Kansas Administrative Regulations
Agency 40. Insurance Department
Article 4. Accident and Health Insurance

40-4-37t. Premium rate schedule increases.

(a) This regulation shall apply as follows:

(1) Except as provided in paragraph (a)(2) of this regulation, to any long-term care policy or certificate issued in this state on or after January 1, 2003; or

(2) for certificates issued on or after January 1, 2003 under a group long-term care insurance policy as defined in K.S.A. 40-2227(e) and amendments thereto, which policy was in force when this regulation became effective, on the policy anniversary following 12 months after January 1, 2003.

(b) Each insurer shall provide notice of a pending premium rate schedule increase, including an exceptional increase, to the commissioner at least 30 days before the notice to the policyholders and shall include the following:

(1) Information required by K.A.R. 40-4-37s;

(2) certification of both of the following by a qualified actuary:

(A) If the premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and

(B) the premium rate filing is in compliance with the provisions of this regulation;

(3) an actuarial memorandum justifying the rate schedule change request that includes the following:

(A) Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase and the method and assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale:

(i) Annual values for the five years preceding and the three years following the valuation date shall be provided separately;

(ii) the projections shall include the development of the lifetime loss ratio, unless the rate increase is an exceptional increase;

(iii) the projections shall demonstrate compliance with subsection (c); and

(iv) for exceptional increases, the projected experience shall be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase. If the commissioner determines as provided in K.A.R. 40-4-37(c)(11) that offsets may exist, the insurer shall use appropriate net projected experience;

(B) disclosure of how reserves have been incorporated in this rate increase whenever the rate increase will trigger contingent benefit upon lapse;

(C) disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary;

(D) a statement that policy design, underwriting, and claims adjudication practices may have been taken into consideration; and

(E) if it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, composite rates filed by the insurer reflecting projections of new certificates;

(4) a statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the commissioner; and

(5) sufficient information for review before use of the premium rate schedule increase by the commissioner.

(c) All premium rate schedules shall be determined in accordance with the following requirements:

(1) Exceptional increases shall provide that 70 percent of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits.

(2) Premium rate schedule increases shall be calculated so that the sum of the accumulated value of incurred claims without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following:

(A) The accumulated value of the initial earned premium times 58 percent;

(B) 85 percent of the accumulated value of prior premium rate schedule increases on an earned basis;

(C) the present value of future projected initial earned premiums times 58 percent; and

(D) 85 percent of the present value of future projected premiums not included in paragraph (c)(2)(C) of this regulation on an earned basis;

(3) If a policy form has both exceptional and other increases, the values in paragraphs (c)(2)(B) and (D) of this regulation shall also include 70 percent for exceptional rate increase amounts.

(4) All present and accumulated values used to determine rate increases shall use the maximum valuation interest rate for contract reserves as specified in K.S.A. 40-409, and amendments thereto. The actuary shall disclose as part of the actuarial memorandum the use of any appropriate averages.

(d) For each rate increase that is implemented, the insurer shall file before use for review by the

commissioner updated projections, as defined in paragraph (b)(3)(A) of this regulation, annually for the next three years and shall include a comparison of actual results to projected values. The period may be extended by the commissioner to greater than three years if actual results are not consistent with projected values for prior projections. For group insurance policies that meet the conditions in subsection (k) of this regulation, the projections required by subsection (d) shall be provided to the policyholder in lieu of filing with the commissioner.

(e) If any premium rate in the revised premium rate schedule is greater than 200 percent of the comparable rate in the initial premium schedule, lifetime projections, as defined in paragraph (b)(3)(A) of this regulation, shall be filed for review by the commissioner before use every five years following the end of the required period in subsection (d) of this regulation. For group insurance policies that meet the conditions in subsection (k) of this regulation, the projections required by subsection (e) shall be provided to the policyholder in lieu of filing with the commissioner.

(f)(1) If the commissioner has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed the proportions of premiums specified in subsection (c) of this regulation, the insurer may be required by the commissioner to implement either of the following:

(A) Premium rate schedule adjustments; or

(B) other measures to reduce the difference between the projected and actual experience.

(2) In determining whether the actual experience adequately matches the projected experience, consideration shall be given to paragraph (b)(3)(E) of this regulation, if applicable.

(g) If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer shall file the following:

(1) A plan, subject to commissioner approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in effect. If this plan fails to eliminate the potential for further deterioration of the policy form, the conditions in subsection (h) of this regulation may be imposed by the commissioner; and

(2) the original anticipated lifetime loss ratio and the premium rate schedule increase that would have been calculated according to subsection (c) of this regulation if the greater of the original anticipated lifetime loss ratio or 58 percent had been used in the calculations described in paragraphs (c)(2)(A) and (C) of this regulation. (h)(1) For a rate increase filing and all policies included in the filing, the projected lapse rates and past lapse rates during the 12 months following each increase shall be reviewed by the commissioner to determine if a significant adverse lapsation has occurred or is anticipated and meets the following criteria:

(A) The rate increase is not the first rate increase requested for the specific policy form or forms;

(B) the rate increase is not an exceptional increase; and

(C) the majority of the policies or certificates to which the increase is applicable are eligible for

the contingent benefits upon lapse.

(2) If a significant adverse lapsation has occurred, is anticipated in the filing, or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, a determination that a rate spiral exists may be made by the commissioner. Following the determination that a rate spiral exists, the insurer may be required by the commissioner to offer, without underwriting, to all insureds subject to the rate increase the option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates.

(A) The offer shall meet the following conditions:

(i) Be subject to the approval of the commissioner;

(ii) be based on actuarially sound principles, but not be based on attained age; and

(iii) provide that maximum benefits under any new policy accepted by an insured shall be reduced by comparable benefits already paid under the existing policy.

(B) The insurer shall maintain the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase shall be limited to the lesser of the following:

(i) The maximum rate increase determined based on the combined experience; or

(ii) the maximum rate increase determined based only on the experience of the insureds originally issued the form plus 10 percent.

(i) If the commissioner determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, in addition to the provisions of subsection (h) of this regulation, the insurer may be prohibited by the commissioner from either of the following:

(1) Filing and marketing comparable coverage for a period of up to five years; or

(2) offering all other similar coverage and limiting marketing of new applications to the products subject to recent premium rate schedule increases.

(j) Subsections (a) through (i) of this regulation shall not apply to policies with the long-term care benefits provided by the policy age incidental as defined in K.A.R. 40-4-37 (c)(12), if the policy complies with all of the following provisions:

(1) The interest credited internally to determine cash value accumulations, including long-term care, if any, is guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without longterm care set forth in the policy.

(2) The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirement as applicable in any of the following:

(A) K.S.A. 40-428, and amendments thereto;

(B) K.S.A. 40-428a, and amendments thereto; and

(C) K.A.R. 40-15-1.

(3) The policy meets the disclosure requirements of K.S.A. 40-2228(g), and amendments thereto, and K.A.R. 40-2-25.

(4) The portion of the policy that provides insurance benefits other than long-term care coverage meets the requirements, as applicable, in the following:

(A) Policy illustrations as required by K.A.R. 40-2-25;

(B) disclosure requirements in K.A.R. 40-2-25; and

(C) disclosure requirements in K.A.R. 40-15-1.

(5) An actuarial memorandum is filed with the insurance department that includes the following:

(A) A description of the basis on which the long-term care rates were determined;

(B) a description of the basis for the reserves;

(C) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(D) a description and a table of each actuarial assumption used. For expenses, each insurer shall include the percent of premium dollars per policy and dollars per unit of benefits, if any;

(E) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(F) the estimated average premium per policy and the average issue age;

(G) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used, and if used, the statement shall include a description of the type or types of underwriting used, including medical underwriting and functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting will occur; and

(H) a description of the effect of the long-term care policy provisions on the required premiums, nonforfeiture values, and reserves on the underlying insurance policy, both for active lives and those in long-term care claim status.

(k) Subsections (f) and (h) of this regulation shall not apply to group insurance policies as defined in K.S.A. 40-2209(f)(l) through (6), and amendments thereto, if either of the following conditions is met:

(1) The policies insure 250 or more persons, and the policyholder has 5,000 or more eligible employees of a single employer.

(2) The policyholder, and not the certificate holder, pays a material portion of the premium, which shall not be less than 20 percent of the total premium for the group in the calendar year before the year a rate increase is filed.

(Authorized by K.S.A. 40-103 and K.S.A. 40-2228; implementing K.S.A. 40-2228; effective Aug. 16, 2002.)