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FILING INFORMATION NOTICE 2013-2

This Filing Information Notice Updates and Replaces 2010-3

DATE: Updated: February 5, 2013
Originally Issued: December 1, 2010

FROM: Karen Z. Schutter
IIPRC Executive Director

RE: **Individual Long-Term Care Filings**

Statutory References: Articles II(11), III(1), IV. (3)-(5), and X (2) of the *Interstate Insurance Product Regulation Compact* as adopted by Compacting States.

Operating Procedure References: Sections 103, 104, 109 and 111 of the *Operating Procedure for the Filing and Approval of Product Filings* and *Rule for the Self-Certification of Product Components Filed with the Interstate Insurance Product Regulation Commission*.

Uniform Standards: *Core Standards for Individual Long-Term Care Insurance Policies* (IIPRC-LTC-I-3-CORE), *Individual Long-Term Care Insurance Application Standards* (IIPRC-LTC-I-3-APP), *Standards for Forms Required to be Used with an Individual Long-Term Care Insurance Application* (IIPRC-LTC-I-3-APPFORMS), *Individual Long-Term Care Insurance Standards for the Outline of Coverage* (IIPRC-LTC-I-3-OC), *Rate Filing Standards for Individual Long-Term Care Insurance Issue Age Rate Schedules Only* (IIPRC-LTC-I-3-RATED), *Rate Filing Standards for Individual Long-Term Care Insurance Modified Rate Schedules* (IIPRC-LTC-I-3-RATEM), *Standards for Individual Long-Term Care Insurance Advertising Material* (IIPRC-LTC-I-3-ADV), *Standards for Long-Term Care Insurance Benefit Features* (IIPRC-LTC-I-3-BEN), *Standards for Riders, Endorsements, or Amendments Used to Effect Individual Long-Term Care Insurance Policy Changes* (IIPRC-LTC-I-3-AMEND), *Standards for Individual Long-Term Care Insurance Application Change Form* (IIPRC-LTC-I-3-APPCH).

BACKGROUND:

The Interstate Insurance Product Regulation Commission ("Compact") adopted ten Uniform Standards for individual long-term care insurance on August 13, 2010 ("ILTC Uniform Standards") and began accepting individual long-term care insurance product filings as of December 1, 2010, the effective date of the ILTC Uniform Standards.

Implementation of the ILTC Uniform Standards differs from implementation of the individual life and annuity Uniform Standards in the following ways:

- The entire suite of individual long term care product components are available for filing with the Compact all at one time and for new product filings, all components of an individual long-term care product must be filed with the Compact;
- Mix and Match between Commission-approved individual long-term care product components and state-approved individual long-term care product components are not allowed.
- Mix and Match for individual long-term care riders with Commission-approved and/or state-approved individual life insurance policies and annuity contracts is permissible provided all the components associated with the individual long-term care rider are filed and approved in accordance with the ILTC Uniform Standards.
- Forms required to be used with the application are recommended to be submitted as a Self-Certified Product Filing.
- Advertising, initial rates and rate revisions for individual long-term care insurance products filed with the Compact must be submitted for review and prior approval in accordance with the ILTC Uniform Standards.
- Three Compacting States have opted out of the ILTC Uniform Standards by legislation (Hawaii, Montana and New Jersey) and one Compacting State has opted out of the ILTC Uniform Standards by regulation (Indiana).
- As provided in the ILTC Uniform Standards, some Compacting States have notified the Compact that modified rate schedules are not permitted and cannot be filed through the Compact for approval in their respective state.
- As provided in the ILTC Uniform Standards, the Compact shall maintain a chart with state-specific offer and issue requirements for daily minimum benefit, benefit periods, and elimination periods to facilitate variability compliance.

This Filing Information Notice outlines the process and procedures associated with the submission of individual long-term care insurance product filings.

FILING PROCEDURES:

A. Submission of Individual Long-Term Care Insurance Product Filings

1. When preparing product submissions, filers are encouraged to closely review the ILTC Uniform Standards and to utilize the ILTC Reviewer Checklists both available on the Compact's Rulemaking Record of its website.
2. Filers should also review additional reference materials as follows: Creating a Filing for the Interstate Insurance Product Regulation Commission (IIPRC) on the Insurance Company Resources web page; applicable Submission Requirements in SERFF; applicable Filing Instructions in SERFF; applicable Operating Procedures on the Rulemaking Record.
3. When choosing the applicable filing type, filers shall select the correct filing type based on the type of policy forms and the type of initial rates.

- a. For a new product, a product filing submission shall include three separate filings: 1) a product filing with the application, policy forms, any applicable benefit features, outline of coverage, and initial rates and supporting documentation; 2) a product filing with the forms required to be used with the application filed on a self-certified basis; 3) a product filing with the advertising materials associated with the new product filing.
- b. If a new product filing does not include modified rate schedules, the filer shall utilize the applicable filing type for **Policy Forms/Applications/Riders and Endorsements/Rates – Issue Rates Only** which will be available for all Compacting States that have not opted out of the ILTC Uniform Standards.
- c. If a new product filing includes both issue age and modified rate schedules, the filer shall utilize the applicable filing type for **Policy Forms/Applications/Riders and Endorsements/Rates – Issue and Modified** which will only be available for Compacting States that permit modified rate schedules. In addition, if the associated policy form is also filed for use in Compacting States that permit only issue age rate schedules, the filer shall make a separate filing for those Compacting States and shall utilize the applicable filing type for **Policy Forms/Applications/Riders and Endorsements/Rates – Issue Rates Only**.
- d. All advertising material associated with an individual long-term care product filing shall be in a separate filing submission using the applicable filing type for **Advertising Material**.
- e. Filers should submit a Self-Certified Filing for the forms required to be used with the individual long-term care insurance application as permitted under the ILTC Uniform Standards and in accordance with the *Operating Procedure for the Self-Certification of Product Components Filed with the Interstate Insurance Product Regulation Commission ("Self-Certification Rule")* the filer shall utilize the applicable filing type for **Policy Forms-Self Certification**.
- f. Filers wishing to submit a separate application or riders, endorsements or amendments with additional benefit features to be used with an individual long-term care product filing previously approved by the Compact shall utilize the applicable filing type of **Application** or **Application/Riders and Endorsements** or **Riders and Endorsements**.

B. Advertising Filings

1. For each individual long-term care product filing, there shall be one separate, unique filing which contains all the advertising material to be used or associated with the product filing.
2. If a filer wishes to submit new or updated advertising material, it shall request the advertising filing associated with the particular product filing be reopened to add the new material. The Compact and state filing fees must be submitted with the new or updated advertising material.

3. If a filer makes a new advertising filing when it should have requested an existing advertising filing be reopened to file new or updated advertising material, the Compact will instruct the filer to withdraw the new filing and update the existing filing which could result in the loss of or the double payment of applicable filing fees.
4. If advertising material will be used with more than one Compact-approved individual long-term care product filing, the filer shall file the advertising material in a separate advertising filing associated with each applicable individual long-term care product filing.
5. If advertising material will be used with both Compact-approved individual long-term care product filings and with state-approved individual long-term care product filings, submission of the advertising material with the Compact does not satisfy advertising filing requirements associated with the state-approved individual long-term care product filings.

C. Self-Certified Filings

1. Filers are encouraged to submit the forms required under the *Standards for Forms Required to Be Used with an Individual Long-Term Care Insurance Application* as a separate Self-Certified Filing:
 - a. Long-Term Care Insurance Personal Worksheet;
 - b. *Things You Should Know Before You Buy Long-Term Care Insurance*;
 - c. Potential Rate Increase Disclosure Forms;
 - d. Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance ("Replacement Notice");
 - e. Health Insurance Portability and Accountability Act of 1996 (HIPAA) Medical Authorization ("HIPAA Medical Authorization").
2. Filers shall comply with the requirements in the *Self-Certification Rule* including the submission of the Officer Compliance Certification.

D. Initial Rate Schedules and Related Information and Supporting Documentation

1. For individual long-term care insurance product filings, the Compact will utilize the Rate/Rule Schedule Tab ("Rate Tab") in SERFF. The information in the Rate Tab can be updated post-submission.
2. The following information shall be submitted on the Rate Tab:
 - a. All initial rate schedules;
 - b. The Actuarial Memorandum (NOTE: This submission requirement differs from the submission requirement for individual life and annuity product filings and the Actuarial Memorandum for individual long-term care insurance product filings shall not be filed under the Supporting Documentation Tab but rather the Rate Tab).
 - c. Supporting information for rate assumptions. The Compact provides a Microsoft Excel-formatted file template ("Rate Assumptions Template") as a sample of the type of information and level of detail for submission of rate information required

under the ILTC Uniform Standards. The Rate Assumptions Template is available on the Insurance Company Resources webpage under Reference Materials.

- d. Actuarial certification regarding nonforfeiture and contingent nonforfeiture benefits.
 - e. Actuarial certification regarding inflation protection benefit.
 - f. Other pertinent or required rate information.
3. Compacting States that do not permit modified rate schedules in their state will not be available for selection in SERFF when utilizing the appropriate filing type that permits issue age and modified rate schedules.
- a. A filer submitting both issue age and modified rate schedules will have to make another separate filing with issue age-only rate schedules for those Compacting States that do not accept modified rate schedules.
 - b. If the filer is making two duplicate filings that are exactly the same in all respects except one product filing is submitted under the filing type that permits issue age and modified rate schedules and the other is under the filing type for issue age only, the filer only has to submit one IIPRC Filing Fee for both product filings but still must submit state filing fees as applicable for each product filing.

E. Mix and Match

1. As provided in the ILTC Uniform Standards, filers shall not submit individual long-term care insurance product components (i.e., applications, policy forms, outline of coverage, benefit features, rates, advertisements, etc.) for use or "mix and match" with state-approved individual long-term care insurance product components.
2. When preparing an individual long-term care insurance product filing, filers will be able to access the Statement of Intent Tab within SERFF (which must be completed for mix and match filings). Other than as described in the following paragraph, the Statement of Intent Tab must not be completed and the filing must not indicate "mix and match" or an objection will be issued.
3. As provided in the ILTC Uniform Standards, individual long-term care insurance riders submitted to the Compact and that fully comply with the ILTC Uniform Standards can be submitted for use or "mix and match" with state-approved individual life or annuity product components. The filer shall indicate the filing is being submitted for "mix and match" and shall fully complete the Statement of Intent Tab. *See Filing Information Notice, 2009-4, Mix and Match Filings* for more information on the Mix and Match process.

F. State-Specific Information

1. The Compact shall maintain a chart of state-specific information provided to the Compact by Compacting States on its Insurance Company Resources web page. This chart will show the following information:
 - a. Compacting States that have opted out of the ILTC Uniform Standards by legislation or regulation. Hawaii has opted out by legislation (Act 116, Effective July 1, 2010, Section 431:30-112). New Jersey opted out of the ILTC Uniform Standards in its enabling Compact legislation. Indiana opted out of the ILTC

Uniform Standards by regulation. *See Filing Information Notice 2009-09, State Opt-Out Filing Process* for more information on filing procedures when a Compacting State has opted out of a Uniform Standard.

- b. Compacting States that will and will not permit modified rate schedules to be approved for their respective state (Modified rate schedules not permitted to be filed for Colorado, Illinois, Maryland, Oklahoma, Oregon and Washington).
 - c. State-specific offer and issue requirements, if any, for daily minimum benefit for non-partnership policies.
 - d. State-specific offer and issue requirements, if any, for maximum elimination periods for non-partnership policies.
 - e. State-specific offer and issue requirements, if any, for minimum benefit periods for non-partnership policies.
2. In order to demonstrate the ranges of daily minimum benefits, maximum elimination periods, and minimum benefit periods that will be offered and/or issued in the respective Compacting States, the Statement of Variability and applicable section(s) should list a range for these items that will encompass any applicable state-specific minimum or maximum. The Statement of Variability and applicable section(s) shall not separately list what is being offered or issued for each specific state.
 3. The filer may reference the state-specific chart in carrying out its responsibility to offer and issue Compact-approved individual long-term care insurance products based on state-specific requirements, if any, regarding daily minimum benefits, maximum elimination periods and minimum benefit periods.

G. Combination Product Filings

1. Filers can submit a combination product filing where the filing includes a life or annuity policy form with long-term care insurance provisions or a life or annuity policy form with a rider for individual long-term care insurance.
2. Filers must select or file under the applicable Long-Term Care Type of Insurance (LTC TOI), such as LTC03I.001, rather than the applicable Life or Annuity TOI.
3. The filer must state in the Filing Description section of the General Information tab and the Additional Benefit field in the Filing Wizard that this filing contains a Life or Annuity contract with individual long-term care insurance provisions or a rider for individual long-term care insurance and other pertinent information about the life or annuity product features.
4. If a filer is submitting two separate filings (one for the life or annuity forms and one for the long-term care forms), the filer must indicate in the General Information section of both product filings that it intends to use the Compact-approved forms in another filing and provide the SERFF Tracking Number and the applicable form numbers. *See Section E for mix and match of state-approved life or annuity products with Compact-approved individual long-term care insurance riders.*

H. State Action Required for Partnership Policies

1. Based on the ILTC Uniform Standards, Compact approval of an individual long-term care insurance product filing shall not be deemed as approval to use or provide any component of the product filing pursuant to any federal or state Individual Long-Term Care Insurance Partnership Program (“Partnership”). Additional action for each applicable Compacting State may be required before an insurer may use a Compact-approved policy or other product component for Partnership.
2. Filers are advised to check the applicable requirements of each Compacting State for how to file for approval or recognition of a Compact-approved individual long-term care insurance product filing for Partnership. The SERFF Tracking Number may be referenced as each Compacting State has access to all product filings submitted to the Compact for approval in their respective state.
3. To facilitate compliance with state-specific Partnership requirements, the ILTC Uniform Standards permit variability for Partnership language that may be required by a state. This language is considered plan information and can be bracketed or otherwise denoted as variable. Filers can submit a Statement of Variability discussing the conditions under which the variable item may change and the alternative content to which the variable item may change, which in the case of Partnership plans is intended to facilitate the Member States’ ability to ascertain compliance with Partnership requirements.

I. Annual Rate Reporting Information

1. Filers are required to file an annual certification in accordance with the applicable Rate Filing Standards for Individual Long-Term Care. This certification must be filed on or before December 31st of each year starting in the first full year following the year in which the applicable rate schedule was approved by the Interstate Insurance Product Regulation Commission.
2. The annual submission consists of an actuarial certification, dated and signed by a member of the American Academy of Actuaries. The certification should clearly reference if it applies to rate schedules that are currently marketed or that are no longer marketed.
3. Although only required for submission every three years, an actuarial memorandum shall be prepared annually to support the annual certification.
4. The annual certification must be submitted annually no later than December 31st of each year starting in the first full year following the year in which the applicable initial rate schedule was approved. Every 3rd year, an actuarial memorandum supporting the annual certification should also be included.
5. The annual certification shall be included in the Compact-approved individual long-term care product filing containing the initial rate schedule and filed under the Rate Schedule tab. The filer may send a Note to Reviewer to reopen the product filing for the purpose of attaching the annual certification.

6. When the filing has been reopened the annual certification must be attached to the Rate/Rule Schedule and have a name that includes the year, 'XXXX Annual Certification' which will assist in tracking this annual requirement. The Compact annual certification fee must be submitted with the annual certification.

J. Rate Revision Filings

1. Filers submitting a rate schedule(s) for new business issue only shall send a Note to Reviewer in filing with the original rates to reopen that filing for the purpose of submitting a new rate schedule and supporting information. Filers shall pay the applicable Compact and state filing fees when submitting the new schedule.
2. Filers submitting rate revisions for approved rate schedules applicable to in-force policies shall make a new separate product filing submission and include a reference to the original product filing in the Filing Description. Filers shall pay the applicable Compact and state filing fees when submitting the new rate filing.

APPLICABLE IIPRC FORMS:

Rating Assumptions Template: http://www.insurancecompact.org/industry_resources.htm

Certification for Self-Certification Compliance:

http://www.insurancecompact.org/rulemaking_records/100222_self_certification.pdf

EFFECTIVE DATE: Filing Information Notice 2013-2 updated and supersedes Filing Information Notice 2010-3

IMMEDIATELY

CONTACT INFORMATION:

Questions regarding this Notice should be directed to:

Interstate Insurance product Regulation Commission

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States, Strength & Speed Aligned

INSTRUCTIONS FOR UPDATED FORM SUBMISSION PROCESS FOR INDIVIDUAL LONG-TERM CARE ADVERTISING FILINGS

Starting May 2, 2016, the Interstate Insurance Product Regulation Commission (IIPRC) Office will allow filers to make submissions of individual long-term care advertising forms even when previously-filed submissions are pending or undergoing review.

BACKGROUND

The IIPRC Office has considered a request from filers to provide more flexibility in their ability to submit individual long-term care advertising forms when other individual long-term care advertising forms for the company are undergoing review. The IIPRC Office will modify its process to allow a more flexible filing approach starting May 2, 2016. This modified process will be implemented on a “pilot” basis through September 1, 2016, at which time the IIPRC Office will assess and make changes to, extend or make permanent this new process.

For each individual long-term care product approved by the IIPRC, Filing Information Notice 2013-2 requires one separate, unique filing which contains all the advertising material to be used or associated with the product filing over time. If a filer wishes to submit new or updated advertising material, it must request the advertising filing associated with the particular product filing be reopened to add the new material. This procedure will **not** change as the IIPRC Office finds tremendous benefit for its reviewers, its member states and its filers in keeping all advertising forms associated with an approved individual long-term care insurance product in one associated advertising filing.¹

Under the current process, the IIPRC Office does not allow filers to add new advertising forms if there are already forms in the filing undergoing review. Companies have reported that this approach is very difficult to manage as they may have new forms ready to file but may have to wait a meaningful number of days or weeks before these forms can be filed. Some companies report situations where they have developed a new advertising form that takes priority over the previously-submitted forms undergoing review but are not able to file under the current process.

The IIPRC Office will change the process to allow companies to submit new forms to individual long-term care advertising filings that are already open for review of previously-submitted forms. In other words, filers will not be required to wait until pending advertising forms are approved and the filing is closed before they can submit additional advertising forms for review.

FILING PROCEDURES WHEN ADVERTISING FILING IS OPEN

The IIPRC Office requests that filers follow the following steps when submitting forms to an open advertising filing:

¹ The IIPRC Office considered a request to allow companies to submit a new filing for new advertising forms and linking the forms and filings through the Associated Filing functionality in SERFF and believes concerns would outweigh the benefits in terms of the regulatory tracking and organization of advertising for Compact-approved products as well as in terms of consistency and compliance of the forms and the review process.

1. Each time forms are added to the individual long-term care advertising filing, it is a new submission, whether one form or multiple forms are included in the submission. Each submission will require the payment of the IIPRC Filing Fee and applicable state filing fees (**NOTE: If the filer submits five forms in one submission and the next day submits another form, this is considered two separate submissions**).
2. For each submission, the filer must submit a filing description providing pertinent information for all forms included in the submission, either in the Comments section of the Amendment or a cover letter attached on the Supporting Documentation tab. The filing description must include the information required in Section 1(A) Additional Submission Requirements (General), including but not limited to:
 - a. Each Form Name and Form Number
 - b. The type of advertisement of each form: either institutional, invitation to inquire, or invitation to contract (**NOTE: This is the most common, repeated objection and is always required to be identified before review can proceed §1(A)(6)**).
 - c. Describe how each form is disseminated: a brochure, letter, illustration distributed electronically, printed, internet, etc.
3. For each new submission, filers should no longer submit their Statement of Variability in batch under a single Supporting Documentation tab item, since approval will not be on a batch basis. **To be able to approve advertisements on a per-form basis, it is critical that the Statement of Variability is added to SERFF on a per-form basis, meaning that each form with variability must have a separate Statement of Variability with each form's SOV submitted as one new line on the Supporting Documentation tab** (**NOTE: Failure to submit a separate Statement of Variability on separate lines means the filer has chosen to wait for approval of all the forms for which the Statement of Variability was submitted in batch under one Supporting Documentation tab item**).
4. The Statement of Variability should include the Form Number that the variability is for in the PDF file name and in the heading on each document, and be submitted on separate lines under the Supporting Documentation tab for each new advertising form that has variability (**NOTE: Statements of Variability for previously submitted forms may not be updated once approved**).

Statement of Variability for ICC15-160049SLP 11/03/15 Approved 11/17/2015
[EOV-ICC15-160049SLP.pdf](#)
Submitted
 Date Submitted: 11/04/2015
 By: Audrey Bingham

Statement of Variability for ICC15-160049DG 10/27/15 Approved 11/17/2015
[EOV-ICC15 160049DG Explanation of Variability.pdf](#)
Submitted
 Date Submitted: 11/04/2015
 By: Audrey Bingham

5. Objection letter responses may not include information for forms not identified in the Objection letter. Filers must respond to all outstanding correspondence in a timely manner. If a response to an objection letter is not received within twenty (20) days of the “Respond By Date,” the form(s) subject to the objection letter will be disapproved.
6. If the filer makes changes to a submitted form other than changes in response to correspondence from the IIPRC form reviewer, the Date Submitted for the form with the filer’s self-generated changes will be considered the date of a new submission for the purpose of intake and review of said form (**NOTE:** *Additional IIPRC Filing Fees will be required*).
7. The most important change with the new process is that after May 2, 2016, the date of approval may no longer match the date of a Disposition on the Filing Correspondence tab. After May 2, 2016, the date of approval for each form will be indicated in the Schedule Item Status column of the Form Schedule tab.

Item No.	Schedule Item Status	Form Name *	Form Number
74	Approved 11/17/2015	Lead Generation Web Form	ICC15-160049SLP 11/03/15 ADV
75	Approved 11/17/2015	Lead Generation Web Form	ICC15-160049DG 10/27/15 ADV

8. Once the Schedule Item Status for a form has been marked approved, a filer shall not make any changes or withdraw the form from the Form Schedule tab. Any change to a form that has been approved requires a new submission with the amended advertising form.
9. When an open individual long-term care advertising filing has no forms pending review, the IIPRC Office will issue a disposition marking the filing approved and close the filing (**NOTE:** *After May 2, 2016, the Date of Approval in the Disposition section of the Filing Correspondence tab will not necessarily match the date of approval for individual forms and the Schedule Item Status column on the Form Schedule tab for the individual forms will indicate the official “Date of Approval”*).
10. Companies are strongly encouraged to review objections to previously approved forms and ensure the new forms address compliance with all applicable provisions of the Standards for Individual Long-Term Care Insurance Advertising Material (**NOTE:** *The IIPRC Office commonly issues repeat objections when changes to comply with the Uniform Standard made in previously submitted forms are not carried forward to subsequently submitted forms*).
11. Companies wishing to request that forms in an open individual long-term care advertising filing be reviewed in a different order than the order by date in which they were submitted shall send a Note to Reviewer with clear instructions and acknowledgement that review of forms with less priority but filed before forms with higher priority may take longer in the review process than if reviewed in the order of submission date.