

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

Form #3

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2008 AUG 29 PM 3:40

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**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 W. Va. Code §§33-2-10

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 RULE BEING PROPOSED: 84

TITLE OF RULE BEING PROPOSED: Health Policy Rate and Form Filings

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.



Virgil T. Helton  
Cabinet Secretary  
West Virginia Department of Revenue

Offices of the Insurance Commissioner  
Legislative Rule  
Title 114, Series 84

**HEALTH POLICY RATE AND FORM FILINGS**

**TITLE 114, SERIES 84**

**BRIEF SUMMARY OF RULE**

The National Association of Insurance Commissioners recently adopted a model regulation to provide a uniform standard for processing of accident and health carrier policy rate and form filings. Inasmuch as every state has its own requirements, the regulation is intended to clarify each state's process by having each individual state's statutes and rules in a single place on each insurance commissioner's website.

## 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:** August 29, 2008

**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:** Health Policy Rate and Form Filings,  
Title 114, Series 84

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

WV Code §§33-2-10

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

June 18, 2008- 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:**

July 21, 2008.

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

Attached   X   No comments received           

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

August 29, 2008 (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

Offices of the Insurance Commissioner  
Legislative Rule  
Title 114, Series 84

**HEALTH POLICY RATE AND FORM FILINGS**

**TITLE 114, SERIES 84**

**STATEMENT OF CIRCUMSTANCES**

The National Association of Insurance Commissioners recently adopted a model regulation to standardize how insurance companies can find the rate and form filing process for every state. Inasmuch as every state has its own requirements, the regulation is intended to clarify each state's process by having each individual state's statutes and rules in a single place on each insurance commissioner's website.

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Health Policy Rate and Form Filings (Title 114, Series 84)

Type of Rule:  X  Legislative   Interpretive   Procedural

Agency: Insurance Commission

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

Phone Number: (304) 558-0401 Email: Timothy.Murphy@wvinsurance.gov

**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>			
<b>Effect of Proposal</b>	<b>Current Increase/Decrease (use "-")</b>	<b>Next Increase/Decrease (use "-")</b>	<b>Fiscal Year (Upon Full Implementation)</b>
<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
Equipment	None	None	None
Other	None	None	None
<b>2. Estimated Total Revenues</b>	None	None	None

Rule Title: Health Policy Rate and Form Filings (Title 114, Series 84)

- 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: \_\_\_\_\_

Signature of Agency Head or Authorized Representative

\_\_\_\_\_  
Timothy Murphy, Associate Counsel

**TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER**

**SERIES 84  
HEALTH POLICY RATE AND FORM FILING**

Section

- 114-84-1. General.
- 114-84-2. Definitions.
- 114-84-3. Due Diligence.
- 114-84-4. Review Procedures.
- 114-84-5. Effect of Deemer Provision.
- 114-84-6. Effect of Subsequent Law Changes.
- 114-84-7. Rate Filings and Marketing Materials.

TITLE 114  
LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 84  
HEALTH POLICY RATE AND FORM FILING

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SECRETARY OF STATE

**§114-84-1. General.**

1.1. Scope -- The purpose of this rule is to provide a uniform standard for processing of accident and sickness policy form filings. This rule is based on the "Health Policy Rate and Form Filing Model Regulation (Model 165)" adopted by the National Association of Insurance Commissioners (NAIC) in 2006. Series 26 and 67 of this title should also be consulted for additional information pertaining to form and rate filings.

1.2. Authority -- W. Va. Code §33-2-10.

1.3. Filing Date --

1.4. Effective Date --

**§114-84-2. Definitions.**

2.1. "Accident and sickness carrier" means an entity licensed to offer accident and sickness insurance in this state, or subject to the insurance laws and rules of this state, or subject to the jurisdiction of the Commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services, or any insurer that provides policies of supplemental, disability income, Medicare supplement or long term care insurance.

2.2. "Commissioner" means the insurance commissioner of this state.

2.3. "Health care services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or disease.

2.4. "Policy form" means any accident and sickness policy, contract, certificate, rider, endorsement, evidence of coverage or any amendments thereto that are required by law to be filed with the Commissioner for approval prior to their sale or issuance for sale in this state.

2.5. "Supplemental documents" means documents required to be filed in support of policy forms that may or may not be subject to approval.

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2.6. "Type of insurance" means those coverages listed on the NAIC Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix or any successor document under the headings "Continuing Care Retirement Communities," "Health," "Long Term Care" and "Medicare Supplement."

**§114-84-3. Due Diligence.**

All parties in the filing process shall act in good faith and with due diligence in performance of their duties pursuant to this rule.

**§114-84-4. Review Procedures.**

4.1. Subject to the provisions of this section, no policy form subject to this rule shall be delivered or issued for delivery in this state, unless it has been filed with and approved by the Commissioner.

4.2. a. The Commissioner shall create a document containing filing requirements for each type of insurance. The document shall contain a list of all product filing requirements contained in the statutes, rules, orders, and published bulletins in this state having the force and effect of law, with appropriate citations to each, including the citation for the type of insurance that is required to be filed, and shall be available on the Insurance Commissioner's Internet site.

b. The Commissioner shall update the document no less frequently than annually and within thirty days of any change in law, rule or bulletin published by the Commissioner having the force and effect of law requiring its amendment.

4.3. A filer shall submit a copy of the document with a policy form filing, indicating the location within the policy form or supplemental documents for each requirement contained in the document and certifying that the policy form meets all requirements of state law.

4.4. The Commissioner shall review and approve, provide a notice of deficiencies or disapprove the initial filing within sixty days of receipt. Any notice of deficiencies or disapproval shall be in writing and based only on the specific provisions of applicable statutes, rules or bulletins published by the Commissioner pursuant to subsection 4.2 of this section. The notice of deficiencies or disapproval shall provide the reasons for notice of deficiencies or disapproval and sufficient detail for the filer to bring the policy form into compliance and shall cite the specific statutes, rules or bulletins upon which the notice of deficiencies or disapproval is based.

4.5. A filer may resubmit a policy form that corrects any deficiencies or resubmit a

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disapproved policy form within thirty days of its receipt of the Commissioner's notice of deficiencies or disapproval. Any policy form not resubmitted within thirty days of the notice of deficiencies shall be deemed withdrawn. Any disapproved policy form not resubmitted within thirty days is disapproved.

4.6. At the end of the review period, the form is deemed approved if the Commissioner has taken no action.

4.7. a. The Commissioner shall review the resubmitted filing and shall approve or disapprove it within thirty days. Notice of deficiencies or disapproval shall be in writing and shall provide a detailed description of the reasons for the notice of deficiencies or disapproval and sufficient details for the filer to bring the policy form into compliance and shall cite the specific statutes, rules or bulletins upon which the notice of deficiencies or disapproval is based. No further extensions of time may be taken unless the filer has introduced new provisions in the resubmission or the filer has materially modified any substantive provisions of the policy form, in which case the Commissioner may extend the time for review by an additional thirty (30) days. At the end of the review period, the policy form is deemed approved if the Commissioner has taken no action.

b. 1. Subject to paragraph 2 of this subdivision, the Commissioner may not disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to subsection 4.4 of this section.

2. The Commissioner may disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to subsection 4.4 of this section if:

- A. The filer has introduced new provisions in the resubmission;
- B. The filer has materially modified any substantive provisions of the policy form;
- C. There has been a change in statutes, rules or published bulletins in this state having the force and effect of law; or
- D. There has been reviewer error and the written disapproval fails to state a specific provision of applicable statute, rule or bulletin published by the Commissioner having the force and effect of law in this state that is necessary to have the policy form conform to the requirements of law.

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4.8. Notwithstanding any other provision in this section, the Commissioner may return a grossly inadequate filing to the filer without triggering any of the time deadlines set for in this section. For purposes of this subsection, a “grossly inadequate filing” means a filing that fails to provide key information, including state-specific information, regarding a product, policy or rate, or that demonstrates an insufficient understanding of what is required to comply with state statutes or rules.

**§114-84-5. Effect of Deemer Provision.**

Except in cases of a material error or omission in a policy form that has been approved or deemed approved pursuant to the provisions of this rule, the Commissioner shall not:

Retroactively disapprove that filing; or

With respect to those policy forms, examine the filer during a routine or targeted market conduct examination for compliance with any later-enacted policy form filing requirements.

**§114-84-6. Effect of Subsequent Law Changes.**

Unless otherwise required by statute, no rules issued by the Commissioner affecting product filings shall be applicable to existing approved or deemed-approved policy forms except upon policy renewal or anniversary date.

**§114-84-7. Rate Filings and Marketing Materials.**

If a rate filing or marketing material is required to be filed or approved by state law for a specific policy form, the time frames for review, approval or disapproval, resubmission, and re-review of those rates or materials shall be the same as those provided for in sections 4 and 5 of this rule for the review of policy forms.