioner (excess line  
2 brokers), are authorized.

3 (b) The legislative rules filed in the state register on the  
4 eighteenth day of August, one thousand nine hundred eighty-six,  
5 modified by the insurance commissioner to meet the objections of  
6 the legislative rule-making review committee and refiled in the  
7 state register on the twelfth day of December, one thousand nine  
8 hundred eighty-six, relating to the insurance commissioner  
9 (examiners' compensation, qualification and classification), are  
10 authorized.

11 (c) The legislative rules filed in the state register on the  
12 twentieth day of February, one thousand nine hundred  
13 eighty-seven, relating to the insurance commissioner (West  
14 Virginia essential property insurance association), are  
15 authorized.

16 (d) The legislative rules filed in the state register on the  
17 twenty-ninth day of May, one thousand nine hundred eighty-seven,  
18 relating to the insurance commissioner (medical malpractice  
19 annual reporting requirements), are authorized.

20 (e) The legislative rules filed in the state register on the  
21 thirty-first day of July, one thousand nine hundred eighty-seven,  
22 modified by the insurance commissioner to meet the objections of  
23 the legislative rule-making review committee and refiled in the  
24 state register on the seventh day of November, one thousand nine  
25 hundred eighty-seven, relating to the insurance commissioner

1 (medical malpractice loss experience and loss expense reporting  
2 requirements), are authorized.

3 (f) The legislative rules filed in the state register on the  
4 thirtieth day of November, one thousand nine hundred  
5 eighty-eight, modified by the insurance commissioner to meet the  
6 objections of the legislative rule-making review committee and  
7 refiled in the state register on the twenty-first day of  
8 February, one thousand nine hundred eighty-nine, relating to the  
9 insurance commissioner (transitional requirements for the  
10 conversion of Medicare supplement insurance benefits and premiums  
11 to conform to medicare program revisions), are authorized.

12 (g) The legislative rules filed in the state register on the  
13 twenty-sixth day of May, one thousand nine hundred eighty-nine,  
14 modified by the insurance commissioner to meet the objections of  
15 the legislative rule-making review committee and refiled in the  
16 state register on the twenty-eighth day of September, one  
17 thousand nine hundred eighty-nine, relating to the insurance  
18 commissioner (insurance adjusters), are authorized.

19 (h) The legislative rules filed in the state register on the  
20 second day of February, one thousand nine hundred ninety,  
21 modified by the insurance commissioner to meet the objections of  
22 the legislative rule-making review committee and refiled in the  
23 state register on the twenty-ninth day of May, one thousand nine  
24 hundred ninety, relating to the insurance commissioner (accident  
25 and sickness rate filing), are authorized.

1 (i) The legislative rules filed in the state register on the  
2 tenth day of August, one thousand nine hundred ninety, modified  
3 by the insurance commissioner to meet the objections of the  
4 legislative rule-making review committee and refiled in the state  
5 register on the ninth day of October, one thousand nine hundred  
6 ninety, relating to the insurance commissioner (group  
7 coordination of benefits), are authorized.

8 (j) The legislative rules filed in the state register on the  
9 tenth day of August, one thousand nine hundred ninety, modified  
10 by the insurance commissioner to meet the objections of the  
11 legislative rule-making review committee and refiled in the state  
12 register on the seventeenth day of January, one thousand nine  
13 hundred ninety-one, relating to the insurance commissioner (AIDS  
14 regulations), are authorized.

15 (k) The legislative rules filed in the state register on the  
16 third day of December, one thousand nine hundred ninety,  
17 relating to the insurance commissioner (health insurance benefits  
18 for temporomandibular and craniomandibular disorders), are  
19 authorized.

20 (l) The legislative rules filed in the state register on the  
21 twelfth day of August, one thousand nine hundred ninety-one,  
22 modified by the insurance commissioner to meet the objections of  
23 the legislative rule-making review committee and refiled in the  
24 state register on the thirteenth day of January, one thousand  
25 nine hundred ninety-two, relating to the insurance commissioner

1 (guaranteed loss ratios as applied to individual sickness and  
2 accident insurance policies), are authorized.

3

4 NOTE: The purpose of this bill is to authorize the Insurance  
5 Commissioner to promulgate legislative rules relating to  
6 guaranteed loss ratios as applied to individual sickness and  
7 accident insurance policies.

8

9 Strike-throughs indicate language that would be stricken from  
10 the present law, and underscoring indicates new language that  
11 would be added.