

## CHAPTER 38

Substitute for SENATE BILL No. 209

AN ACT pertaining to accident and sickness insurance; relating to rate and form filings; amending K.S.A. 40-2215 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Sec. 1. K.S.A. 40-2215 is hereby amended to read as follows: 40-2215. (a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201 and amendments thereto shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

(b) No group or blanket policy or certificate of accident and sickness insurance providing hospital, medical or surgical expense benefits shall be issued or delivered to any person in this state, nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto has been filed with the commissioner of insurance.

(c) (1) No such policy shall be issued, nor shall any application, rider or endorsement be used in connection therewith, until the expiration of 30 days after it has been filed unless the commissioner gives written approval thereof.

(2) (A) *The commissioner shall create a requirements document containing filing requirements for each type of insurance. Such requirements document shall contain a list of all product filing requirements for each type of insurance that is required to be filed. For each type of insurance, such requirements document shall contain an appropriate citation to each requirement contained in any statute, rule and regulation and published bulletins in this state having the force and effect of law. Such requirements document shall be available on the insurance department internet website.*

(B) *The commissioner shall update the requirements document referred to in subparagraph (A) no less frequently than annually. The commissioner shall update the requirements document referred to in subparagraph (A) within 30 days after the effective date of any change in law, rule and regulation or bulletin published by the commissioner having the force and effect of law in this state.*

(3) *A filer shall submit with each policy form filing a document indicating the location within the policy form or any supplemental document for information establishing compliance with each requirement contained in the requirements documents referenced in subparagraph (A) of paragraph (2) of this subsection. A filer shall certify that the policy form, including any accompanying supplemental document, meets all requirements of state law.*

(d) ~~The commissioner may, within 30 days after the filing of any form, disapprove such form: (1) If, in the case of any form required to be filed pursuant to subsection (a), the benefits provided therein are unreasonable in relation to the premium charged, or (2) if, in the case of any form required to be filed pursuant to subsection (a) or (b), it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy. If the commissioner notifies the insurer which has filed any such form that it does not comply with the provisions of article 22 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, it shall be unlawful thereafter for such insurer to issue such form or use it in connection with any policy. In such notice the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer.~~

~~(e)~~ (1) Any risk classifications, premium rates, rating formulae, and all modifications thereof applicable to Kansas residents shall not establish an unreasonable, excessive or unfairly discriminatory rate or, with respect to group or blanket sickness and accident policies providing hospital, medical or surgical expense benefits issued pursuant to K.S.A. 40-2209 or 40-2210, and amendments thereto, discriminate against any individuals eligible for participation in a group, or establish rating classifications within a group that are based on medical conditions. In no event shall the rates charged to any group to which this subsection applies increase

by more than 75% during any annual period unless the insurer can clearly document a material and significant change in the risk characteristics of the group.

~~(2) All rates for sickness and accident insurance providing hospital, medical or surgical expense benefits covering Kansas residents shall be made in accordance with the following provisions and due consideration shall be given to: (A) Past and prospective loss experience; (B) past and prospective expenses; (C) adequate contingency reserves; and (D) all other relevant factors within and without the state. All rates for sickness and accident insurance providing hospital, medical or surgical expense benefits covering Kansas residents shall be made in accordance with the following provisions and due consideration shall be given to:~~

~~(A) Past and prospective loss experience;~~

~~(B) past and prospective expenses;~~

~~(C) adequate contingency reserves; and~~

~~(D) all other relevant factors within and without the state.~~

(3) Nothing in this act is intended to prohibit or discourage reasonable competition or discourage or prohibit uniformity of rates except to the extent necessary to accomplish the aforementioned purpose. The commissioner is hereby authorized to issue such rules and regulations as are necessary and not inconsistent with this act.

~~(f) The provisions of subsection (e) shall not apply to any medicare supplement policy as defined by the commissioner pursuant to rule and regulation, any policy of long term care insurance as defined by K.S.A. 40-2227 and amendments thereto, any specified disease, specified accident or accident only coverage, credit insurance, hospital confinement indemnity or any disability income protection policy.~~

~~(g) The commissioner may at any time, after a hearing of which not less than 20 days' written notice shall be given to the insurer, withdraw approval of any such form or disapprove any rate filed in accordance with subsection (a) in the event the commissioner finds such filing no longer meets the requirements of this section or of article 22 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. It shall be unlawful for the insurer to issue such form or use it in connection with any policy after the effective date of such withdrawal of approval.~~

~~(e) All parties in the filing process shall act in good faith and with due diligence in performance of their duties pursuant to this section.~~

~~(f) (1) Within 30 days of receipt of the initial filing, the commissioner shall review and approve such filing or provide notice of any deficiency or disapprove the initial filing. Any notice of deficiency or disapproval shall be in writing and based only on the specific provisions of applicable statutes, regulations or bulletins published by the commissioner having the force and effect of law in this state and contained in the requirements document created by the commissioner pursuant to subparagraph (A) of paragraph (2) of subsection (c). The notice of deficiency or disapproval shall provide specific reasons for notice of deficiencies or disapproval. Such reasons shall contain sufficient detail for the filer to bring the policy form into compliance, and shall cite each specific statute, rule and regulation or bulletin having the force and effect of law in this state upon which the notice of deficiency or disapproval is based. Any notice of disapproval provided by the commissioner shall state that a hearing will be granted within 20 days after receipt of a written request therefor by the insurer. At the end of the 30 day period, the policy form shall be deemed approved if the commissioner has taken no action.~~

~~(2) In addition to the statutes, regulations or bulletins described in paragraph (2) of subsection (c), the commissioner may disapprove a filing or provide a notice of deficiency for any form for which the commissioner determines that the benefits provided therein are unreasonable in relation to the premium charged; or if such form contains any provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of such policy. Any notice of disapproval provided by the commissioner pursuant to this paragraph shall state that a hearing will be granted within 20 days after receipt of a written request therefor by the insurer.~~

~~(3) If the insurer has received a disapproval or notice of deficiency or disapproval regarding a policy form, it shall be unlawful for an insurer to issue such policy form or use such policy form in connection with any policy until that policy form has received a later approval by the commissioner.~~

(4) Within 30 days of receipt of the commissioner's notice of deficiency or disapproval, a filer may resubmit a policy form that corrects any deficiencies or resubmit a disapproved policy form and a revised certification. Any policy form not resubmitted to the commissioner within 30 days of the notice of deficiency shall be deemed withdrawn. Any disapproved policy form not resubmitted to the commissioner within 30 days of the notice of disapproval shall be deemed disapproved.

(5) (A) Within 30 days of receipt of a resubmitted filing and certification, the commissioner shall review the resubmitted filing and certification, and shall approve or disapprove such resubmitted filing and certification. Any notice of disapproval pertaining to the resubmitted filing and certification shall be in writing and provide a detailed description of the reasons for the disapproval in sufficient detail for the filer to bring the policy form into compliance. The notice of disapproval shall cite each specific statute, rule and regulation or bulletin having the force and effect of law in this state upon which the disapproval is based. No further extension of time may be taken unless the filer has introduced new provisions in the resubmitted filing and certification or the filer has materially modified any substantive provisions of the policy form, in which case the commissioner may extend the time for review by an additional 30 days. At the end of this 30 day review period, the policy form shall be deemed approved if the commissioner has taken no action.

(B) (i) Subject to clause (ii) of this subparagraph, the commissioner may not disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to paragraph (1) of this subsection.

(ii) The commissioner may disapprove a resubmitted policy form for reasons other than those initially set forth in the original notice of deficiencies or disapproval sent pursuant to this subsection if:

(a) The filer has introduced new provisions in the resubmitted policy form and certification;

(b) the filer has materially modified any substantive provisions of the policy form;

(c) there has been a change in any statute, rule and regulation or published bulletin in this state having the force and effect of law; or

(d) there has been reviewer error and the written disapproval fails to state a specific provision of applicable statute, regulation or bulletin published by the commissioner having the force and effect of law in this state that is necessary to have the policy form conform to the requirements of law.

(6) At the end of the review period, the policy form shall be deemed approved if the commissioner has taken no action.

(7) Notwithstanding any other provision in this section, the commissioner may return a grossly inadequate filing to the filer without triggering any of the time deadlines set forth in this section. For purposes of this paragraph, the term "grossly inadequate filing" means a filing that fails to provide key information, including state-specific information, regarding a product, policy or rate, or that demonstrates an insufficient understanding of what is required to comply with state statutes or regulations.

(g) Except in cases of a material error or omission in a policy form that has been approved or deemed approved pursuant to the provisions of this act, the commissioner shall not:

(1) Retroactively disapprove that filing; or

(2) with respect to those policy forms, examine the filer during a routine or targeted market conduct examination for compliance with any later-enacted policy form filing requirements.

(h) If a rate filing or marketing material is required to be filed or approved by state law for a specific policy form, the time frames for review, approval or disapproval, resubmission, and re-review of those rate filings or marketing materials shall be the same as those provided for in subsection (f) for the review of policy forms.

(i) For purposes of this section:

(1) "Accident and sickness carrier" means an entity licensed to offer accident and sickness insurance in this state, or subject to the insurance laws and regulations of this state, or subject to the jurisdiction of the commissioner, that contracts or offers to contract to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services or any insurer that provides policies of supplemental, disability income, Medicare supplement or long-term care insurance.

(2) "Commissioner" means the commissioner of insurance.

(3) "Health care services" means services for the diagnosis, prevention, treatment, cure or relief of a health condition, illness or disease.

(4) "Policy form" means any policy, contract, certificate, rider, endorsement, evidence of coverage of any amendments thereto that are required by law to be filed with the commissioner for approval prior to their sale or issuance for sale in this state.

(5) "Supplemental documents" means any documents required to be filed in support of policy forms that may or may not be subject to approval.

(6) "Type of insurance" means any hospital or medical expense policy, health, hospital or medical service corporation contract, and a plan provided by a municipal group-funded pool, or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans, policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance.

(j) This section shall apply to any individual or group policy form issued by an accident and health carrier required to be filed with the commissioner for review or approval.

~~(h)~~ (k) Violations of subsection ~~(e)~~ (d) shall be treated as violations of the unfair trade practices act and subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411 and amendments thereto.

~~(i)~~ (l) Hearings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

Sec. 2. K.S.A. 40-2215 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 4, 2008.

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