

1 Public Protection Cabinet

2 Department of Insurance

3 Division of Health and Life Insurance and Managed Care

4 (Amendment)

5 806 KAR 17:070. Filing procedures for health insurance rates.

6 RELATES TO: KRS 304.14-120, 304.14-130, 304.17-380

7 STATUTORY AUTHORITY: KRS 304.2-110

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) [~~KRS 304.2-110~~]

9 authorizes [~~provides that~~] the Commissioner [~~Executive Director~~] of Insurance to promulgate  
10 [~~may make reasonable rules and~~] administrative regulations necessary for or as an aid to the  
11 effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010  
12 through KRS 304.99-154. The purpose of this [~~This~~] administrative regulation is to provide  
13 [~~provides~~] additional filing procedures for health insurance rates.

14 Section 1. Definitions.

15 (1) "Present value" means the amount of money needed as of the valuation date to  
16 produce, when accumulated at interest, a specified amount on a specific future date. The "present  
17 value of future benefits" and "present value of future premiums" are the sums of such values that

1 [~~which~~] should take into account not only the interest assumption but the assumed persistency  
2 and mortality of the business.

3 (2) "Accumulated value" means the amount of which a sum of money would have  
4 increased as of the valuation date, if invested at a specific date in the past, subject to the  
5 investment earnings at-attributable to the policies.

6 (3) "Loss ratio" means the ratio of the sum of incurred losses and the change in policy  
7 reserves divided by the earned premiums.

8 (4) A "qualified actuary" is a member of the American Academy of Actuaries, a fellow or  
9 associate of the Society of Actuaries, the Institute of Actuaries, the Faculty of Actuaries, the  
10 Casualty Actuarial Society, or a fellow or member of the Conference of Actuaries in Public  
11 Practice that is compliant with continuing professional development in the area of health  
12 insurance.

13 Section 2. Classification of Policies. For the purposes of this administrative regulation,  
14 policies are classified by type of benefit, renewal clause and average annual premium.

15 (1) Types of benefits recognized are:

16 (a) Medical expense, including hospital indemnity policies, as well as hospital, surgical,  
17 major medical, cancer, critical illness, or any other policies providing insurance against the  
18 expenses resulting from accident or sickness, as well as indemnity or lump sum benefits payable  
19 upon a medical event or diagnosis;

20 (b) Medicare supplement policies;

21 (c) Loss of income; and

1 (d) All other policies that [~~which may be designated by~~] the commissioner [~~executive~~  
2 ~~director~~] may designate.

3 (2) Categories of renewal clause are as follows:

4 OR - Optionally renewable: renewal of individual policies is at the option of the  
5 insurance company.

6 CR - Conditionally renewable: renewal can be declined by the insurance company only  
7 for a stated reason [~~reasons~~] other than deterioration of health.

8 GR - Guaranteed renewable: renewal cannot be declined by the insurance company for  
9 any reason, but the insurance company can revise rates on a class basis.

10 NC - Noncancellable: renewal cannot be declined nor can rates be revised by the  
11 insurance company.

12 (3) Recognized categories by average annual premium per policy are:

13 (a) Less than \$250 [~~\$100~~];

14 (b) A minimum of at [~~At~~] least \$250 [~~\$100~~] but no more than [~~less than~~] \$500 [~~\$200~~];

15 (c) \$500 [~~\$200~~] or more.

16 Section 3. Filing of Rates. Every policy, rider or endorsement form affecting benefits that  
17 are [~~which is~~] submitted for approval shall be accompanied by a rate filing unless such rider or  
18 endorsement form does not directly or indirectly produce a change in the benefit level. Any  
19 subsequent addition to or change in rates applicable to such policy, rider or endorsement shall  
20 also be filed.

21 (1) The following items shall be included in individual health insurance rate filing  
22 submissions for rates on a new product:

1 (a) Policy form, application, endorsements, "face sheet and verification form" and filing  
2 fee.

3 (b) Rate sheet.

4 (c) Actuarial memorandum.

5 1. Brief description of the type of policy, benefits, renewability, general marketing  
6 method, and issue age limits.

7 2. A brief ~~[Brief]~~ description of how rates were determined, including the general  
8 description and source of each assumption used. If assumptions are materially different from the  
9 company's experience on similar policies, the reasons for their choice should be explained.  
10 Margins, both implicit and explicit, should be estimated. For expenses, show those that ~~[which]~~  
11 are percent of premium, dollars per policy and/or dollars per unit of benefit, separately, by policy  
12 year.

13 3. Estimated average annual premium per policy.

14 4. Anticipated loss ratio, including a brief description of how it was calculated, and a  
15 projection of year-by-year expected loss ratios.

16 5. Anticipated loss ratio presumed reasonable according to Section 4 of this  
17 administrative regulation.

18 6. If subparagraph 4 of this paragraph is less than subparagraph 5 of this paragraph,  
19 supporting documentation for the use of the proposed premium rates must be filed.

20 7. An actuarial report signed by a qualified actuary as to whether or not, to the best of the  
21 actuary's knowledge and judgment, the rate submission is in compliance with the applicable laws  
22 and administrative regulations of the state, the Actuarial Standards of Practice, and that the

1 benefits are: reasonable in relation to the premiums, adequate, not excessive, and not unfairly  
2 discriminatory [~~and the benefits are reasonable in relation to the premiums~~].

3 8. A comparison [~~Comparison~~] of the rates with those of any similar policies currently or  
4 recently issued by the company.

5 (d) A statement as to the status of the filing in the company's home state, and a statement  
6 as to any variations in rates or [~~and/or~~] loss ratio assumptions required by or used in other states.

7 (2) The following items shall be included in individual health insurance rate filing  
8 submissions for rate increases on an existing product:

9 (a) New rate sheet, "face sheet and verification form", and filing fee.

10 (b) Actuarial memorandum.

11 1. A brief [~~Brief~~] description of the type of policy, benefits, renewability, general  
12 marketing method, issue age limits, the first and last year the policy form was issued, and the  
13 anticipated loss ratio of its original rates.

14 2. The scope [~~Scope~~] and reason for rate revision including a statement of whether the  
15 revision applies only to new business, only to in-force business, or to both, and outline of all past  
16 rate increases on this form.

17 3. The estimated [~~Estimated~~] average annual premium per policy, before and after rate  
18 increase. Comparison of proposed rate scale with current rate scale.

19 4. Past experience, [~~in the format of the "experience reporting form,"~~] the statistical  
20 credibility of the experience data and any other available data the insurer may wish to provide. If  
21 policy reserves are other than net level reserves based on the rate assumptions underlying the  
22 existing rates, an estimate of the effect of using such reserves shall [~~should~~] be provided.

1           5. A brief [~~Brief~~] description of how revised rates were determined, including the general  
2 description and source of each assumption used. For expenses, include percent of premium,  
3 dollars per policy, [~~and/or~~] dollars per unit of benefit as separate items, and [~~Also,~~] the  
4 unamortized initial expenses to be recovered from future premiums should be shown.

5           6. The anticipated future loss ratio described in Section 4(2)(a) of this administrative  
6 regulation and a description of how it was calculated.

7           7. The anticipated loss ratio that [~~which~~] combines cumulative and future experience  
8 described in Section 4(2)(b) of this administrative regulation, and a description of how it was  
9 calculated.

10          8. Anticipated loss ratio presumed reasonable according to Section 4 of this  
11 administrative regulation.

12          9. If subparagraphs 6 or 7 of this paragraph is less than subparagraph 8 of this paragraph,  
13 supporting documentation for the use of such premium rates.

14          10. An actuarial report signed by a qualified actuary as to whether or not, to the best of  
15 the actuary's knowledge and judgment, the rate submission is in compliance with the applicable  
16 laws and administrative regulations of the state, the Actuarial Standards of Practice, and that the  
17 benefits are: reasonable in relation to premiums, adequate, not excessive, and not unfairly  
18 discriminatory [~~and the benefits are reasonable in relation to the premiums~~].

19          11. The number of policies in force in Kentucky and approximate annual premiums.

20          (c) A statement as to the status of the filing in the company's home state, and a statement  
21 as to any variations in rates or [~~and/or loss~~] ratio assumptions required by or used in other states.

22          Section 4. Reasonableness of Benefits in Relation to Premiums. (1) New forms.

1 (a) With respect to a new form other than a Medicare supplement form under which the  
 2 average annual premium, as defined in the table below [~~as defined below~~] is expected to be at  
 3 least \$500 [~~\$200~~], benefits shall be deemed reasonable in relation to premiums provided the  
 4 anticipated loss ratio is at least as great as shown in the following table:

Type of Coverage	Renewal Clause			
	OR	CR	GR	NC
Medical Expense	60%	55%	55%	50%
Loss of Income and Other	60%	55%	50%	45%

5  
 6 (b) For a policy form, including riders and endorsements, under which the expected  
 7 average annual premium per policy is \$250 [~~\$100~~] or more but less than \$500 [~~\$200~~], subtract  
 8 five (5) percentage points from the numbers in the table above, or less than \$250 [~~\$100~~], subtract  
 9 ten (10) percentage points.

10 (c) The average annual premium per policy shall be computed by the insurer based on an  
 11 anticipated distribution of business by all applicable criteria having a price difference, such as  
 12 age, sex, amount, dependent status rider frequency, etc., except assuming an annual mode for all  
 13 policies (i.e., the fractional premium loading shall not affect the average annual premium or  
 14 anticipated loss ratio calculation).

15 (d) The loss ratio for a Medicare supplement policy shall be as provided in 806 KAR  
 16 17:570 [~~806 KAR 17:060~~], regardless of renewal clause or average premium.

17 (2) Rate revisions. Excepting as provided below, with respect to filings of rate revisions  
 18 for a previously approved form, benefits shall be deemed reasonable in relation to premiums  
 19 provided that both of the following loss ratios meet the above standards for new forms and meet  
 20 or exceed the initial filed expected loss ratio.

1 (a) The anticipated loss ratio over the entire future period for which the revised rates are  
2 computed to provide coverage;

3 (b) The anticipated loss ratio derived by dividing "A" by "B" where:

4 1. "A" is the sum of the accumulated benefits, from the original effective date of the form  
5 or the effective date of this administrative regulation, whichever is later, to the effective date of  
6 the revision, and the present value of future benefits, and

7 2. "B" is the sum of the accumulated premiums from the original effective date of the  
8 form or the effective date of the administrative regulation, whichever is later, to the effective  
9 date of the revision, and the present value of future premiums, such present values to be taken  
10 over the entire period that ~~[for which]~~ the revised rates are computed to provide coverage, and  
11 such accumulated benefits and premiums, and premiums from the last date that ~~[as of which an]~~  
12 accounting has been made to the effective date of the revision.

13 (3) Anticipated loss ratios other than those indicated in subsection (1) or (2) of this  
14 section will require justification based on the special circumstances that may be applicable.

15 (a) Examples of coverages for which a lower loss ratio may receive special consideration  
16 are as follows:

- 17 1. Accident only;
- 18 2. Short term nonrenewable, e.g., airline trip, student accident;
- 19 3. Specified peril, e.g., common carrier;
- 20 4. Other special risks.

21 (b) Examples of other factors for which lower loss ratios may receive special  
22 consideration are as follows:

- 1           1. Marketing methods, giving due consideration to acquisition and administration costs
- 2           and to premium mode;
- 3           2. Extraordinary expenses;
- 4           3. High risk of claim fluctuation because of the low loss frequency or the catastrophic, or
- 5           experimental nature of the coverage;
- 6           4. Product features such as long elimination periods, high deductibles and high maximum
- 7           limits;
- 8           5. The industrial or debit method of distribution;
- 9           6. Forms issued prior to the effective date of these guidelines.

10           (c) Companies shall [~~are urged to~~] review their experience periodically and [~~to~~] file rate  
11           revisions, as appropriate, in a timely manner to avoid the necessity of later filing of unacceptable  
12           large rate increases. Companies will be requested to implement rate increases of more than thirty  
13           (30) percent over two (2) or more years.

14           (d) An example [~~Examples~~] of factors for which higher loss ratios may be required:

- 15           1. A form [~~Forms~~] on which all initial expenses have been amortized.
- 16           2. A form [~~Forms~~] on which rates have been increased to at least double their original
- 17           level.
- 18           3. A form on which Companies have not filed rate increases in a timely manner pursuant
- 19           to Section 4(3)(c).

20           (e) When rates are submitted for new forms, the Department may require subsequent  
21           filings to demonstrate that the loss ratio required by Section 4(1)(a) is being met.

1           Section 5. Miscellaneous Considerations. (1) Additional data that [~~which~~] may be  
2 included in support of rate filings includes, but is not limited to, substitution of actual claim run-  
3 offs for claim reserves and liabilities, in order to avoid the problems of short-term developments,  
4 accident-year loss ratios supporting trends, the operation of any experience funds or stabilization  
5 reserves, adjustment of premiums to an annual mode basis.

6           (2) All additional data must be reconciled, as appropriate, to the required data, and any  
7 missing data explained.

8           Section 6. Severability. If any provision of this administrative regulation or the  
9 application thereof to any person or circumstance is for any reason held to be invalid, the  
10 remainder of this administrative regulation and the application of such provision to other persons  
11 or circumstances shall not be affected thereby.

806 KAR 17:070

READ AND APPROVED:

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Sharon P. Clark  
Commissioner, Department of Insurance

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Date

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Kerry B. Harvey  
Secretary, Public Protection Cabinet

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Date

## PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on July 23rd, 2021 at 500 Mero Street, Frankfort, KY 40602. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on July 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall  
Title: Executive Administrative Secretary  
Address: 500 Mero Street, Frankfort, KY 40601  
Phone: +1 (502) 564-6026  
Fax: +1 (502) 564-1453  
Email: [abigail.gall@ky.gov](mailto:abigail.gall@ky.gov)

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 806 KAR 17:070

Contact Person: Abigail Gall

Phone: +1 (502) 564-6026

Email: abigail.gall@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is to provide additional filing procedures for health insurance rates.

(b) The necessity of this administrative regulation: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010 through KRS 304.99-154. This administrative regulation is to provide additional filing procedures for health insurance rates.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010 through KRS 304.99-154.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments made to this administrative regulation are to include cancer, critical illness, as well as indemnity or lump sum benefits payable upon a medical event or diagnosis to the benefit types, to update the recognized categories by annual premium per policy to be less than \$250, a minimum set at \$250 to \$500, and premium exceeding \$500, and to recognize that the Department shall request further documentation to determine loss ratios are being met in Section 4 of this administrative regulation. Aside from the substantive changes to this regulation, the regulation was also amended to meet drafting requirements set forth in Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: The increases noted in the annual premium policy amendment is necessary to conform to changing policy limitations. The other amendments, less substantive, are to meet the drafting requirements set forth in Chapter 13A of the Kentucky Revised Statutes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.2-110(1) authorizes the Commissioner promulgate any administrative regulations necessary.

(d) How the amendment will assist in the effective administration of the statutes: The amendments set forth requirements for policy categorization and sets forth procedures to properly file health rate filings with the Department.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Health insurers writing business in Kentucky.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment:

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities:

(c) As a result of compliance, what benefits will accrue to the entities:

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Implementation of this amendment is not anticipated to have an initial cost on the Department of Insurance.

(b) On a continuing basis: Implementation of this amendment is not anticipated to have an on-going cost on the Department of Insurance.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department will use funds from its current operational budget to perform the tasks necessary.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:

(9) TIERING: Is tiering applied? Explain why or why not.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation: 806 KAR 17:070

Contact Person: Abigail Gall

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(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? .

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue is expected to be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue is expected to be generated.

(c) How much will it cost to administer this program for the first year? No cost is expected.

(d) How much will it cost to administer this program for subsequent years? No cost is expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(4) Revenues (+/-): Neutral

(5) Expenditures (+/-): Neutral

(6) Other Explanation: