ACLI & ILHIC – Part 916 Proposed Rule Questions – May 18, 2020

DOI Responses – May 29, 2020

1. What is the Department's rationale for applying the policy filing changes to life insurance?

   The rationale stated in the Illinois Register in Item #5 of the First Notice of Proposed Amendments applies to life policies. Prohibiting matrix pages, insert pages, or modular filings, and instead requiring companies to submit complete policy forms for all life products, ensures that the Department is reviewing and approving policies, certificates, riders, and other policy forms as they will be issued.

2. Is it the Department's intent to apply the changes to group life, disability income, long-term care insurance and excepted benefits?

   As drafted, the changes apply to any "company" as defined in 50 Ill. Adm. Code 916.30 with respect to the lines of business listed therein for any "policy form" as defined in that Section. These lines of business include group life, disability income, long-term care insurance, and excepted benefits. The Department is curious whether this question's reference to disability income is based on a concern about anything other than variability in the amount of the policy's payout, which is usually the only variability that the Department currently sees in those policy forms.

3. Can the Department clarify that this applies to "new" filings and not existing filings and how will the Department treat approval of those policies filed, but not approved, if the rule were to take effect?

   The proposed amendments apply only to new filings of policy forms submitted for approval under 50 Ill. Adm. Code 916. For the avoidance of doubt, a policy form is not exactly the same as a filing. Any time a policy form is filed for approval, there is a new filing, even if the filing materials refer to or revise a policy form that was previously filed and approved. Filings that have been submitted but whose policy forms have not yet been approved when the amendments take effect will not be subject to the amendments.

4. The limitations on variability are extremely restrictive and if the Department intends to apply to all of these policies, particularly group policies, then the changes could result in thousands of new policy filings. For example, if a group customer requests that a carrier add part-time employees as eligible group participants, the carrier would have to refile the entire policy to accomplish this. Any change in eligibility or benefit would require a policy to be refiled and approved before it could be used. These changes are often the result of a contract negotiation or a desire to add a benefit in response to a particular issue or customer need. Waiting to get approval for every change would severely restrict the Group market in Illinois, basically rendering it unmarketable and would be a severe drain on Department resources with respect to policy review. Is it the intent of the Department to extend the limitations on variability in Section 916.40 (b)(3)(D) to group and non-ACA individual products?

The Department intends the limitations on variability in Section 916.40(b)(3)(D) to apply to all policy forms subject to 50 Ill. Adm. Code 916.

The proposed amendments were substantially prompted by difficulties the Department has faced with reviewing group life and health policy forms for compliance with applicable laws. One major problem that occurs is with filings of single page revisions to a policy that the Department had approved decades ago, when the original policy is no longer on file with the Department. In that circumstance, the Department is unable to verify the that the actual policy that would be issued with those revisions complies with current Illinois laws. Sometimes, even the company has been unable to furnish the complete policy that purportedly has been issued to an insured, which is extremely disconcerting. Another significant problem occurs with bracketed variability in language or numbers that is substantial enough that the Department cannot be confident that particular policies issued based on an approved filing actually comply with Illinois requirements for that type of product in the relevant market.

Please note that the requirement in subsection (b)(3)(A) to file a "complete policy" is intended to apply to all policy form filings, not just those for the main group or individual policy: an application should be filed complete in the form it will be issued to a consumer, as should a rider, an endorsement, or any other policy form.

The Department is willing to consider delaying the effective date of the amendments to allow companies time to adapt their business operations to function within the rule's requirements. The Department is also open to suggestions about allowable parameters for variable language, so long as it addresses the problem of a policy that does not conform to applicable laws being issued with text that technically is consistent with an approved policy form.

However, the Department is aware that an influx of filings will occur, and in the long run we believe that the review process will be far simpler once the transition required by these amendments is made. The Department has an obligation to do all we can to ensure that life and health policies sold in Illinois are approved as being in conformity with applicable law.

5. Will the Department permit filing of Schedules of Benefits and benefit riders or amendment to be filed separately without being accompanied by the corresponding policy and/or certificate?

   For health policies and certificates, the Department already allows schedules and riders to be submitted separately, and we will continue to do so. However, initial filings of a policy must contain the schedules associated with them. Additional 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.

   For life or annuity policies and certificates, the position is nearly the same. 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. The main difference from the health side is that the initial filing of a life or annuity policy or certificate does not need to have a schedule included; the company may choose to include a schedule with the policy or certificate filing, or the company may file a schedule separately.

6. Subsection (c) appears to read that each time a carrier submits a revised filing, the Department will consider it a new policy and will review full content. Will the Department allow carriers to submit redline changes from the prior year so the reviewers can readily decipher new material?

   Subsection (c) pertains to riders and endorsements, and no revisions have been proposed to that subsection. Perhaps you are referring to subsection (b)(3)?

   The provision at 50 Ill. Adm. Code 916.40(d) already requires redline versions to be submitted for policy forms that were previously approved.

7. If the Department truly views each update to the same policy as a new Policy, do they expect health carriers to discontinue or withdraw the previously approved forms once all membership is transitioned to the "new" forms?

   The Department has long treated revisions to a policy to be a "new policy form." The redlining requirements in Section 916.40(d) already pertain to "A new policy form that replaces or is substantially similar to a previously approved policy form..." (emphasis added). All changes result in a new policy form. However, this does not automatically require a health carrier to discontinue or withdraw the previously approved forms.

   Industry can elect to file a new policy that is substantially similar to a previously approved policy and make both policies available for sale. In such a case, though, the policies would have different form numbers.

   Alternatively, industry may elect to file a replacement policy that would use the same form number as a policy previously filed, and they would have to note that they are replacing the previously approved version. Doing so would render the previously approved policy form outdated and unmarketable.

8. For health policies, will rate filings be required with each "new" policy filing (if the intent is for each modification to a policy – including certificate or schedule) to be filed as a new policy)?

   It remains the case that all rate increases for health insurance coverage must be filed, and all rates for Medicare supplement and long-term care insurance must be filed. 50 Ill. Adm. Code 916.40(e). However, if a rate filing has already been submitted and the company deems it to apply to a new policy or certificate, too, no new rate filing would be required. The new form filing should just reference the appropriate rate filing. Likewise, if a company files revisions to a previously approved policy or certificate but intends to continue to apply the rates from an existing rate filing, the form filing for the revised policy or certificate merely needs to reference the rate filing.