



AMERICAN ACADEMY *of* ACTUARIES

February 10, 2012

Christina Urias
Director of Insurance
Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018-7269

Re: Academy comments regarding the draft notice of proposed rulemaking for Title 20, Chapter 6 of AZ Admin. Code, Section R20-6-607

Dear Director Urias:

The American Academy of Actuaries¹ (Academy) appreciates the opportunity to comment on the notice of proposed rulemaking for Title 20, Chapter 6 by the Arizona Department of Insurance, specifically as it relates to the issue of who is qualified to certify rate filings for individual products.

The issue of qualified actuary is not directly addressed in the proposed rule. There is, however, a serious weakness in Arizona's current regulatory rules for determining whether an actuary is qualified to certify health insurance rate filings. The qualification standards for actuaries certifying health rate filings is a critical factor in ensuring the integrity of the process for regulating health insurance premiums. Therefore, the Academy is requesting that the state of Arizona revise Title 20, Chapter 6 of the Arizona Administrative Code, Section R20-6-607 regarding health insurance premium certifications.

Background

Under the Affordable Care Act, the Centers for Medicare and Medicaid Services (CMS) is authorized to determine whether health insurance rate increases filed with states are "unreasonable." As of September 1, 2011 rate increases equal to or greater than 10 percent may be reviewed by states that have been determined by CMS to have an effective rate review program; otherwise, increases in excess of 10 percent will be reviewed by CMS to determine whether such rate increases are "unreasonable." Arizona has existing statutory requirements for actuaries to certify the reasonableness of rate increases, but the definition of "qualified actuary" is not wholly appropriate.

Definition of "Qualified Actuary"

¹ The American Academy of Actuaries is a 17,000 member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualifications, practice, and professionalism standards for actuaries in the United States.

The state of Arizona has the following regulation relating to individual health insurance rate filings:

Title 20, Chapter 6 of the Arizona Administrative Code, Section R20-6-607.

Reasonableness of Benefits in Relation to Premium Charged, states the following in part:

A. Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.

...

C. General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called “anticipated loss ratio,” of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary’s knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.

The term qualified actuary is not defined in these statutory requirements. In an effort to determine the definition of this term for purposes of the above Code, we have been advised by the Arizona Department of Insurance that Arizona looks to the definition contained in A.R.S. 20-696.02(B), a statute that governs the process for health insurance reserve filings, which states in relevant part the following:

A qualified actuary is an individual who meets the following requirements:

1. Is a member in good standing of the American Academy of Actuaries.
2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements pursuant to the American Academy of Actuaries qualification standards for actuaries signing these statements.
3. Is familiar with the valuation requirements that are applicable to life and health insurance companies....

Problem with Suggested Definition of Qualified Actuary

The foregoing A.R.S. 20-696.02(B) definition of a “qualified actuary” is derived from the NAIC model regulations relating to actuaries who file reserve opinions in connection with the NAIC annual statements. The above definition would potentially allow an actuary who is qualified to issue reserve opinions to also issue pricing opinions even if he/she was not qualified on the basis of education and experience to issue pricing opinions (although, under the U.S. Qualification Standards and the actuarial Code of Professional Conduct, an actuary must be qualified to render actuarial services, so to comply with both the profession’s standards and the Arizona statute, the actuary would have to be qualified as both a pricing and reserve actuary). Additionally, the above definition potentially excludes qualified pricing actuaries who do not have reserving experience.

Recommended Definition of Qualified Actuary

We recommend that the reference to “qualified actuary” contained in Section R20-6-607 of the Arizona Administrative Code be changed to the following:

“...certified by an actuary who is a member in good standing of the American Academy of Actuaries and qualified to provide such certifications under the U.S. Qualification Standards promulgated by the American Academy of Actuaries and the Code of Professional Conduct.”

This definition would track the definition contained in A.R.S. 20-696.02(B), but would specifically describe actuaries who are qualified to issue the health premium certifications. A.R.S. 20-696.02(B) already references the U.S. Qualification standards and we are suggesting that Section R20-6-607 use similar language, but remove references to issuing life and health statements.

We request that the regulation be changed as soon as practical, but also request that informal clarifying guidance be issued on this while this matter is considered.

We appreciate the opportunity to comment on the proposed rulemaking for Title 20, Chapter 6 by the Arizona Department of Insurance. If you have any questions with respect to the foregoing, please contact Sheila J. Kalkunte, Esq., Academy Assistant General Counsel, by email or telephone (kalkunte@actuary.org; 202-223-8096).

Very truly yours,



John W. Morris, FSA, MAAA
Chairperson
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American Academy of Actuaries

Cc: Alexandra Schafer, Assistant Director, Life and Health Division
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