

**31A-19a-206 Disapproval of rates.**

- (1)
  - (a) Except for a conflict with the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner may disapprove a rate at any time that the rate directly conflicts with:
    - (i) this title; or
    - (ii) any rule made under this title.
  - (b) The disapproval under Subsection (1)(a) shall:
    - (i) be in writing;
    - (ii) specify the statute or rule with which the filing conflicts; and
    - (iii) state when the rule is no longer effective.
  - (c)
    - (i) If an insurer's or rate service organization's rate filing is disapproved under Subsection (1)(a), the insurer or rate service organization may request a hearing on the disapproval within 30 calendar days of the date on which the order described in Subsection (1)(a) is issued.
    - (ii) If a hearing is requested under Subsection (1)(c)(i), the commissioner shall schedule the hearing within 30 calendar days of the date on which the commissioner receives the request for a hearing.
    - (iii) After the hearing, the commissioner shall issue an order:
      - (A) approving the rate filing; or
      - (B) disapproving the rate filing.
- (2)
  - (a) If within 90 calendar days of the date on which a rate filing is filed the commissioner finds that the rate filing does not meet the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner shall send a written order disapproving the rate filing to the insurer or rate organization that made the filing.
  - (b) The order described in Subsection (2)(a) shall specify how the rate filing fails to meet the requirements of Section 31A-19a-201 or 31A-19a-202.
  - (c)
    - (i) If an insurer's or rate service organization's rate filing is disapproved under Subsection (2)(a), the insurer or rate service organization may request a hearing on the disapproval within 30 calendar days of the date on which the order described in Subsection (2)(a) is issued.
    - (ii) If a hearing is requested under Subsection (2)(c)(i), the commissioner shall schedule the hearing within 30 calendar days of the date on which the commissioner receives the request for a hearing.
    - (iii) After the hearing, the commissioner shall issue an order:
      - (A) approving the rate filing; or
      - (B)
        - (I) disapproving the rate filing; and
        - (II) stating when, within a reasonable time from the date on which the order is issued, the rate is no longer effective.
  - (d) In a hearing held under this Subsection (2), the insurer or rate service organization bears the burden of proving compliance with the requirements of Section 31A-19a-201 or 31A-19a-202.
- (3)
  - (a) If the order described in Subsection (2)(a) is issued after the implementation of the rate filing, the commissioner may order that use of the rate filing be discontinued for any policy issued or renewed on or after a date not less than 30 calendar days from the date the order was issued.
  - (b) If an insurer or rate service organization requests a hearing under Subsection (2), the order to discontinue use of the rate filing is stayed:

- (i) beginning on the date the insurer or rate service organization requests a hearing; and
  - (ii) ending on the date the commissioner issues an order after the hearing that addresses the stay.
- (4) If the order described in Subsection (2)(a) is issued before the implementation of the rate filing:
  - (a) an insurer or rate service organization may not implement the rate filing; and
  - (b) the rates of the insurer or rate service organization at the time of disapproval continue to be in effect.
- (5)
  - (a) If after a hearing the commissioner finds that a rate that has been previously filed and has been in effect for more than 90 calendar days no longer meets the requirements of Section 31A-19a-201 or 31A-19a-202, the commissioner may order that use of the rate by any insurer or rate service organization be discontinued.
  - (b) The commissioner shall give any insurer that will be affected by an order that may be issued under Subsection (5)(a) notice of the hearing at least 10 business days prior to the hearing.
  - (c) The order issued under Subsection (5)(a) shall:
    - (i) be in writing;
    - (ii) state the grounds for the order; and
    - (iii) state when, within a reasonable time from the date on which the order is issued, the rate is no longer effective.
  - (d) The order issued under Subsection (5)(a) may not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.
  - (e) The order issued under Subsection (5)(a) may include a provision for a premium adjustment for contracts or policies made or issued after the effective date of the order.
- (6)
  - (a) When an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall, on the insurer's request, specify interim rates for the insurer.
  - (b) An interim rate described in Subsection (6)(a):
    - (i) shall be high enough to protect the interests of all parties; and
    - (ii) may, when necessary to protect the policyholders, order that a specified portion of the premiums be placed in an escrow account approved by the commissioner.
  - (c) When the new rates become effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that minimal refunds to policyholders need not be distributed.

Amended by Chapter 297, 2011 General Session