



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

PROPOSED AMENDMENTS TO THE REGULATION CONCERNING RATE REVIEW

I, Katharine L. Wade, Insurance Commissioner of the State of Connecticut, hereby certify that:

- (1) The Insurance Department gave notice of its intention to adopt proposed amendments to the regulations concerning Rate Review, as more fully set forth in the February 2, 2016 posting on the Secretary of State's website at the following link: <https://eregulations.ct.gov/eRegsPortal/Search/RMRView/PR2015-175>
- (2) On February 2, 2016, the Insurance Department emailed its notice of intent to adopt the amended regulations to all persons who had requested advance notice of the regulation adoption proceedings of the Insurance Department, together with a copy of the proposed regulation.
- (3) On February 2, 2016, the Insurance Department gave notice by email to the Insurance and Real Estate Committee of the General Assembly of the subject matter of this proposed amended regulation in accordance with Conn. Gen. Stat. § 4-168.
- (4) On December 1, 2015, a fiscal note on the proposed amended regulation was prepared.
- (5) As required by Conn. Gen. Stat. § 4-168a, the Insurance Department considered the impact of the proposed amendments to the regulation on small business, and determined there was no adverse impact to small businesses.
- (6) All interested persons were given a minimum of thirty days to submit data, views or arguments concerning the proposed amendments and to inspect the fiscal note referred to in paragraph (4).
- (7) The Insurance Department received two (2) comments regarding the proposed regulations.
- (8) The records of the Insurance Department reflect that it provided no copies of the proposal to persons in addition to the persons or entities who requested advance notice of the Insurance Department's regulation adoption proceedings as set forth in item (2).
- (10) The Insurance Department gave notice of its decision to adopt proposed amendments to the regulations concerning rate review, as more fully set forth in the March 8, 2016 posting on the Secretary of State's website at the following link <https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid={60462B66-62CA-4285-886D-348360AD6E19}>.

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(11) A copy of the regulation for review by the Office of the Attorney General is located at the following website:

<https://eregulations.ct.gov/eRegsPortal/Search/RMRView/PR2015-175>.

Dated at Hartford, Connecticut, this 2nd day of June, 2016.

Katharine L. Wade

Katharine L. Wade
Insurance Commissioner

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator Clark Chapin
Senate Chair



Representative Brian Becker
House Chair

Official Record of Committee Action

May 24, 2016

Agency: Insurance Department
Description: Health Insurance Rate and Form Filings
LRRC Regulation Number: 2016-003
eRegulation Tracking Number: PR2015-175

The above-referenced regulation has been

Rejected without Prejudice

by the Legislative Regulation Review Committee in accordance
with CGS Section 4-170.

Kirstin L. Breiner
Committee Administrator

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator Clark Chapin
Senate Chair



Representative Brian Becker
House Chair

May 24, 2016

Katharine L. Wade, Commissioner
Insurance Department
P.O. Box 816
Hartford, CT 06106-0816

Dear Commissioner Wade,

Proposed Regulation
2016-003

Insurance Department "**HEALTH INSURANCE RATE AND FORM FILINGS**" The Regulations of Connecticut State Agencies is amended Sections 38a-481-1 and 38a-481-5 through 38a-481-9. (CLJ Notice Date: 2/2/2016, A.G. Approval Date: 3/23/2016 - Bearing a Deadline Date of 6/9/2016).

The above captioned regulation was **LRRC - Rejected Without Prejudice** by the Legislative Regulation Review Committee on 5/24/2016. The action was based on the recommendations of the Legislative Commissioners' Office. The necessary corrections are outlined in the attached report.

The regulation should be corrected, approved by the Attorney General for legal sufficiency pursuant to Section 5 of Public Act 14-187, and then resubmitted to the Legislative Regulation Review Committee with a summary of the revisions listed by paragraph. If this is a mandatory regulation, it must be resubmitted to the committee no later than the first Tuesday of the second month following the regulation's rejection.

Sincerely,

Kirstin L. Breiner, Administrator
Legislative Regulation Review Committee

The Connecticut General Assembly

Legislative Commissioners' Office

Edwin J. Maley, Jr.
Commissioner
William A. Hamzy
Commissioner

Louise M. Nadeau
Director



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Memorandum

To: Legislative Regulation Review Committee
From: Legislative Commissioners' Office
Committee Meeting Date: May 24, 2016

Regulation No:	2016-3
Agency:	Insurance Department
Subject Matter:	Health Insurance Rate and Form Filings
Statutory Authority: (copy attached)	38a-481(b)

	Yes or No
Mandatory	Y
Federal Requirement	N
Permissive	N

For the Committee's Information:

Substantive Concerns:

1. On page 1, in section 38a-481-1(11), the defined term sets forth examples of what "could" constitute "unfairly discriminatory" situations. While the term should clearly and explicitly state whether such listed items constitute "unfairly discriminatory" items, such term is used in Section 38a-481 of the Connecticut General Statutes and the proposed regulations in relation to a rate, not a situation. The term should be redrafted to reconcile the descriptions of the situations with the manner in which the term is used in the authorizing statute, including but not limited to, providing clarification on the parties prohibited from negotiating or bidding on price.
2. On page 1, in section 38a-481-1(12), the definition of "utilization data" references "covered persons". It is unclear if the intended definition for "covered persons" is a statutory definition or if such term is intended to refer to another definition. The use of such term should be clarified.
3. On page 2, section 38a-481-7(c) states, "All rate filings shall be made in accordance with Department guidance." It is unclear what guidance this provision references or what is required of insurers.
4. On page 3, section 38a-481-9(a)(10) requires a comparison of the proposed retention charge to the "most recently filed statutory financial statement for the regulated entity for which this filing is being made." Similarly, on page 3, section 38a-481-9(a)(13) references "the regulated entity". It is unclear whether "the regulated entity" is the insurer. In addition, it is unclear to which statute(s) the department is referring to with respect to the financial statement.
5. On page 3, section 38a-481-9(a)(15) references "I-IIOS rate tables". Because this reference is unclear, it should either be included in the definitions section or spelled out in section 38a-481-9 of the proposed regulations. In addition, this subdivision requires a PDF format, however, it is unclear whether all the documents referred to in this subdivision are required to be in such format or only the I-IIOS rate tables are so required.

Technical Corrections:

1. On page 1, in section 38a-481-1, in the introductory language, "unless the context otherwise requires" should be inserted after "Agencies" for accuracy.
2. On page 1, in section 38a-481-1(3), the extra space after "means" should be deleted for proper form.
3. On page 1, in section 38a-481-1(4), ' "Experience period" ' should be ' "Experience" ' and "support a filing" should be "support a rate filing" for accuracy.
4. On page 1, section 38a-481-1(8) should be "(8) "Loss ratio" has the same meaning as provided in Section 38a-481(a) of the Connecticut General Statutes." for proper form.

5. On page 1, in section 38a-481-1(10), "the" should be inserted before "National" and "Commissioners" should be "[Commissioners] Commissioners" for proper form.
6. On page 1, in section 38a-481-1(11), such definition should be deleted, for proper form and clarity, and the remaining definition should be renumbered accordingly.
7. On page 1, in section 38a-481-1(12), the quotation marks enclosing "covered persons" should be deleted for proper form.
8. On page 1, in section 38a-481-5, in the catchline, "**Rate Filings**" should be "**rate filings**" for consistency with existing regulations.
9. On page 1, in section 38a-481-5(a), "by" should be deleted for clarity.
10. On page 2, in section 38a-481-5(b), "no less than" should be "no later than" for consistency.
11. On page 2, in section 38a-481-6, in the catchline, "**of rate filings**" should be inserted after "**Transparency**" for accuracy; in line 1 of said section, "(a)" should be deleted for proper form; in line 2 of said section, "rate" should be inserted before "filings" for accuracy; and in line 4 of said section, "will be" should be "shall be" in accordance with the committee's directive regarding mandates.
12. On page 2, in section 38a-481-7, in the catchline, "**Process**" should be "**Rate filing process**" for accuracy and consistency.
13. On page 2, in section 38a-481-7(a), "must" should be "shall" in accordance with the committee's directive regarding mandates.
14. On page 2, in section 38a-481-7(b), "must" should be "shall" in accordance with the committee's directive regarding mandates.
15. On page 2, in section 38a-481-7(f), "will not" should be "shall not" in accordance with the committee's directive regarding mandates.
16. On page 2, in section 38a-481-8, in the catchline, "**Minimum Filing Requirements**" should be "**Minimum rate filing requirements**" for accuracy and consistency.
17. On page 2, in section 38a-481-8(a)(3)(A), "state specific" should be "state-specific" for proper form.
18. On page 2, in section 38a-481-8(a)(6), "this type of insurance" should be "the type of insurance for which the rate filing has been submitted" for proper form.
19. On page 2, in section 38a-481-8(b), "rate" should be inserted after "initial" for clarity; "red-lined version" should be "version that shows the changes made" for proper form; and "the review" should be "the Department's review" for proper form.

20. On page 2, in section 38a-481-8(c), "in section (a) of this provision" should be "required under subsection (a) of this section" for proper form; "will commence" should be "shall commence" in accordance with the committee's directive regarding mandates; and "The filings will be reviewed in the order received." should be "Rate filings shall be reviewed in the order received by the Department." for proper form.
21. On page 2, in section 38a-481-9, in the catchline, "**Additional Filing Requirements**" should be "**Additional rate filing requirements**" for accuracy and consistency.
22. On page 2, in section 38a-481-9(a), "health insurance as defined in" should be "individual health insurance providing coverage of the types specified in" for clarity and consistency.
23. On page 3, in section 38a-481-9(a)(1), "by the insurer" should be inserted after "filed" for clarity.
24. On page 3, in section 38a-481-9(a)(6), "change in law" should be "a change in state or federal law" and "This include requirements of both state and federal law." should be deleted, for consistency.
25. On page 3, in section 38a-481-9(a)(8), in line 1, "parity" should be inserted after "mental health" for proper form.
26. On page 3, in section 38a-481-9(a)(9), "the" should be inserted before "PPACA" for proper form and consistency.
27. On page 3, section 38a-481-9(a)(11) should be deleted and the remaining subdivisions renumbered accordingly, as this provision appears duplicative of section 38a-481-8(a)(5) of the proposed regulations.
28. On page 3, in section 38a-481-9(a)(14), "the" should be inserted before "PPACA" for proper form and consistency; "increase requested in this rate filing" should be "rate increase requested in this filing" for consistency; "80% prescribed by the federal law" should be "medical loss ratio prescribed by federal law" for accuracy; and "and small group, or 85% for large group, whichever applies to the rate filing" should be deleted, as this section applies to individual health insurance.
29. On page 3, in section 38a-481-9(a)(15), "rates filings subject to PPACA" should be "filings subject to the PPACA" for consistency; "PDF format" should be "portable document format" for proper form; "set forth in the PPACA" should be inserted after "metal tier" for clarity; "Actuarial Value calculator" should be "federal Department of Health and Human Services' Actuarial Value Calculator" for clarity; and "Indicate the HIOS plan ID and the corresponding plan name on the summary of benefits for each plan." should be "The Health Insurance Oversight System plan ID and the corresponding plan name on the summary of benefits for each plan shall be indicated." for clarity and consistency.

30. On page 3, in section 38a-481-9(b), "health insurance as defined in" should be "individual health insurance providing coverage of the types specified in" for clarity and consistency; the extra space after "(12)" should be deleted for proper form; and "include but not be limited to" should be "include, but not be limited to," for proper form.

31. On page 3, in section 38a-481-9(b)(1), "rate" should be inserted before "increase" for consistency; "those proposed rate increases" should be "each proposed rate increase" for proper form; and "increase or if appropriate" should be "increase or, if appropriate," for proper form.

32. On page 3, in section 38a-481-9(b)(3), "rate" should be inserted before both instances of "increase" for consistency; and "percent, or" should be "percent or," for proper form.

Recommendation:

<p>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part <input checked="" type="checkbox"/> Rejection without prejudice</p>

Reviewed by: Kumi Sato / Bradford M. Towson

Date: May 13, 2016

From 2016 Supplement

Sec. 38a-481. (Formerly Sec. 38-165). Filing of policy form, application, classification of risks and rates. Approval of rates. Medicare supplement policies: Age, gender, previous claim or medical history rating prohibited. Reduction of payments on basis of Medicare eligibility. Optional life insurance rider. Treatment of health insurance issued to association or certain other insurance arrangements.

Grandfathered and nongrandfathered plans. (a) No individual health insurance policy shall be delivered or issued for delivery to any person in this state, nor shall any application, rider or endorsement be used in connection with such policy, until a copy of the form thereof and of the classification of risks and the premium rates have been filed with the commissioner. Rate filings shall include an actuarial memorandum that includes, but is not limited to, pricing assumptions and claims experience, and premium rates and loss ratios from the inception of the policy. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to establish a procedure for reviewing such policies. The commissioner shall disapprove the use of such form at any time if it does not comply with the requirements of law, or if it contains a provision or provisions that are unfair or deceptive or that encourage misrepresentation of the policy. The commissioner shall notify, in writing, the insurer that has filed any such form of the commissioner's disapproval, specifying the reasons for disapproval, and ordering that no such insurer shall deliver or issue for delivery to any person in this state a policy on or containing such form. The provisions of section 38a-19 shall apply to such orders. As used in this subsection, "loss ratio" means the ratio of incurred claims to earned premiums by the number of years of policy duration for all combined durations.

(b) No rate filed under the provisions of subsection (a) of this section shall be effective until it has been approved by the commissioner in accordance with regulations adopted pursuant to this subsection. The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to prescribe standards to ensure that such rates shall not be excessive, inadequate or unfairly discriminatory. The commissioner may disapprove such rate if it fails to comply with such standards, except that no rate filed under the provisions of subsection (a) of this section for any Medicare supplement policy shall be effective unless approved in accordance with section 38a-474.

(c) No insurance company, fraternal benefit society, hospital service corporation, medical service corporation, health care center or other entity that delivers or issues for delivery in this state any Medicare supplement policies or certificates shall incorporate in its rates or determinations to grant coverage for Medicare supplement insurance policies or certificates any factors or values based on the age, gender, previous claims history or the medical condition of any person covered by such policy or certificate.

(d) No individual health insurance policy delivered, issued for delivery, renewed, amended or continued in this state shall include any provision that reduces payments on the basis that an individual is eligible for Medicare by reason of age, disability or end-stage renal disease, unless such individual enrolls in Medicare. If such individual enrolls in Medicare, any such reduction shall be only to the extent such coverage is provided by Medicare.

(e) Nothing in this chapter shall preclude the issuance of an individual health insurance policy that includes an optional life insurance rider, provided the optional life insurance rider shall be filed with and approved by the Insurance Commissioner pursuant to section 38a-430. Any company offering such policies for sale in this state shall be licensed to sell life insurance in this state pursuant to the provisions of section 38a-41.

(f) Health insurance issued to an association or other insurance arrangement that is not made up solely of employer groups shall be treated as individual health insurance.

(g) (1) As used in this subsection, "Affordable Care Act" means the Patient Protection and Affordable Care Act, P.L. 111-148, as amended from time to time, and regulations adopted thereunder, and "grandfathered plan" has the same meaning as "grandfathered health plan" as provided in the Affordable Care Act.

(2) Each individual health insurance policy subject to the Affordable Care Act shall be offered on a guaranteed issue basis with respect to all eligible individuals or dependents.

(3) With respect to grandfathered plans of a policy under subdivision (2) of this subsection, the premium rates charged or offered shall be established on the basis of a single pool of all grandfathered plans.

(4) With respect to nongrandfathered plans of a policy under subdivision (2) of this subsection:

(A) The premium rates charged or offered shall be established on the basis of a single pool of all nongrandfathered plans, adjusted to reflect one or more of the following classifications:

(i) Age, in accordance with a uniform age rating curve established by the commissioner;

(ii) Geographic area, as defined by the commissioner;

(iii) Tobacco use, except that such rate may not vary by a ratio of greater than 1.5 to 1.0 and may only be applied with respect to individuals who may legally use tobacco under state and federal law. For purposes of this subparagraph, "tobacco use" means the use of

tobacco products four or more times per week on average within a period not longer than the six months immediately preceding. "Tobacco use" does not include the religious or ceremonial use of tobacco;

(B) Total premium rates for family coverage shall be determined by adding the premiums for each individual family member, except that with respect to family members under twenty-one years of age, the premiums for only the three oldest covered children shall be taken into account in determining the total premium rate for such family.

(5) Premium rates for a grandfathered or nongrandfathered policy under subdivision (2) of this subsection may vary by (A) actuarially justified differences in plan design, and (B) actuarially justified amounts to reflect the policy's provider network and administrative expense differences that can be reasonably allocated to such policy.

Connecticut General Assembly



OFFICE OF FISCAL ANALYSIS

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May 12, 2016

TO: Senator Clark Chapin
 Representative Brian Becker
 Co-Chairs, Regulations Review Committee

FROM: Neil Ayers, Director *NAA*

SUBJECT: Review of Agenda Item **2016-003** for the May 24, 2016 Meeting

OFA has reviewed the state and municipal fiscal impact of item 2016-003 for the Department of Insurance for the above meeting.¹ The following table summarizes our review.

Reg. #	Agency	Is Agency Estimate of State Impact Reasonable?	Is Agency Estimate of Municipal Impact Reasonable?	Did Agency Submit a Small Business Impact Statement? ²	Did Agency Submit a Regulatory Flexibility Analysis? ²
2016-003	DOI	Yes	Yes	Yes	No

Please contact me if you have any questions or would like additional information.

¹ CGS Section 2-71c(c)(7) requires OFA to prepare “short analyses of the costs and long range projections of ... proposed agency regulations.”

² CGS Section 4-168a requires agencies to prepare a small business impact statement on all regulation submittals and prepare a regulatory flexibility analysis statement when there is an impact on small businesses.