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TO: All Insurers and Producers Transacting Life Accident and Health Insurance Business Within the State of South Carolina

FROM: Scott H. Richardson
Director 

SUBJECT: Service and Administrative Fees

DATE: August 6, 2007

Recently, questions have been raised regarding the application of Bulletin Number 2006-08 to Life, Accident and Health Insurers. The purpose of this Bulletin is to clarify the Department's position with respect to this issue.

Bulletin Number 2006-08 was issued to address the imposition of fees by insurers and producers in connection with insurance policies issued, and risks located, in this state. In general, charging additional fees for services that are an integral or necessary part of the insurance contract or insurance transaction or prerequisite to insurance coverage are limited by South Carolina law. This applies to life, accident and health insurers and producers as well as property and casualty insurers. The Department recognizes that life insurance products are issued differently than property and casualty insurance policies. Generally, life insurance policies are issued with an inception date and are continuous so long as the premium is paid. Life insurance policies terminate upon cancellation by the insured, failure to pay the premium when due or death of the named insured. While life insurers are not required to submit rate filings for approval by the Department, it is the Department's position that policy level fees such as application fees and policy origination fees, for life, accident and health insurance policies must be included in the premium and may only be charged by insurers. Optional service fees such as installment payment fees, late payment fees and policy reinstatement fees may be charged by insurers, producers or brokers so long as they are reasonable and disclosed to the insured.

South Carolina Code Section 38-57-120 provides prohibitions against unfair discrimination in life insurance, annuities and disability insurance and provides:

(1) No person may make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon or in any other of the terms and conditions of the contract.

(2) No person may make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder or in any of the terms or conditions of the contract or in any other manner. Pursuant to Section 38-57-120, service and/or administrative fees charged in connection with life insurance policies must be applied equally and consistently to all insureds of the same class that are subject to such fees.

The purpose of Bulletin 2006-08 is to ensure that fees being charged are reasonable in relation to the service(s) provided. Each fee and the service to which it relates must be clearly defined and disclosed to and accepted by the insured in advance of the insured's purchase of the policy, as well as any consequence for failure to pay such fees. Written notice of the fee schedule must be provided to the insured at or before delivery of the policy. For life insurance policies, this information may be included in the Policy Summary provided to the insured. Any changes in the fee schedule must be disclosed in writing to the insured at least 30 days prior to the effective date of the change.

The fees listed in the Maximum Service Fee Schedule contained in Bulletin 2006-08 relate to fees for optional services that have been deemed reasonable by the Department. Life, Accident & Health insurers and brokers must ensure reasonable charges and disclosures, however they are not subject to the filing of fees with the Department.

For questions and comments on this bulletin please contact: Leslie Jones, Deputy Director for Actuarial Services at ljones@doi.sc.gov.

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