



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Risk And Insurance Management

TITLE-SERIES: 115-10

RULE TYPE: Procedural Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: Procedure for Providing Written Notification of
Claims

CITE STATUTORY AUTHORITY: W. Va. Code § 29-12-5

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 08/08/2020 5 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Mary Jane Pickens, Director

ADDRESS: BRIM, 1124 Smith Street, Suite 4300

Charleston, WV 25301

EMAIL: maryjane.pickens@wv.gov

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

This rule establishes requirements and processes for insured entities to notify the West Virginia Board of Risk and Insurance Management of any incident or claim under any of the coverages provided by the Board. The rule satisfies a decision of the W. Va. Supreme Court of Appeals in a mandamus action directing BRIM to create formal procedures and a form for notification of potential liability claims.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

A current legislative rule, 115CSR05, describes a fundamental procedure for the agency and its insured, and provides forms. This rule replaces the legislative rule with a more appropriate procedural one. This new rule incorporates the current legislative rule in addition to updating language to account for modern notification of claims and the types of information requested.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2020 Increase/Decrease (use "-")	2021 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	0	0	0
Personal Services	0	0	0
Current Expenses	0	0	0
Repairs and Alterations	0	0	0
Assets	0	0	0
Other	0	0	0
2. Estimated Total Revenues	0	0	0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This rule has no economic impact.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Misty Peal -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 115
PROCEDURAL RULE
BOARD OF RISK AND INSURANCE MANAGEMENT

SERIES 10
PROCEDURE FOR PROVIDING WRITTEN NOTIFICATION OF CLAIMS

§115-5-1. General.

1.1. Scope. -- This rule establishes the requirements and processes for insured entities to properly and promptly notify the West Virginia Board of Risk and Insurance Management of any incident or claim under any of the coverages provided by the Board.

1.2. Authority. -- W. Va. Code §29-12-5.

1.3. Filing Date. --

1.4. Effective Date --

§115-5-2. Definitions.

2.1. "Board" means the West Virginia Board of Risk and Insurance Management.

2.2. "Claim" means a demand for money or services made by a policyholder pursuant to the terms and conditions of an insurance policy or by a third-party against a policyholder.

2.3. "Employee" means any officer, agent, employee, or servant, whether compensated or not, whether full-time or not, who is authorized to act and is acting within the scope of his or her employment for an "insured entity." "Employee" includes any elected or appointed official of an "insured entity," but does not include an independent contractor of an "insured entity."

2.4. "Incident" means any activity, whether participated in by an employee, observed by an employee, or made known to an employee, and whether intentional or unintentional, which has or might have resulted in physical damage to another or to another's property and which has the potential for resulting in a claim against the state of West Virginia for damages.

2.5. "Insurance Loss Notice Form" means the claim form created and updated from time to time by the Board and available on the Board's website or upon request to the Board for purposes of reporting incidents, claims, or lawsuits to the Board.

2.6. "Insured entity" for purposes of this rule means the following entities insured through the Board:

2.6.1. The State of West Virginia, consisting of the legislative, judicial and executive branches of government, including all its boards, commissions, councils, authorities, institutions, universities, colleges, schools, departments, divisions, and agencies; and

2.6.2. Any political subdivision, charitable or public service organization, or emergency medical service agency as defined in W. Va. Code §29-12-5 which is insured through the public entities insurance program.

2.7. "Person" means any individual or business entity.

§115-5-3. Reporting Requirements.

3.1. Every insured entity shall establish a contact person within the insured entity to facilitate proper and timely reporting to the Board of all incidents, claims, or lawsuits. Each insured entity shall notify the Board's claim manager when the contact person is established or changed, and shall provide the name, telephone number, mailing address, and email address for the contact person.

3.2. Every insured entity shall establish internal claim reporting procedures to ensure timely reporting to the board of all incidents, claims, or lawsuits.

3.3. When practicable, the insured entities shall report all incidents, claims, or lawsuits to the Board by completing the insurance loss notice form and immediately submitting the completed form to the Board by the methods set forth in subsection 4.6. of this rule.

3.4. If the insured entity is unable to access the insurance loss notice form, the insured entity should instead notify the Board of the incident, claim, or lawsuit by sending written correspondence by any of the methods in subsection 4.5. that includes the following:

3.4.1. Name and mailing address of the insured entity;

3.4.2. The insured entity's certificate of insurance number that has been assigned to the insured entity by the Board;

3.4.3. The name of the insured entity's contact person including his or her contact information;

3.4.4. The date of the incident and a brief description of the incident;

3.4.5. The name of the person who was injured or damaged including known contact information for the person;

3.4.6. The nature of any injuries or damages; and

3.4.7. The name and contact information of the individual making the report.

3.5. If the reportable claim is a lawsuit or other legal notice, the insured entity shall attach a full and complete copy of the legal documents to a completed insurance loss notice form and submit it immediately to the Board's claim manager. In the absence of a completed insurance loss notice form, the insured entity shall attach a complete copy of the legal documents to a cover letter identifying the insured entity and providing the name, telephone number, mailing address, and email address for the insured entity's contact person.

3.6. Claims or incidents made pursuant to the terms of a cyber liability insurance policy provided by the Board to the State of West Virginia as defined in subdivision 2.6.1. or any Board of Education should be reported through the West Virginia Office of Technology's Online Computer Security and Privacy Incident Reporting System found on the West Virginia Office of Technology's website, or by contacting the Board's claim manager.

3.7. Insurance loss notice forms and lawsuits or legal notices of claims should be submitted

electronically to brim.claims@wv.gov. Should that methodology not be available, they may be submitted to the Board's claim manager by United States mail, fax, or hand delivery.

