



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF SUNSET PROVISION EXTENSION REQUEST

AGENCY: Insurance Commission

TITLE-SERIES: 114-27

RULE TYPE: Legislative CITE STATUTORY AUTHORITY: W.Va. Code §§33-2-10 and 16-3C-2

RULE NAME: 114-27 AIDS Regulations

PLEASE SELECT A SUNSET PROVISION OPTION:

EXTEND THE SUNSET DATE OF THE RULE.

5 REQUESTED NUMBER OF YEARS FOR EXTENSION (SUBJECT TO LRMRC REVIEW).

LET THIS RULE EXPIRE.

PLEASE INDICATE IF THIS RULE INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS

INCORPORATED BY REFERENCE

PLEASE PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The purpose of this rule is to comply with W.Va. Code §16-3C-2, which requires the Insurance Commissioner to develop standards regarding consent for use by insurers which test for the presence of HIV antibodies.

This rule establishes standards for AIDS-related underwriting questions and AIDS testing in connection with applications for life insurance policies. Specifically, it governs medical and lifestyle application questions and underwriting guidelines, sets forth a testing protocol for AIDS-related or HIV testing of life insurance applicants, and establishes notice and consent forms.

There are no changes being proposed to this rule except for an extension of the sunset date.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE REASONS FOR REQUESTING A SUNSET PROVISION EXTENSION:

W.Va. Code §16-3C-2 requires the Insurance Commissioner to develop standards regarding consent for use by insurers which test for the presence of HIV antibodies. Accordingly, the Insurance Commissioner promulgated 114 CSR 27 in 1991 and has amended it multiple times between 1991 and 2003. Most recently, the rule was amended in 2019 by the Legislature directly in Senate Bill 545 (2019) at the request of the American Council for Life Insurers (ACLI), which represents the life insurance industry.

Life insurers often test for HIV in processing life insurance applications. The 2003 version of 114 CSR 27 set forth a specific HIV antibody testing protocol that insurers were required to follow. In 2019, the testing protocol in the 2003 version of this rule was alleged to be outdated by the life insurance industry, which is understandable given that testing technology is consistently advancing. To allow for future advancements, the amendments made to 114 CSR 27 in Senate Bill 545 (2019), struck the explicit testing protocol and left in place a more general testing protocol. The remaining requirement says that no proposed insured may be denied coverage or rated a substandard risk based on HIV testing unless acceptable testing protocol is followed including the use of FDA-licensed tests. No further specific testing protocol is noted or required.

The Insurance Commissioner is suggesting no further changes to this rule, but is only requesting a sunset date extension.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None.

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

None.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

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

N/A.

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

Yes

Anoop Bhasin -- 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.