



Financial Security...for Life.

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Robert Planthold
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RE: Proposed Amendment to Part 916 – Required Procedure for Filing & Securing Approval of Policy Forms (First Notice – Illinois Register, Vol. 44, Issue 17 – 4/24/2020)

Dear Mr. Planthold:

We write to you on behalf of the members of the American Council of Life Insurers (“ACLI”) and the Illinois Life and Health Insurance Council (“ILHIC”) who represent over 90% of the Illinois life and health insurance market in Illinois. We appreciate the opportunity to comment on the Department’s proposed changes to existing requirements for the filing and approval of life, annuity, accident and health policy forms. As we detail in our comments below, our organizations have significant concerns about the proposed rule and its particular impact on the group markets for these products in Illinois.

We are aware the Department has taken the position that issuers seeking certification or recertification of individual, small group health insurance, and stand-alone dental plans offered on- and off- the individual and small group marketplaces must submit all form filings in the format of a complete insurance policy. As indicated in Company Bulletin 2020-13 providing guidance for ACA issuers filing plans for 2021, the Department will not accept matrix insert page filings, riders, amendments, variable language or brackets.

While the proposed amendments to Part 916 support that position, they also impose significant new policy filing limitations on other products, including life, group life, annuity, group annuity, disability income policies, excepted benefits and long-term care insurance. The Department has indicated that their rationale for these changes is to address “significant regulatory blindspots” in the current implementation of the policy form filing process.

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While the Department is not obligated to discuss perceived regulatory deficiencies with the industry prior to addressing these areas in the rulemaking process, our organizations believe these changes are so profound that we would appreciate the opportunity to have a comprehensive discussion to better understand the Department's concerns and address those concerns prior to promulgation of a change in the existing regulation.

Our comments detail the multiple implementation concerns our members have with the proposed rule change. We encourage the Department to reconsider the proposed rulemaking in order to allow our organizations and members to engage in further discussions with the agency in order to address the Department's concerns while maintaining a healthy, robust market for Illinoisans. If the Department wishes to proceed with the current rule, we request that it be limited in its applicability to issuers seeking certification or recertification of individual and small group "ACA" plans on- and off- the individual and small group marketplaces per current practice. A separate rule addressing other products can then be developed in coordination with our organizations and members that will address the Department's concerns without completely disrupting the market in Illinois.

Matrix, Insert Pages & Modular Forms

While only a handful of states that prohibit the use of matrix filings, the trend in the industry is moving away from the use of matrix forms for new product filings. We do not object to the prohibition on the use of matrix filings, provided such prohibition is implemented on a prospective basis only. Any previously approved forms should be grandfathered for continued use. In addition, we would suggest that the term "matrix" be defined so that it does not apply to riders, amendments, endorsements, declaration pages, schedule pages and certificate/policy specification pages. It should also be clarified that a matrix form is not created by the inclusion of such material.

Proposed section 916.40(b)(3)(B) also prohibits the submission of "insert pages" and forms in "modular format." The meaning of these terms is unclear and we suggest they either be defined in the rule so as to specifically exclude the above-mentioned material or be removed from the rule altogether.

Prospective Application of Matrix Form Prohibition

In the Department's May 29 response to the questions we submitted on May 18 (see attached), the Department indicated that the intent of this proposed rule change is to apply "only to new filings of policy forms submitted for approval" (per the response in Question #3). In response to Question #5, the Department also notes that "for health policies and certificates. . . [a]dditional schedules or benefit riders added after the approval of the original policy can be submitted separately and refer to the original policy and certificate language. Consequently, once this rule takes effect, the Department will need a complete policy on file for the analyst to review with any associated new schedule or rider filing."

Additionally, the Department further notes in their response to Question #5, "[f]or life or annuity policies and certificates. . . the Department will continue to allow schedule pages and benefit riders to be filed separately as long as the related policy or certificate is on file with the Department and is referenced in the schedule or rider filing."

If the rule is not limited to individual and small group ACA plans as requested, the rule needs to specifically differentiate its application to already approved forms for life, annuity, long-term care, accident and excepted benefit products. Many of these products, such as long-term care policies, involve closed blocks of business. There may be a need for an insurer to seek an endorsement or rider that would apply mitigation options, such as inflation reduction landing spots or co-insurance options.

Based upon the Department's response, for health policies and certificates, including long-term care, this would require the filing of a completely new policy for the "analyst to review with any associated new schedule or rider filings." Any filing of riders or endorsements to already approved forms to life, annuity, long-term care, accident, and excepted benefit products should not require the filing of a completely new form.

Limitations on Variability

We are very concerned with the proposed rule's overly narrow list of permissible variable material. Proposed section 916.40(b)(3)(D) limits permissible variable material to cover pages, policyholder name, policy name, policy number; product name, effective date of the policy, and other identifying data, such as corporate officer signatures and company address, phone numbers or URLs. While such limits on variability may be feasible in the individual insurance market, this very restrictive list would not allow an issuer of a group life, annuity or large group health product to respond to a wide range of policyholder needs and is unprecedented in the group market place. Employers, including public institutions and units of local government, require flexibility in the development of their group insurance products in order to meet the needs of their employees. Often the changes required are the result of terms and conditions that are subject to the collective bargaining process. Without variability, each time a specific group policy was modified to address those changes, an entirely new policy form would have to be filed and approved by the Department before it was implemented, which could be well after the effective date of coverage.

Group insurance forms typically include a selection of benefits, both in terms of benefits amounts, and also in terms of optional features. The list of features that are available as optional coverages can be lengthy in order to meet the diversity of needs in the market. This is true for group life, disability, annuity and group excepted benefit products as follows:

1. Group Term Life Insurance - A basic group term life insurance policy would normally be filed with at least the following as variable: benefits amounts, termination ages, age reductions, dependent coverage, accelerated benefits, portability, eligibility provisions (including eligible class descriptions, evidence of insurability requirements, waiting periods, actively at work provisions, full/part time hours requirements, dependent age limits, etc.), waiver of premium, additional benefits for accidental death and dismemberment, assignability and many other features.
2. Group Disability Income Products - Disability income products may contain variable provisions including, but not limited to, the definition of disability, pre-disability earnings, return-to-work provisions, integration of benefits, optional provisions, COLA riders, portability, continuation, premium grace periods, and payment provisions.
3. Group Annuity Products - Within a group annuity contract, a default investment may be selected by the plan sponsor for those funds received but direction is not provided by the plan participant. This field must be variable to allow for that plan sponsor fiduciary decision. Additional fields may be variable for those situations when funds are received and the default investment option selected by the plan sponsor is unavailable allowing the policy issuer to disclose the contract default investment option based upon the status of law at the time of issue. It is common for a filing to include a range of days for items such as notices to be provided or an obligation to be performed. When the contract is issued, a specific number of days is stated. This allows issuers to alter the number of days within the approved ranges as situations warrant. The plan sponsor selects those investment options to be made available under the plan. Certain separate accounts may have their own risks and limitations, but if those specific separate accounts are not to be made available to the plan, that content if not

variable, cannot be excluded when issuing.

4. Excepted Benefits Group Products (including Hospital Indemnity, Accident, Specified Disease, Dental and Vision) – These products would typically have at least the following as variable: benefit amounts, co-insurance amounts, maximum and deductible amounts, covered services, eligibility requirements (including actively at work provisions, full/part time hours requirements, dependent definitions and age limits, etc.), limitations, exclusions, and many optional benefit provisions.

For each of the examples referred to above, the proposed rule would require separate form filings for every group plan offered that did not follow the exact same structure. It would require companies to create and file for approval multiple policy forms to reflect each potential plan of insurance to be issued in Illinois in an effort to meet the needs of group policyholders, and even with those filings, without a reasonable degree of variability, it is highly unlikely that they would be sufficient. This would not only be extremely cumbersome but would create an enormous administrative and systems burden for companies and the Department and a potentially a negative consumer experience for insureds. In addition, it would prevent employers from being able to mix and match coverages that best meet the needs of their employees and would force them to choose from a limited set of pre-designed plans.

Unlike major medical health insurance, life, annuity long-term care, excepted benefits (such as specified disease), and disability policies do not have the same level of mandated benefit requirements. Large group health insurance products, however, may similarly offer variable features beyond just the mandated benefits to include additional voluntary benefits and different deductible, cost-sharing requirements, to name a few variable components that again, do not appear to be contemplated in the existing list of appropriate variable materials the Department sets forth in proposed Section 916.40(b)(3)(D).

Variability and providing adequate explanation of the variability allows the issuer to file one form with all of the necessary features, while also allowing the Department to ensure that the forms are compliant with state requirements. If plan features beyond the limited list of appropriate variable materials proposed in this rule change are no longer subject to variability, then it will be nearly impossible for issuers to file the number of single use forms necessary for prospective customers in the way they are allowed to do today and in the manner in which they are permitted in virtually every other state.

Implications on the Group Market & Insurer Compliance

While issuers of group life, health, and annuity products develop a series of standard plan offerings, most of these plans are developed in response to policyholder needs that continue to evolve. For example, at the larger end of the market, prospective policyholders typically send out requests for proposals to various companies for a particular group insurance product based on their specific needs. In other words, the actual plan design is done by the policyholder, sometimes working with a broker or a consultant, and sometimes based on a series of negotiations with a union as to what plan is to be offered to the employees.

When the employer comes to a prospective insurer and asks for a particular plan feature that has not been approved in exact policy form per the Department's proposal, those insurers will either be unable to meet that request or the employer may face delay in gaining access to such a policy feature or may limit competition if only a small number of issuers sought approval of such feature that would otherwise be permissible in historically approved variable content. Variability allows issuers, particularly in the group market, to offer an extensive array of plan designs to meet a diversity of needs sometimes within a single market segment. The limitations on variability, particularly group policies,

will likely result in a substantial increase in the number of policy filings the Department will be expected to review and approve. This will not only result in approval delays but will also diminish product offerings to employers and employees. This limitation will have a catastrophic impact on the group insurance marketplace in Illinois, making it an outlier among most other states and severely limiting the types of products made available to help Illinois citizens secure and protect their financial needs.

As noted in our opening statements, our organizations would welcome the opportunity to more fully understand the Department's concerns with respect to the "regulatory blindspots" that exist with respect to the expanded scope of products to which this proposed rule amendment would apply. We believe we can address some of these concerns by offering up solutions and possible revisions to the existing rule that are sensitive to the extensive concerns we have laid out, as well as the Department's concerns that the current requirements do not adequately allow reviewers to review revisions to an older policy to ensure ongoing compliance with Illinois law and regulations.

We appreciate the Department's willingness to address the series of questions that we have attached to this comment letter, as well as its consideration of these comments.

We look forward to further discussions in the hope that we can develop a pathway towards resolving the regulatory concerns of the Department without creating unintended consequences for the market, the Department and issuers alike. Working in partnership with the Department, we believe there are other viable alternatives to address the Department's concerns in ensuring compliance with current Illinois law.

Sincerely,



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