

## Article - Insurance

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§11-308.

(a) (1) If, after a hearing, the Commissioner finds that a rate is not in compliance with § 11-306 of this subtitle or that a rate was set in violation of § 11-342 of this subtitle, the Commissioner shall issue an order that requires that use of the rate be discontinued for each policy issued or renewed after a date specified in the order.

(2) The order may provide prospectively for premium adjustment of each policy then in force.

(3) Except as provided in subsection (b) of this section, the Commissioner shall issue the order within 30 days after the conclusion of the hearing or within a reasonable extension of that time set by the Commissioner.

(4) An order issued under this subsection expires 1 year after its effective date unless it is rescinded earlier by the Commissioner.

(b) (1) Pending a hearing, the Commissioner may issue an order that prospectively suspends a rate filed by an insurer and reimposes the last previous rate in effect if the Commissioner has reasonable cause to believe that:

(i) the rate is in violation of § 11-306 of this subtitle;

(ii) unless the order of suspension is issued, certain insureds will suffer irreparable harm;

(iii) the hardship that insureds will suffer in the absence of the order of suspension outweighs the hardship that the insurer would suffer if the order of suspension were issued; and

(iv) the order of suspension will not cause substantial harm to the public.

(2) Unless the insurer waives a hearing, the Commissioner:

(i) shall hold a hearing within 15 working days after issuing the order of suspension; and

(ii) within 15 working days after the conclusion of the hearing, shall make a determination and issue an order as to whether the rate should be disapproved.

(c) (1) (i) At a hearing to determine compliance with § 11-306(b)(2) of this subtitle, the Commissioner first shall determine whether a reasonable degree of competition exists within a market and shall issue a ruling to that effect.

(ii) All insurers that operate within a market that is subject to a determination by the Commissioner under this paragraph shall have the burden of establishing that a reasonable degree of competition exists within that market.

(iii) In determining the competitiveness of a market, the Commissioner shall consider all relevant factors including:

1. the number of insurers actively engaged in providing coverage in the market;
2. market shares;
3. changes in market shares; and
4. ease of entry.

(2) (i) If the Commissioner determines that a reasonable degree of competition does not exist in a market, each insurer designated by the Commissioner shall have the burden of justifying its rate in that market.

(ii) The Commissioner may require that an insurer file supporting data as provided under § 11-312 of this subtitle.

(3) The Commissioner shall make each determination on the basis of findings of fact and conclusions of law.

(4) If the Commissioner disapproves a rate:

(i) the disapproval may not take effect until at least 15 days after the date of the order of disapproval; and

(ii) unless the Commissioner approves a rate under subsection (d) or (e) of this section, the last previous rate in effect for the insurer shall be reimposed for a period of 1 year.

(d) During the 1-year period after the effective date of an order of disapproval, a rate adopted to replace a rate disapproved under the order may not be used until:

- (1) the rate has been filed with the Commissioner; and
- (2) the Commissioner has not disapproved the rate within 30 days after it was filed.

(e) (1) If an insurer does not have any legally effective rates as a result of the Commissioner's disapproval of rates or other act, the Commissioner:

(i) on request of the insurer, shall specify interim rates for the insurer that are high enough to protect the interests of all parties; and

(ii) may order that a specified part of the premiums be placed in a special reserve established by the insurer.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, when new rates become legally effective, the Commissioner shall order the specially reserved funds or any overcharge in the interim rates to be distributed appropriately.

(ii) The Commissioner may not require refunds to policyholders if the refunds are minimal.

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