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COMMISSIONER OF INSURANCE

State of North Dakota
DEPARTMENT OF INSURANCE

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BULLETIN 90-5

TO: ALL COMPANIES WRITING ACCIDENT & HEALTH INSURANCE

FROM: Earl R. Pomeroy, Commissioner

DATE: October 26, 1990

SUBJECT: Guidelines for Implementation of 65 Percent Loss Ratio for Individual Medicare Supplement Policies

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North Dakota has adopted a change to its Medicare supplement administrative rules which changes the lifetime loss ratio for individual policies from 60 to 65 percent (N.D. Admin. Code § 45-06-01-06). The effective date of this regulation is November 1; however, to allow companies adequate time to revise actuarial memorandums and rates (if necessary), the Department will enforce the new loss ratio requirement as follows.

All in force business will be required to meet the new 65 percent loss ratio prospectively after January 1, 1991. The 65 percent loss ratio requirement must be met on a calendar year basis for all policies that have been in force for at least two years. New policies issued after January 1, 1991, must achieve a lifetime aggregate loss ratio of 65 percent.

The loss ratio for group policies remains unchanged at 75 percent.

ERP/jmb

26.1-38.1-16. Prohibited advertisement of Insurance Guaranty Association Act in insurance sales — Notice to policyholders.

1. No person, including an insurer, agent, or affiliate of an insurer may make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the insurance guaranty association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the North Dakota Life and Health Insurance Guaranty Association Act. Provided, however, that this section does not apply to the North Dakota life and health insurance guaranty association or any other entity which does not sell or solicit insurance.
2. Within one hundred eighty days after July 1, 1989, the association shall prepare a summary document describing the general purposes and current limitations of the chapter and complying with subsection 3. This document should be submitted to the commissioner for approval. Sixty days after receiving such approval, no insurer may deliver a policy or contract described in subdivision a of subsection 2 of section 26.1-38.1-01 to a policyholder or contractholder unless the document is delivered to the policyholder or contractholder to or at the time of delivery of the policy or contract except if subsection 4 applies. The document should also be available upon request by a policyholder. The distribution, delivery, or contents or interpretation of this document does not mean that either the policy or contract or the holder thereof would be covered in the event of the impairment or insolvency of a member insurer. The document must be revised by the association as amendments to the chapter may require. Failure to receive this document does not give the policyholder, contractholder, certificate holder, or insured any greater rights than those stated in this chapter.
3. The document prepared under subsection 2 must contain a clear and conspicuous disclaimer on its face. The commissioner shall adopt a rule establishing the form and content of the disclaimer. The disclaimer must:
   a. State the name and address of the life and health insurance guaranty association and insurance department;
   b. Prominently warn the policyholder or contractholder that the North Dakota life and health guaranty association may not cover the policy, or, if coverage is available, it will be subject to substantial limitations, exclusions and conditioned on continued residence in this state;
   c. State that the insurer and its agents are prohibited by law from using the existence of the North Dakota life and health guaranty association for the purpose of sales, solicitation, or inducement to purchase any form of insurance;
   d. Emphasize that the policyholder or contractholder should not rely on coverage under the North Dakota life and health guaranty association when selecting an insurer; and
   e. Provide other information as directed by the commissioner.
4. No insurer or agent may deliver a policy or contract described in subsection 2 of section 26.1-38.1-01 and excluded under subdivision a of subsection 3 of section 26.1-38.1-01 from coverage under this chapter unless the insurer or agent, prior to or at the time of delivery, gives the policyholder or contractholder a separate written notice which clearly and conspicuously discloses that the policy or contract is not covered by the North Dakota life and health guaranty association. The commissioner shall by rule specify the form and content of the notice.

26.1-38.1-01. Scope.

1. This section provides coverage for the policies and contracts specified in subsection 2:

   a. To persons, except for nonresident certificate holders under group policies or contracts, who, regardless of where they reside, are the beneficiaries, assignees, or payees of the persons covered under subdivision b; and
   b. To persons who are owners of or certificate holders under such policies or contracts; or, in the case of unallocated annuity contracts, to the persons who are contractholders, and who
      (1) Are residents; or
      (2) Are not residents, but only under all of the following conditions:
         (a) The insurers that issued such policies or contracts are domiciled in this state;
         (b) Such insurers never held a license or certificate of authority in the states in which such persons reside;
         (c) Such states have associations similar to the association created by this chapter; and
         (d) Such persons are not eligible for coverage by such associations.
2. This chapter provides coverage to the persons specified in subsection 1 for direct, nongroup life, health, annuity, and supplemental policies or contracts, for certificates under direct group policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter. Annuity contracts and certificates under group annuity contracts include guaranteed investment contracts, deposit administration contracts, unallocated funding agreements, structured settlement agreements, lottery contracts, and any immediate or deferred annuity contracts.
3. This chapter does not provide coverage for:
   a. Any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policyholder or contractholder:

Section
45-11-01-01 Required Disclaimers

45-11-01-01. Required disclaimers.

1. General notice of policy coverage. The document, required under subsection 2 of North Dakota Century Code section 26.1-38.1-16 to be delivered to policyholders of policies or contracts described in subsection 2 of North Dakota Century Code section 26.1-38.1-01, related to the description of the general purposes and current limitations of the North Dakota life and health insurance guaranty association, must be in the same form and contain the language printed in the Notice Concerning Coverage Limitations and Exclusions Under the North Dakota Life and Health Insurance Guaranty Association Act shown in exhibit A.

2. Notice of noncoverage. Each notice which is delivered to a policyholder by an insurer or agent pursuant to and required to be delivered by subsection 4 of North Dakota Century Code section 26.1-38.1-16 must be in the same form and contain the language printed in the Notice Concerning Coverage Limitations and Exclusions Under the North Dakota Life and Health Insurance Guaranty Association Act shown in exhibit A.