WEST VIRGINIA SECRETARY OF STATE

KRIS WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia Secretary Of State

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

AGENCY: Insurance Commission

TITLE-SERIES: 114-42

RULE TYPE: Legislative

Amendment to Existing Rule: Yes

Repeal of existing rule: No

RULE NAME: 114-42 Continuing Education for Individual Insurance Producers and Individual Insurance Adjusters

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code §§33-2-10, 33-12-35 and 33-12B-12

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §§33-12-35 and 33-12B-12 authorizes the Insurance Commissioner to promulgate rules to carry out the purposes of the respective articles. Sections in both articles require the Insurance Commissioner to oversee the continuing education of insurance producers and adjusters. The rule sets forth standards and procedures for continuing education requirements for insurance producers and adjusters. The rule contains an applicability section, provides for exemptions, time extensions, sets forth approved course requirements, and establishes penalties, including license suspensions and revocations, for failure to comply.

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? Yes

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? Yes

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD:

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED:

COMMENTS RECEIVED:

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING:

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS:

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The rule sets forth standards and procedures for continuing education requirements for insurance producers and adjusters. The rule contains an applicability section, provides for exemptions, time extensions, sets forth approved course requirements, and establishes penalties, including license suspensions and revocations, for failure to comply. The Insurance Commissioner seeks to amend this rule solely to extend the sunset date.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

The rule is necessary for the Insurance Commissioner to implement W. Va. Code §§33-12-8 and 33-12B-13 with respect to the continuing education requirements for insurance producers and adjusters. Thus, the Insurance Commissioner is requesting a sunset provision extension.

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

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

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

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 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			

E. 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.

TITLE 114
LEGISLATIVE RULE
INSURANCE COMMISSIONER

SERIES 42
CONTINUING EDUCATION FOR INDIVIDUAL INSURANCE PRODUCERS AND INDIVIDUAL INSURANCE ADJUSTERS

§114-42-1. General.

1.1. Scope. -- This legislative rule establishes standards for continuing insurance education requirements and the sanctions to be imposed for failure to comply with such requirements.

1.2. Authority. -- W. Va. Code §§33-2-10, 33-12-35 and 33-12B-12.

1.3. Filing Date. -- ~~June 6, 2022~~.

1.4. Effective Date. -- ~~July 1, 2022~~.

1.5. Sunset Date. -- This rule shall terminate and have no further force or effect upon August 1, ~~2027~~ 2032.

§114-42-2. Definitions.

In addition to the definitions in W. Va. Code §§33-12-8 and 33-12B-1, the following definitions apply:

2.1. "Approved course" means a course or program of instruction approved by the Commissioner and the Board of Insurance Agent Education for continuing insurance education credit.

2.2. "Biennium" means the two-year reporting period that is coextensive with the producer's license or adjuster's license period.

2.3. "Board" means the Board of Insurance Agent Education established pursuant to W. Va. Code §33-12-7 and referred to in W. Va. Code §33-12B-13.

2.4. "Cancelled license" means a producer or adjuster license which has been:

2.4.1. Voluntarily voided by request of the individual insurance producer or individual insurance adjuster and approved by the Commissioner; or

2.4.2. Terminated for failure to satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her suspension.

2.5. "Certificate of course completion" means a document acceptable to the Commissioner which signifies satisfactory completion of an approved course and reflects hours of credit earned.

2.6. "Commissioner" means the West Virginia Insurance Commissioner.

2.7. "Dual credit course" means a continuing insurance education course that has been approved by the Commissioner and the Board of Insurance Agent Education as a continuing insurance education credit for both individual insurance producers and individual insurance adjusters.

2.8. "Individual insurance producer" or "producer" means an individual licensed by the Commissioner to solicit, negotiate, effect or countersign insurance contracts on the insurer's behalf.

2.9. "Individual insurance adjuster" or "adjuster" means an individual who investigates, negotiates, or settles insurance claims and includes a company adjuster, independent adjuster, or public adjuster, as defined in W. Va. Code §33-12B-1.

2.10. "Provider" means a person, corporation, professional association or its local affiliates, an insurance company or other entity which is approved by the Commissioner and provides approved continuing insurance education to individual insurance producers and/or individual insurance adjusters.

2.11. "Reporting period" means the applicable biennium during which an individual insurance producer or individual insurance adjuster must meet his or her continuing insurance education requirements in order to maintain his or her license as required by W. Va. Code §§33-12-8 or 33-12B-13.

2.12. "Suspended insurance producer" means an individual whose license to engage in the sale of insurance has been temporarily withdrawn until such time as the individual insurance producer has successfully completed his or her continuing insurance education requirements.

2.13. "Suspended insurance adjuster" means an individual whose license to adjust insurance claims has been temporarily withdrawn until such time as the individual insurance adjuster has successfully completed his or her continuing education requirements.

2.14. "Suspension of all licenses issued for any kind or kinds of insurance" means those licenses for which continuing insurance education is required pursuant to this rule, W. Va. Code §§33-12-1 *et seq.* and 33-12B-1 *et seq.*

§114-42-3. Applicability.

3.1. This rule applies to resident, individual insurance producers who are licensed by the Commissioner to engage in the sale of one or more of the following types of insurance:

3.1.1. Life insurance, annuity contracts, variable annuity contracts and variable life insurance;

3.1.2. Sickness, accident and health insurance;

3.1.3. All lines of property and casualty insurance;

3.1.4. Preneed burial insurance contracts;

3.1.5. All other lines of insurance for which an examination is required by the Commissioner;

3.1.6. Individual insurance producers appointed on behalf of a licensed health maintenance organization; and

3.1.7. Individual insurance producers engaged in telemarketing insurance products.

3.2. This rule applies to all resident, individual insurance adjusters who are licensed by the Commissioner as public adjusters and to all resident individual insurance adjusters, including company adjusters and independent adjusters, licensed by the Commissioner with one or more of the following lines of authority:

3.2.1. Property and casualty;

3.2.2. Workers' compensation; or

3.2.3. Crop.

§114-42-4. Exemptions.

4.1. Continuing education requirements for individual insurance producers shall not apply to:

4.1.1. Persons holding resident licenses for any kind or kinds of insurance for which an examination is not required by the Commissioner;

4.1.2. Persons selling only limited lines credit insurance and limited lines insurance;

4.1.3. Any such limited or restricted license as the Commissioner may exempt;

4.1.4. Individual insurance producers whose licenses have expired pursuant to W. Va. Code §33-12-17;

4.1.5. Individual insurance producers who have voluntarily cancelled their licenses; and

4.1.6. Non-resident individual insurance producers.

4.2. Continuing education requirements for individual insurance adjusters shall not apply to:

4.2.1. Individual insurance adjusters not licensed for one full year prior to the end of the applicable continuing education biennium; or

4.2.2. Individual insurance adjusters holding nonresident adjuster licenses who have met substantially similar continuing education requirements of their designated home state and whose home state gives credit to resident adjusters of this state on the same basis.

4.3. The Commissioner shall, in consultation with the Board, develop a program regarding continuing education requirements for individual insurance adjusters during the transition to the new biennium period established pursuant to the 2021 amendments to this rule and such program shall be posted on the agency website.

§114-42-5. Continuing Insurance Education Course Requirements.

5.1. A continuing insurance education course shall not qualify for use as continuing insurance education credit unless it is filed with and approved by the Commissioner and the Board.

5.2. A provider shall not implement any material change in a continuing insurance education course previously approved by the Commissioner until the change has been filed with and approved by the Commissioner and the Board.

5.3. The Commissioner will not give an individual insurance producer or individual insurance adjuster credit for any continuing insurance education course which is taken prior to the issuance of written approval by the Commissioner and the Board.

5.4. If a continuing insurance education course is taken more than once in a reporting period, the Commissioner will give the individual insurance producer or individual insurance adjuster credit only for the first time that the course was taken and completed during the applicable reporting period.

5.5. The Commissioner may withdraw approval of a continuing insurance education course for any of the following reasons:

5.5.1. The continuing insurance education course teaching methods or course content have been materially changed without being filed with or approved by the Commissioner and the Board;

5.5.2. The continuing insurance education course provider has certified to the Commissioner that an individual insurance producer or individual insurance adjuster has satisfactorily completed the course when the individual insurance producer or individual insurance adjuster has not done so;

5.5.3. The continuing insurance education course provider fails to certify to the Commissioner that the individual insurance producer or individual insurance adjuster has satisfactorily completed the course when, in fact, the individual insurance producer or individual insurance adjuster has done so; or

5.5.4. There is other good reason to withdraw approval of a continuing insurance education course.

5.6. In those instances where the Commissioner has withdrawn approval for a continuing insurance education course, individual insurance producers or individual insurance adjusters who successfully completed the course prior to the withdrawal of approval shall receive credit toward their continuing education requirements.

5.7. Scripted presentations for individual insurance producers involved in telemarketing insurance products pursuant to W. Va. Code §33-12-8 shall be filed with the Commissioner no later than the first day of each reporting period or at least sixty (60) days prior to doing business in the state, whichever comes first.

5.8. A continuing insurance education course may be approved by the Commissioner and the Board as a dual credit course for both individual insurance producers and individual insurance adjusters. An individual who holds both an individual insurance producer license and an individual insurance adjuster license may take a continuing insurance education course that is approved by the Commissioner and the Board as a dual credit course and apply it towards the continuing education credit requirements for both an individual producer license and individual adjuster license.

§114-42-6. Insurance Producer and Insurance Adjuster Continuing Insurance Education Exceptions; Extensions of Time; Cancelled License Procedures; and Reciprocity.

6.1. The Commissioner shall refuse to renew the appointments or issue new appointments for those lines of insurance specified in section 3 of this rule to any individual insurance producer who does not satisfy the minimum continuing insurance education requirements.

6.2. An individual insurance producer or individual insurance adjuster who is required to complete more than six hours of continuing education biennially and who exceed the minimum continuing education requirement for the biennial reporting period may carry-over a maximum of six (6) credit hours into the next reporting period when the producer or adjuster has exceeded the minimum continuing education requirements for the current biennial reporting period.

6.3. Any individual insurance producer or individual insurance adjuster who has not complied with the continuing insurance education requirements by the end of the reporting period may thereafter obtain credit~~s~~ hours to be carried back to meet the requirements of the preceding reporting period. The Commissioner will assess a late submission fee of five dollars ($5.00) for each continuing insurance education credit hour obtained and submitted after the reporting period which are to be carried back to satisfy the requirements of the preceding reporting period.

6.4. A continuing insurance education course shall not qualify for use as continuing insurance education credit unless it is filed with and approved by the Commissioner and the Board.

6.5. An individual insurance producer or individual insurance adjuster who has an active annual membership in an organization or association recognized and approved by the Commissioner as a state, regional or national professional insurance organization or association may be approved by the Commissioner for up to two (2) credit hours of continuing insurance education in each biennial reporting period.

6.5.1. In determining whether to approve an organization's application for approval under this subsection, the Commissioner should consider:

6.5.1.a. The purpose and goals of the organization;

6.5.1.b. The extent to which the organization makes educational opportunities available to its members;

6.5.1.c. The degree to which the members participate~~s~~ in educational programs;

6.5.1.d. The extent to which the organization's educational programs and materials advance the knowledge of insurance-related topics; and

6.5.1.e. Any other criteria that the Commissioner deems advisable.

6.5.2. There shall not be more than one (1) credit hour of continuing insurance education awarded to an individual insurance producer or individual insurance adjuster per twelve (12) consecutive months' active membership in a professional insurance organization during a biennial reporting period.

6.5.3. Credit for continuing insurance education pursuant to this subsection may only be awarded to individual insurance producers or individual insurance adjusters who are required to complete more than six (6) hours of continuing education biennially. Requests for approval of credit pursuant to this subsection and for recognition and approval as an eligible organization must be made in the manner prescribed by the Commissioner on forms available on the West Virginia Offices of the Insurance Commissioner's website.

6.6. The Commissioner may, upon application and for good cause shown, grant an individual insurance producer or individual insurance adjuster an extension of time in which to meet the continuing insurance education requirements. Extensions may be granted for the following reasons:

6.6.1. The individual insurance producer or individual insurance adjuster has been engaged in active military duty outside the state for at least twelve (12) months during the biennium;

6.6.2. The individual insurance producer or individual insurance adjuster was or has become physically or mentally temporarily or permanently disabled by injury, illness or disease and was unable to perform adequately the duties required of him or her as a licensed individual insurance producer or individual insurance adjuster for a period of at least twelve (12) months during the biennium; or

6.6.3. Any such other reason as the Commissioner may determine on a case-by-case basis as constituting good cause.

6.7. An individual insurance producer or individual insurance adjuster should submit a request for an extension of time in which to meet the continuing insurance education requirements to the Commissioner in writing at least thirty (30) days prior to the last day of the reporting period and shall include in the request an explanation together with reasonable verification of the hardship rendering an extension necessary.

6.8. Individual insurance producers who have a cancelled license or an expired license pursuant to W. Va. Code §33-12-17 shall successfully complete pre-licensing education and examination before qualifying for a new license, and shall thereafter successfully complete the continuing insurance education credits required pursuant to W. Va. Code §33-12-1 *et seq*. and the guidelines established by the Board. Individual insurance adjusters who have a cancelled license or an expired license pursuant to W. Va. Code §33-12B-13 shall successfully complete examination before qualifying for a new license, and shall thereafter successfully complete the continuing insurance education credits required pursuant to W. Va. Code §33-12B-1 *et seq.* and the guidelines established by the Board.

6.8.1. No individual insurance producer or individual insurance adjuster may allow his or her license to expire as a means to circumvent the mandatory continuing education requirements.

6.9. The Commissioner shall recognize the continuing insurance education requirements obtained by an individual insurance producer during the reporting period through an approved provider of another state only in those instances where all the following conditions are met:

6.9.1. The individual insurance producer is a former resident, individual insurance producer who was licensed and in good standing in this state at the time his or her license was surrendered;

6.9.2. The individual insurance producer is currently licensed in good standing in another state and has been so licensed since leaving West Virginia; and

6.9.3. The individual insurance producer is in the process of establishing residency in West Virginia and has requested to have his or her resident individual insurance producer's license reinstated.

6.10. The Commissioner shall recognize the continuing insurance education requirements obtained by an individual insurance adjuster during the reporting period through an approved provider of another state only in those instances where both of the following conditions are met:

6.10.1. The individual insurance adjuster obtained the continuing insurance education through an approved provider of another state while a resident adjuster in that state; and

6.10.2. The individual insurance adjuster has since established residency in West Virginia and is licensed and in good standing in West Virginia.

§114-42-7. Proof of Completion.

7.1. Upon completion of a continuing insurance education course, the provider shall certify to the Commissioner the names of all individual insurance producers or individual insurance adjusters who satisfactorily completed the continuing insurance education course. The certification shall be in the form prescribed by the Commissioner.

7.1.1. The continuing education attendance certification roster shall be mailed by the provider to the Commissioner within thirty (30) days after the continuing insurance education course is completed. The provider shall submit a self-study course certification roster to the Commissioner within thirty (30) days of receipt of the completed course from the individual insurance producer or individual insurance adjuster.

7.1.2. The provider of the continuing insurance education course or a self-study continuing education course shall furnish a certificate of satisfactory completion to the individual insurance producer or individual insurance adjuster completing the course. The individual insurance producer or individual insurance adjuster shall retain a copy of the certificate for not less than four (4) years from the date the course is completed.

7.1.3. The provider shall retain a copy of a certification roster of attendance and self-study courses submitted for not less than four (4) years from the date the course is completed.

7.2. Providers of continuing insurance education courses and individual insurance producers or individual insurance adjusters shall make available to the Commissioner or his or her designee copies of certificates upon request of the Commissioner.

7.3. The Commissioner shall assess a late fee against a provider submitting a course certification roster outside the time period provided for in subsection 7.1 of this rule in the amount of twenty-five dollars ($25.00) for each individual insurance producer and/or individual insurance adjuster listed on the certification roster who satisfactorily completed the continuing insurance education course.

7.4. The Commissioner may disapprove the course(s) or program(s) of instruction developed or sponsored by a provider who establishes a pattern or practice of failure to comply with this rule or who fails to pay any fee assessed under this rule. The provider shall pay all applicable fees before the Commissioner may complete approval or re-approval of the courses or programs of instruction developed or sponsored by the provider.

§114-42-8. Disciplinary Process.

8.1. No later than sixty (60) days prior to the end of the reporting period, the Commissioner shall provide written notification to individual insurance producers and individual insurance adjusters subject to continuing insurance education requirements advising them as to the status of their continuing insurance education credits.

8.1.1. The Commissioner shall provide the notification to each individual insurance producer or individual insurance adjuster by electronic mail or by regular mail, if requested, addressed to the individual insurance producer at the last respective address appearing for the individual insurance producer in the records of the Commissioner.

8.1.2. Individual insurance producers who sell only preneed burial insurance contracts shall file with the Commissioner an affidavit, on a form to be provided by the Commissioner, verifying that the individual insurance producer is not engaged in the sale of any other type of insurance product.

8.1.3. Individual insurance producers engaged solely in telemarketing insurance products by a scripted presentation which has been filed with and approved by the Commissioner shall file an affidavit, on a form to be provided by the Commissioner, verifying that the individual insurance producer is not engaged in the sale of any other type of insurance product.

8.2. Any individual insurance producer or individual insurance adjuster who does not anticipate pursuing the required continuing insurance education requirements may elect to cancel his or her license prior to the end of the reporting period by submitting a written request to the Commissioner. Cancellation of a license revokes any privilege the individual insurance producer or individual insurance adjuster may have had to reinstate his or her license without completion of a pre-licensing insurance education course and/or examination.

8.2.1. Each request for cancellation of a license shall include the individual insurance producer's or individual insurance adjuster's name, address, license number, telephone number and reason for cancellation.

8.2.2. Cancellation of a license prohibits an individual insurance producer from further transacting insurance in West Virginia without successful completion of pre-licensing education and examination, and prohibits an individual insurance adjuster from further adjusting insurance claims in West Virginia without successful completion of examination.

8.3. Any individual insurance producer or individual insurance adjuster who has not met the continuing insurance education requirements for any reporting period may agree to a voluntary suspension of his or her license until such time as the continuing insurance education requirements have been met.

8.3.1. Each request for a voluntary suspension of a license shall include the individual insurance producer's or individual insurance adjuster's name, address, license number and telephone number.

8.3.2. An individual insurance producer may not transact insurance in West Virginia during the suspension period, and an individual insurance adjuster may not adjust insurance claims in West Virginia during the suspension period.

8.3.3. Any individual insurance producer who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her voluntary suspension shall have his or her license automatically cancelled pursuant to the provisions of W. Va. Code §33-12-8(h). Any individual insurance adjuster who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her suspension shall have his or her license automatically terminated pursuant to the provisions of W. Va. Code §33-12B-13(i).

8.4. The Commissioner will issue a notice automatically suspending the license of any individual insurance producer or individual insurance adjuster failing to meet continuing insurance education requirements who has not been granted an extension of time within which to comply, or who has submitted to the Commissioner a false or fraudulent certificate of compliance. The license shall remain suspended until such time as the individual insurance producer or individual insurance adjuster has demonstrated to the satisfaction of the Commissioner that he or she has complied with all requirements of this rule and all other applicable laws.

8.4.1. The individual insurance producer or individual insurance adjuster will have an opportunity to request a hearing on a notice of suspension resulting from his or her failure to meet continuing insurance education requirements. The effect of the notice of suspension will be stayed pending the individual insurance producer's or individual insurance adjuster's request for a hearing within the time designated in subsection 8.5 of this rule or pending completion of the hearing if a hearing is timely requested.

8.4.2. The burden of proving successful completion of continuing insurance education courses is at all times upon the individual subject to the continuing insurance education requirements.

8.4.3. Any individual insurance producer who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her suspension shall have his or her license automatically cancelled pursuant to the provisions of W. Va. Code §33-12-8(j). Any individual insurance adjuster who does not satisfy the mandatory continuing education requirements as of the last day of the reporting period following his or her suspension shall have his or her license automatically cancelled pursuant to the provisions of W. Va. Code §33-12B-13(k).

8.5. Hearings - A hearing may be requested by an individual insurance producer, individual insurance adjuster or a provider in accordance with W. Va. Code §33-2-13, 114CSR13, and the following:

8.5.1. Any individual insurance producer or individual insurance adjuster whose license is being suspended due to his or her failure to successfully complete and submit the required hours of continuing insurance education courses and wants to request a reconsideration hearing as permitted by W. Va. Code §§33-12-8(i) and/or 33-12B-13(j) must submit a request for hearing in writing to the Commissioner's office address in Charleston, West Virginia, either in person or by certified mail, return receipt requested.

Such hearing shall be held within forty-five (45) days of the receipt of request for hearing and notice of the time, place, and matters to be considered at the hearing shall be provided by the Commissioner to all parties directly involved not less than fifteen (15) days prior to the date of hearing. Any request for a reconsideration hearing must be in compliance with W. Va. Code §33-2-13, and must be made within thirty (30) days after the individual insurance producer's or individual insurance adjuster's receipt of the order entered by the Commissioner pursuant to subsection 8.4 of this rule for reconsideration of the matter. The Commissioner shall mail a copy of the order to the individual insurance producer or individual insurance adjuster by certified mail, return receipt requested. In cases where proof of receipt of the order is not received by the Commissioner, service of the order will be presumed complete upon the expiration of four (4) days following deposit by the Commissioner in the United States Mail. If the individual insurance producer or individual insurance adjuster makes a timely request for a hearing, the scope of the hearing will be whether the producer or adjuster has successfully completed and submitted the required hours of continuing insurance education courses. The hearing shall be conducted as provided in W. Va. Code §33-2-13.

8.5.2. Any provider that has received a notice of assessed fee or whose course(s) or program(s) of instruction has been disapproved must submit a request for hearing in the same manner and within the same time as that set forth in subdivision 1 of this subsection. The Commissioner shall mail a copy of the notice of fee or notification of disapproval of courses or programs to the provider by certified mail, return receipt requested. In cases where proof of receipt of the notice of fee or notification of disapproval is not received by the Commissioner, service will be presumed complete upon the expiration of four (4) days following deposit by the Commissioner in the United States Mail. If the provider makes a timely request for a hearing, the scope of the hearing will be whether the fee was properly assessed, whether the provider has failed to pay the fee or whether the provider has established a pattern or practice of failure to comply with this rule. The hearing shall be conducted as provided in W. Va. Code §33-2-13.

8.5.3. All requests for hearing must identify the order or notification upon which the hearing is requested and must set forth the grounds upon which it is asserted that the order or notification should be vacated or modified.

8.5.4. Untimely hearing requests will not be granted. A request is untimely if it is made by or on behalf of the individual insurance producer or individual insurance adjuster or provider after the time specified in subdivision 1 of this subsection or prior to the issuance of the order or notification.

8.6. Failure to appear at a hearing requested pursuant to subsection 8.5 of this rule will result in the following:

8.6.1. If the individual insurance producer or individual insurance adjuster fails to appear either in person or by counsel at the hearing without obtaining a continuance pursuant to 114CSR13, the order suspending his or her license will become final, and the individual insurance producer or individual insurance adjuster shall be assessed the costs set forth in subsection 8.7 of this rule.

8.6.2. If the provider fails to appear either in person or by counsel at the hearing without obtaining a continuance pursuant to 114CSR13, the provider's course(s) or program(s) will continue to be disapproved and the provider shall be assessed the costs set forth in subsection 8.7 of this rule.

8.7. Assessment of Costs.

8.7.1. A docket fee of seventy-five dollars ($75.00) may be assessed against an individual insurance producer, individual insurance adjuster or provider following a hearing if the Commissioner's prior action is not rescinded pursuant to W. Va. Code §33-2-13.

8.7.2. The Commissioner may assess the costs of the hearing as provided for in W. Va. Code §33-2-13 to any individual insurance producer, individual insurance adjuster or provider who fails to have the Commissioner's prior action rescinded.

8.7.3. The individual insurance producer or individual insurance adjuster or provider shall pay all applicable assessed fees before the Commissioner may complete reinstatement of the individual insurance producer's license or individual insurance adjuster's license or the approval of a provider's course(s) or program(s) of instruction.

8.7.4. All fees collected under this section shall be deposited, transferred, and paid out in accordance with W. Va. Code §33-3-13.

8.8. Notification of Suspension.

8.8.1. Upon suspension of an individual insurance producer's license for failure to comply with the mandatory continuing insurance education requirements for the reporting period, the Commissioner shall:

8.8.1.a. Give notice of the suspension to the insurer(s) or employing agent with whom the individual insurance producer has a contractual relationship; and

8.8.1.b. Cancel all appointments of the individual insurance producer subject to disciplinary action.

8.8.2. Upon suspension of an individual insurance adjuster's license for failure to comply with the mandatory continuing insurance education requirements for the reporting period, the Commissioner shall give notice of the suspension to the insurer, third-party administrator, or employer of the individual insurance adjuster.

8.9. An insurer employing an individual insurance producer shall not renew or issue new appointments subject to continuing insurance education requirements to an individual insurance producer whose license has been suspended for failure to comply with mandatory continuing insurance education requirements until such time as the individual insurance producer's license has been reinstated and an application and appropriate fee have been submitted to and approved by the Commissioner. Further, an insurer, third-party administrator or independent adjusting company employing an individual insurance adjuster shall not continue to allow an individual insurance adjuster whose license has been suspended for failure to comply with mandatory continuing insurance education requirements to adjust claims for the employer until such time as the individual insurance adjuster's license has been reinstated and an application and appropriate fee have been submitted to and approved by the Commissioner.

8.10. Neither cancellation of a license nor any disciplinary action levied as a result of non-compliance with continuing insurance education requirements shall prohibit an individual insurance producer from receiving commissions which were vested and earned while that individual insurance producer maintained an approved license nor prohibit an individual insurance adjuster from receiving a salary or other work-related payment which were vested and earned while that individual insurance adjuster maintained an approved license.