

December 11, 1973

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 1 (1973)

O ALL ARTICLE IX-C CORPORATIONS

Re: Rate Increase Filing Dates and PRELIMINARY HEARING CRITERIA

The Insurance Department has completed a review of procedures for processing rate increase applications made by corporations organized under Article IX-C of the Insurance Law. This review indicates that it would be useful to spell out criteria for (i) the timing and format of rate increase applications; (ii) determining whether an applicant will be required to hold its own preliminary hearing provided for in Section 255(2-a)(b) prior to the filing of an application for a rate increase; and (iii) the format and content of hearing notices for both the preliminary hearing and the Department's Section 255(2-a)(c) hearing.

With respect to timing, applicants should realize that at least the following steps need to occur following the receipt of a completed application before the Insurance Department may render a decision: preliminary analysis of application; request, receipt and review of supplementary information; field investigation (in some cases); announcing a public hearing; holding the hearing (with possible additional sessions); reviewing the hearing transcript; and preparing and issuing a decision. Past experience indicates that some applicants may be unaware of the time needed for such a review, and of the consequent need to file an application well in advance of the proposed effective date.

There is, in addition, apparent misunderstanding regarding the purpose of having a plan hold a preliminary hearing prior to the formal filing of an application for a rate increase. The purpose of the preliminary hearing is to enable the Board of Directors of a plan to assess public attitudes and concerns before making a decision to file an application for a rate increase. More often than not, however, in the past, a plan has already decided to file for an increase when a plan notifies the public that it will hold a preliminary hearing, or when the plan requests the Department to find that a preliminary hearing is not necessary. In the future, the Department expects that the preliminary hearing will be utilized for its intended purpose rather than viewed as a procedural step in the processing of a decision to request a rate increase. This is particularly so when matters of special policy importance are involved. The following guidelines are designed to further the above objectives by outlining the factors that should be considered by the plans and that will be considered by the Department in determining whether a preliminary public hearing should be held.

It is also clear that there has been great variety in the format and content of the notices that are required to be published in local newspapers by Section 255 for both the preliminary and Department hearing. Sometimes these notices appear as ordinary legal notices--which are often overlooked by the public. Others, on the other hand, are prominently displayed. Furthermore, the information set forth in notices varies significantly. The following guidelines, therefore, prescribe a uniform notice format, and establish, in general but flexible terms, the information that must be set forth in each notice. The guidelines also provide for the prior approval of both format and text by the Department which will enable the Department to make any appropriate changes required by the public interest.

In view of the foregoing, the Department adopts the following guidelines:

(1) If an applicant wishes the Department not to require a preliminary hearing provided for in Section 255(2-a)(b), the applicant shall notify the Department of this intent by letter at least five months prior to the effective date of a contemplated increase. The letter shall spell out in detail why the applicant believes a preliminary hearing should not be held; and shall indicate whether any of the matters listed in paragraph 2 below are involved and the number of subscribers affected by such changes.

(2) In determining whether or not a preliminary hearing will be required, the Department will consider all relevant circumstances, and in particular whether the applicant has made successful efforts to afford its subscribers an opportunity to participate in the governance of the plan's affairs; whether subscribers have evidenced an interest in such participation; and whether the proposed application involves:

(a) a discontinuance of a class of policy;

(b) a reduction of benefits other than a reduction designed to coordinate benefits with a government health insurance program, e.g., Medicare and Medicaid; and

(c) an increase resulting from an upgrading of the schedule of allowances (or its equivalent) payable to participating physicians.

(3) Applications for a rate increase shall be filed at least three months prior to the last possible date that a decision must be rendered in order to realize the proposed effective date of the increase (unless for good cause shown a shorter period has been approved by this Department).

(4) The applicant shall file with the Department an original and four copies of the application and supporting data.

(5) All Department requests for additional information must be complied with prior to the date of the Department's Section 255(2-a)(c) hearing. In the event this information is not forthcoming prior to the hearing, the Department may postpone the hearing and the issuance of the opinion until the requested information is received.

(6) The Department will notify an applicant regarding the time and place of the Department hearing on a proposed application.

(7) The applicant will have the responsibility of preparing the required notice of hearing in accordance with the provisions of paragraphs 8 and 9. The applicant will submit a draft copy of each notice to the Department for the Department's review and approval at least 10 days prior to the anticipated publishing date. The applicant will also be responsible for making all necessary arrangements for the publication of the notice in accordance with the provisions set out in Section 255 and shall pay all necessary expenses associated with the publication of the notice.

(8) The required notice for a hearing shall be approximately 6 inches in length and 3 1/2 inches in width. Each notice shall have the following headline prominently displayed in bold-face capital letters no less than 1/4 of an inch in height:

NOTICE OF A PUBLIC HEARING ON AN APPLICATION FOR A RATE INCREASE
BY (APPLICANT'S NAME)

(9) The notice for the hearing shall be written in simple, non-technical language and shall at a minimum contain the following information:

- the time and place of the public hearing;
- whether a second evening session will be held, and, if so, the time of the evening session;
- the counties affected by the applicant's rate increase;
- the range of the percentage increase proposed for each class of subscribers and the overall average of the increase;
- whether the proposed application contemplates the discontinuation of a class of policy, a reduction of benefits other than a reduction designed to coordinate benefits with a State or Federal health insurance program or involves an increase resulting from an upgrading of the schedule of allowances or its equivalent and the amount of increase of the schedule of allowances;
- that the application and supporting data are available for inspection at the Department's offices in New York and Albany and the addresses of these offices; and
- that written requests to testify shall be sent to:

Public Information Office
New York State Insurance Department
123 William Street
New York, NY 10038

(10) Notices of a hearing held by the applicant shall be similar in style and format.

Please indicate in writing that this circular letter has been received.

[SIGNATURE]

Benjamin R. Schenck

Superintendent of Insurance