

From The Murphy Files

By Mark Murphy, Director of Contracts and Compliance

System for Electronic Rate and Form Filing

CDS Compliance is excited to announce that we recently submitted our first electronic filing of policy forms via the NAIC's System for Electronic Rate and Form Filings (SERFF). We received a reply on that filing from the state (SD) in less than one week, and responded to that objection via the SERFF application within just a few days.

We are pleased to be able to offer clients our state filing capability - and with it, enhanced speed-to-market for new products - as a licensed 3rd party SERFF filer. Many insurance departments are now prioritizing the SERFF filings that are submitted; working on those before paper filings. We are also set up as needed now to pay state filing fees in SERFF via Electronic Funds Transfer (EFT).

Speaking of SERFF, the number of states that are mandating use of SERFF for state filings of disability forms and rates (if applicable) has grown to 11. Those states are AL, CO (rates), DE, DC, IA, KS (effective 1/1/09), MN, NH, RI, SD and UT. And EFT is required for payment of filing fees in IA, RI, NH and MN (effective 4/1/08).

See the SERFF website for more details (<http://www.serff.org>).

Interstate Compact (IC)

The number of states that have approved the compact is holding steady at 30. Those states are AK, CO, GA, HI, IA, ID, IN, KS, KY, MA, MD, ME, MI, MN, NC, NE, NH, OH, OK, PA, PR, RI, TN, TX, UT, VT, VA, WA, WV and WY. Legislation regarding the IC is pending in DC, IL, NJ, NY and WI.

The IC is for life, annuity, disability and long term care product filings.

A filing submitted to and approved by the IC provides an insurer with the ability to market and issue that product in all IC states. State filing fees will still apply, for the IC states

where the insurer seeks approval of its product, and a separate IC filing fee also applies. IC filings must be submitted via SERFF.

While an IC state can elect to "opt out" of the standards for certain products (and thus require their own separate review for that product), it is hoped that such opt out instances will be rare.

The IC began accepting filings this past June, and issued its first filing approval in July. Work continues apace on the adoption of product standards for individual disability income policies. Hopefully, at least some of the work there will be a springboard for adopting the product standards for group disability income policies.

See the IC website for more details (<http://www.insurancecompact.org>).

Optional Federal Charter (OFC)

As part of the National Insurance Act of 2006 proposal introduced in Congress by Senators Sununu and Johnson, life insurers and property/casualty insurers could seek to be chartered (and regulated) at the federal or state level. This plan proposes a regulatory framework similar in many ways to that which governs the banking industry.

Proponents of this option assert that they do not intend

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for the OFC to replace the present system of state regulation; rather, they wish to provide another alternative, one that they feel will promote greater speed-to-market and allow life insurers to compete with banks and financial services companies on a more level playing field.

AICP Meeting

In October 2007, CDS attended the Association of Insurance Compliance Professionals (AICP) annual meeting in Portland, OR. There was considerable discussion of things like SERFF, the Interstate Compact and the optional federal charter proposal, including one excellent panel discussion among proponents of the various approaches. It does seem like there is renewed vigor of late in the debate about whether state or federal regulation of insurance is most appropriate.

NY DOI Circular Letter on Pre-Existing Conditions (PEC)

We continue to monitor the activities of the NY Insurance Department regarding the new requirements they plan to impose for pre-existing conditions provisions, growing out of the Benesowitz vs. MetLife case that we have written about in recent Source publications.

From the circular letters, it looks like NY will be requiring re-adjudication of claims denied due to pre-existing conditions provisions in the 2 year period prior to June 27, 2007, the date of the Court of Appeals decision (or 3 years prior, if the policy's "Legal Actions" provision has a three year time frame). Companies will also be required to re-file their PEC provisions via an expedited filing submission process created for this purpose. (Incidentally, NY has "strongly encouraged" insurers to utilize SERFF for these PEC re-filings.) Insurers will need to re-file any rate revisions they are making to track with these changes in PEC policy language.

In addition, insurers must post and maintain notices regarding this PEC matter on their websites throughout 2008 or for some other extended period of time.

CA DOI Settlement Filings

We are happy to report that after a long delay, we had some productive discussions recently with an examiner at the CA DOI regarding one of our "CA Settlement" filings. This was a filing we had submitted in the fall of 2006, in the wake of the July 2006 settlement between the CA DOI and the trades working on behalf of their disability carrier members.

We have sent back our revisions, and remain hopeful of finding the Compliance holy grail - approval of new disability forms in CA!

Feel free to contact Mark Murphy, CDS Director of Compliance, if you would like more information on any of these items. You can reach Mark at mmurphy@customdisability.com or 860-751-7160.



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