REPORT OF THE

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES ON THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION FORM APPROVAL PROCESS

TO

THE SEVENTY-FIFTH LEGISLATIVE ASSEMBLY

In Accordance with House Bill 2224 (2007)
January 2009

INTRODUCTION

Oregon law requires insurers to file policy forms with the Department of Consumer and Business Services (DCBS) before they can be used in the marketplace. Auto, home, and health insurance risk factors can vary significantly from state to state because of differences in risk from one state to another. However, life insurance does not differ greatly from state to state and consumers usually keep these policies when they move from one state to another. Many states recognized this situation and combined to form the Interstate Insurance Product Regulation Commission (IIPRC). The IIPRC provides a single review process with uniform standards adopted by the participating states.

In 2007, the legislature enacted House Bill 2224 that enables DCBS to streamline its review and approval of policy forms for certain categories of insurance that have already been approved under consumer protection standards established by the IIPRC.

DESCRIPTION

The bill authorizes the Director of DCBS to adopt rules approving the use of policy forms for specific categories of life insurance approved by the IIPRC without specific review of filed policy forms by DCBS if the Director determines that the IIPRC's approval process gives policyholders substantially the same protection as or better protection than the review process available under Oregon law. House Bill 2224 also requires DCBS to report to the legislature its findings regarding the extent to which the IIPRC approval process gives policyholders substantially the same protection as or better protection than the approval process under Oregon laws.

RESULTS

At this time the Director has begun rulemaking for six life insurance forms that appear to have satisfied the requirement that the IIPRC's approval process for the forms, when taken as a whole, gives policyholders substantially the same protection as or better protection than the approval process available under the laws of Oregon. The administrative rules will allow DCBS to approve the use of forms without specific review if the forms have been approved by the IIPRC. The six forms are:

- Individual Flexible Premium Adjustable Life Insurance Policy
- Waiver of Monthly Deduction Benefit Rider
- Waiver of Premium Benefit Rider
- Waiver of Premium Benefit for Child Insurance in the Event of Payor's Total Disability or Death Rider
- Individual Life Insurance Application
- Individual Life Application Change Form

One of the forms, Individual Flexible Premium Adjustable Life, represents 35% of all products submitted to the IIPRC for approval. Utilization of the IIPRC for obtaining approval of this product type is indicative of the insurer's desire to quickly have this type of coverage available in multiple jurisdictions to satisfy market demand.

DCBS found that the IIPRC processes for submitting forms for prior approval, review and discussion of filings, and reconsideration of product approval are equivalent to Oregon's procedures.

DCBS comparisons of the Oregon-specific product standards against the IIPRC standards for these six forms show that overall, compliance with the IIPRC standards results in a stronger level of consumer protection than the protections under Oregon standards. Certain IIPRC standards have a direct impact on all policyholders' rights while others provide important information that will help consumers keep their policies in force. Other IIPRC standards provide greater financial benefits to consumers.

DCBS evaluated the following information in order to determine whether the IIPRC's approval process for these forms, *when taken as a whole*, gives policyholders substantially the same protection as or better protection than the approval process available under the laws of Oregon.

Evaluation of Review Procedures the Commission Uses

DCBS reviewed the IIPRC form filing and review process.

The IIPRC has adopted SERFF (System for Electronic Rate and Form Filing) as the sole method for submission of filings to the IIPRC and the IIPRC does require filers to pay an annual registration fee and a per-submission filing fee in addition to SERFF transaction fees and the applicable filing fees for each IIPRC state where the filer is authorized to do business. No additional cost should be incurred for insurers submitting product filings to the IIPRC and subsequently providing evidence of IIPRC approval to Oregon.

The IIPRC requires filings to be submitted for prior approval and reviews each product filing for compliance with IIPRC product standards. If areas of non-compliance are noted during the review, the IIPRC examiner may send an objection letter via SERFF to the filer identifying the specific problems to be corrected. The filer then has the opportunity to submit corrected documents for consideration by the IIPRC. At the IIPRC's discretion, instead of following the objection process, the filing may be disapproved. Filers are allowed to withdraw a product filing from the IIPRC. These are the same procedures used by Oregon's rate and form analysts.

The IIPRC offers insurers an opportunity to appeal its decisions to disapprove filings. In Oregon we are also open to discussions with insurers regarding filing decisions.

The IIPRC retains the authority to reconsider product approvals. This process exists in Oregon as well.

Review of Product Standards the Commission Uses

For this review, we compared the IIPRC product standards to Oregon product standards, statutes, and administrative rules applicable to each of these forms to determine whether, when taken as a whole, the IIPRC requirements give policyholders substantially the same protection as or better protection than the approval process available under the laws of Oregon. The filing requirements included in these analyses are those where differences exist between the IIPRC and Oregon requirements that offer some meaningful element of consumer protection.

Individual Flexible Premium Adjustable Life Insurance Policy

The Nature of the Insurance Product

Flexible Premium Adjustable Life Insurance is insurance with a savings element that grows on a tax-deferred basis. These policies give the consumer more flexibility to pay smaller or larger premiums and to adjust the death benefit as the insured's financial needs change.

Consumer Needs the Insurance Product Serves

Flexible Premium Life Insurance has an initial premium with flexible premiums thereafter. A policyholder can select the future amount and frequency of premiums, or can start and stop premium payments at his or her discretion. The flexibility these policies offer allows the policyowner to adjust the face value, premium, and length of coverage without having to change policies as the policyowner's needs change over time. This type of coverage is for consumers who want the flexibility previously described, and who are willing to assume more risk in hopes of getting a larger return. It is also for consumers who prefer to have the insurer manage their investments, rather than do it on their own. This product would be appropriate for people with incomes and expenses that fluctuate a good deal from year to year.

Comparison of Product Standards

The IIPRC standards provide a stronger level of protection. Certain IIPRC standards have a direct impact on all policyholders' rights while others provide important information that will help consumers keep their policies in force. Other IIPRC standards provide greater financial benefits to consumers.

In some cases, the Oregon standard provides greater consumer protection, but the number of consumers affected by the requirement is limited to those with special circumstances. For example, one Oregon standard protects consumers who elect to take legal action against an insurer by restricting the insurer's ability to limit the time within which any legal action may be commenced to less than three years after the cause of action. Although the requirement applies to all contracts, not every consumer will be in a position to sue the insurer. Standards similar to this one were judged to be less protective of consumers than those standards with a broader application, such as the prohibition against limiting beneficiary designations, because every policyowner is in a position to designate a beneficiary.

The level of consumer protection available under standards requiring greater clarity for the consumer varies by the nature of the information disclosed. When evaluating the effectiveness of the consumer protection offered by standards requiring disclosure, we determined whether the information disclosed provided any real value to consumers. For example, a description of a mortality table used in the contract might not be as useful to a consumer as furnishing the policyowner with advance written notice that the policy is about to terminate because consumers generally do not possess a working knowledge of mortality tables, but all consumers need to know if the coverage is about to end.

Other examples of how the IIPRC standards offer greater consumer protection:

- The IIPRC standards require contracts to provide a 60-day grace period for payment of premium while Oregon only requires a 30-day grace period.

- The IIPRC standards require the policy to state that a written notice will be sent to the last known address of the owner and to any assignee of record at least 30 days prior to termination of coverage. Oregon's standards do not address this.

- The IIPRC standards require the policy to contain an assignment provision and prohibit the company from restricting change of ownership or beneficiary designation rights. Oregon's standards do not address these issues.

- The IIPRC standards require interest to be paid on death claims from the date of death and for additional interest to be paid if the claim is not paid within 30 days of receipt of proof of death. Oregon does not require interest to be paid on the claim unless the claim is not paid within 30 days of receipt of proof of death.

Waiver of Monthly Deduction Benefit Rider

The Nature of the Insurance Product

The Waiver of Monthly Deduction benefit stops the monthly deductions from being taken from the account value of the policy in the event the insured becomes disabled. The monthly deduction includes the actual cost of insurance charges for the policy, expense charges, and costs or charges for any benefits added to the policy by rider, endorsement or amendment, and which are specified in the policy to be deducted from the account value.

Consumer Needs the Insurance Product Serves

If an individual becomes totally disabled, his/her income will most likely be reduced. This may limit the consumer's ability to maintain the policy. In the event of the insured's total disability, the monthly deductions are no longer taken from the policy's account value. This increases the likelihood that the life insurance will not lapse if the insured is unable to make contributions toward the policy's account value.

Comparison of Product Standards

The IIPRC standards provide a much stronger level of consumer protection. Certain IIPRC standards require the form to be written in language that is easier for consumers to understand, provide for greater clarity of contractual provisions, and require specific provisions related to exclusions, contractual definitions, claims and policy termination to be included in the form. The IIPRC standards also require the form to specify how monthly deductions are handled during periods of disability.

In a few cases, the Oregon standard provides greater consumer protection. For example, one Oregon standard protects consumers by requiring the maximum charges and fees to be disclosed in close proximity to the current charges and fees shown in the form. Another Oregon standard that is not addressed by the IIPRC standards requires any triggers for benefit eligibility that are based on activities of daily living to be used only to shorten the waiting period for benefits.

The Oregon standards also require the form to be clear and understandable, and that the form not contain inconsistent, ambiguous or misleading clauses or exceptions. While the IIPRC product standards for this type of form do not include similar specific product standards, the specific definitions and other provisions the IIPRC requires to be included in the form appear to result in a form that would satisfy the Oregon requirements.

Waiver of Premium Benefit Rider

The Nature of the Insurance Product

The Waiver of Premium benefit allows the insured to stop payment of premiums without loss of coverage in the event the insured becomes disabled. The policy remains in force and continues to build cash values and pay dividends, if it would otherwise have these features just as if the insured was still making premium payments.

Consumer Needs the Insurance Product Serves

The Waiver of Premium benefit can be beneficial to the consumer because if an individual becomes disabled, his/her income will most likely be reduced. This may limit the consumer's ability to continue to pay life insurance premiums. The Waiver of Premium benefit keeps the coverage in force.

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Waiver of Premium Benefit for Child Insurance in the Event of Payor's Total Disability or Death Rider

The Nature of the Insurance Product

The Waiver of Premium Benefit for Child Insurance in the Event of Payor's Total Disability or Death allows coverage for the child to continue without premium payment should these events occur. The policy remains in force and continues to build cash values and pay dividends, if it would otherwise have these features, just as if the payor was still making premium payments.

Consumer Needs the Insurance Product Serves

The Waiver of Premium benefit is beneficial to the consumer because if the person responsible for payment of premium on a life insurance policy insuring a child dies or becomes disabled, the coverage for the child will continue. The benefits under this coverage type keep the child's coverage in force.

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Individual Life Insurance Application

The Nature of the Insurance Product

This form is used to apply for life insurance coverage and becomes a part of the policy contract.

Consumer Needs the Insurance Product Serves

The application form is used to collect information from the applicant and producer that the insurer uses during the underwriting process to determine whether coverage can be issued. It may also be used by the insurer to determine the rate classification and the amount of coverage issued.

Comparison of Product Standards

The IIPRC standards result in a stronger level of consumer protection. The IIPRC standards provide clearer and more comprehensive direction for the insurer as well as the consumer. Some examples include:

- Form must include instructions for the applicant that specify which sections of the application must be completed for each purpose.

- Form must satisfy a Flesch score of at least 50. (Oregon's minimum requirement is 40) The higher score produces a document that is easier to read.

- When the form is used for more than one company, the insuring company is clearly identified with its full corporate name.

- Open ended questions are not permitted.

- Suitability questions are required when the application is for a variable product.

- Applications may include questions related to stranger originated life insurance or viatical settlements. Disclosure of this information at the time of application could prevent future questions regarding validity of coverage.

- The standards include specific directions for entity-owned policies.

● The IIPRC standards include a specific list of medical questions that are allowed to be included in the application.

Examples where Oregon's standards provide a higher level of consumer protection include:

● Requiring specific acknowledgements by the consumer if the application is for a graded or modified death benefit policy.

● Prohibiting the application from incorporating the prospectus as part of the contract by reference. The IIPRC standards do not contain this prohibition.

● Requiring current and guaranteed interest rates and fees to be disclosed in close proximity on the application when it is used as a specifications page.

● Requiring the authorization and notice sections of the application required by state and federal law to be limited to the regulatory language. Company practices may not be included.

Individual Life Application Change Form

The Nature of the Insurance Product

The application change forms are used during the underwriting process to make changes to answers provided by an applicant in new business applications for coverage provided by individual life insurance policy forms.

Consumer Needs the Insurance Product Serves

This form becomes a part of the policy contract correcting or adding information to the original application which is also attached to and made a part of the policy. Use of this form helps to maintain the underwriting process without interruption since an entire new application is not required in order to collect the information provided on this form.

Comparison of Product Standards

The IIPRC standards provide a stronger level of consumer protection. The IIPRC standards address telephonic applications and forms submitted for use by more than one insurer. The Oregon review standards do not address these situations. The IIPRC standards provide more specific direction for form content related to the signature section, representations made by the applicant, and identification of the insurer. The IIPRC's readability requirements result in a policy that is easier for the consumer to read.

None of the Oregon standards for this form were judged to provide a level of consumer protection that is greater than that provided by the IIPRC standards.

WORK PLAN AND FUTURE REPORTING

DCBS will continue with the analysis of product standards under House Bill 2224 and will move forward with rulemaking for products for which the IIPRC standards satisfy the requirement for equivalent or stronger consumer protection than those provided under Oregon laws. DCBS will submit a final report of its findings to the Legislature by January 31, 2011 in accordance with the requirements of House Bill 2224.