

Clearinghouse Rule 11-021

STATE OF WISCONSIN

OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

NOTICE IS HEREBY GIVEN that pursuant to the authority granted under s. 601.41(3), Stats., and the procedures set forth in under s. 227.18, and 227.24 (4), Stats., OCI will hold a public hearing to consider the adoption of the attached proposed rulemaking order and the emergency rule published February 9, 2011, affecting s. Ins 6.07, Wis. Adm. Code, relating to readability and electronic access to insurance policies and affecting small business.

HEARING INFORMATION

Date: May 3, 2011

Time: 10:00 a.m., or as soon thereafter as the matter may be reached

Place: OCI, Room 227, 125 South Webster St 2nd Floor, Madison, WI

Written comments can be mailed to:

Julie E. Walsh
Legal Unit - OCI Rule Comment for Rule Ins 607
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Written comments can be hand delivered to:

Julie E. Walsh
Legal Unit - OCI Rule Comment for Rule Ins 607
Office of the Commissioner of Insurance
125 South Webster St – 2nd Floor
Madison WI 53703-3474

Comments can be emailed to:

Julie E. Walsh
julie.walsh@wisconsin.gov

Comments submitted through the Wisconsin Administrative Rule Web site at: <http://adminrules.wisconsin.gov> on the proposed rule will be considered.

The deadline for submitting comments is 4:00 p.m. on the 10th day after the date for the hearing stated in this Notice of Hearing.

SUMMARY OF PROPOSED RULE & FISCAL ESTIMATE

For a summary of the rule see the analysis contained in the attached proposed rulemaking order. There will be no state or local government fiscal effect. The full text of the proposed changes, a summary of the changes and the fiscal estimate are attached to this Notice of Hearing.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

Notice is hereby further given that pursuant to s. 227.114, Stats., the proposed rule may have an effect on small businesses. The initial regulatory flexibility analysis is as follows:

- a. Types of small businesses affected:

- Insurance agents, LSHO, Town Mutuals, Small Insurers, etc.
- b. Description of reporting and bookkeeping procedures required:
None beyond those currently required.
 - c. Description of professional skills required:
None beyond those currently required.

OCI SMALL BUSINESS REGULATORY COORDINATOR

The OCI small business coordinator is Eileen Mallow and may be reached at phone number (608) 266-7843 or at email address eileen.mallow@wisconsin.gov

CONTACT PERSON

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the OCI internet Web site at <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, Public Information and Communications, OCI, at: inger.williams@wisconsin.gov, (608) 264-8110, 125 South Webster Street – 2nd Floor, Madison WI or PO Box 7873, Madison WI 53707-7873.

**PROPOSED ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE
REPEALING, REPEALING AND RECREATING A RULE**

To repeal Ins 6.07 (4) (a) 8., (4) (d), and (9);

To repeal and recreate Ins 6.07 (4) (a) 1.; 2., and 5., Wis. Adm. Code,

Relating to relating to readability and electronic access to insurance policies and affecting small business.

ANALYSIS PREPARED BY THE OFFICE OF THE COMMISSIONER OF INSURANCE (OCI)

1. Statutes interpreted:

ss. 600.01, 628.34 (12), Stats.

2. Statutory authority:

ss. 600.01 (2), 601.41 (3), 601.42, 628.34 (12), 631.20, 631.21, 631.22, 631.61, Stats.

3. Explanation of OCI's authority to promulgate the proposed rule under these statutes:

Section 631.22 (2), Stats., requires insurers to provide policies that are coherent, written in commonly understood language, legible, appropriately divided and captioned by its various sections and presented in a meaningful sequence. This proposed rule returns the administrative standards back to requirements previously used.

4. Related statutes or rules:

This proposed rule revises the current rules, s. Ins 6.07, Wis. Adm. Code, governing filing readability and access to electronic versions of policy forms.

5. The plain language analysis and summary of the proposed rule:

The proposed rule returns the readability score, Flesch or equivalent, back to 40 across product lines unless other provisions regulate the readability of the policy, i.e. Medicare supplement policy requirements. The proposed rule also repeals requirements related to use of active voice in policy forms, requirement to contain all exclusions and limitations within one section and replaces those provisions with language in place in 2010. Finally the proposed rule repeals the requirement that insurers make available an insured's complete insurance policy and production

timeframes. Statutory requirements already exist that require insurers to provide the insured or policyholder a copy of their policy. Although s. Ins 6.07 (9) provided more detail and delineated process for obtaining copies of policies OCI believes the existing laws are sufficient without further rule.

6. Summary of and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:

There are no existing or proposed federal regulations that address the topic of this proposed rule.

7. Comparison of similar rules in adjacent states as found by OCI:

Illinois: Illinois requires products to be readable but does not set a score. Illinois is pending legislative changes to participate in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Illinois does not have a website notice provision for insureds to access a complete copy of their policy.

Iowa: Iowa requires products to be readable but does not set a score. Iowa participates in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Iowa does not have a website notice provision for insureds to access a complete copy of their policy.

Michigan: Michigan requires forms to achieve a Flesch score of not less than 45 under Mich. Admin. Code s. 500.2236 r. 2003 (1956). Michigan participates in the interstate insurance product regulation compact and for those product lines subject to the compact the Flesch required is 50. Michigan does not have a website notice provision for insureds to access a complete copy of their policy.

Minnesota: Minnesota requires under Minn. Stat. Ch. 72C, a Flesch score of more than 40 for life and health forms. Minnesota participates in the interstate insurance product regulation compact and for those product lines subject to the compact the

Flesch required is 50. Minnesota does not have a website notice provision for insureds to access a complete copy of their policy.

8. A summary of the factual data and analytical methodologies that OCI used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule:

OCI proposes this rule will ease financial constraints not anticipated with prior rule-making. The OCI has received numerous inquiries regarding implementation and concerns related to cost of implementation. By returning to prior requirements the OCI is able to balance consumer protection and appropriate level of industry oversight without being overly burdensome.

9. Any analysis and supporting documentation that OCI used in support of OCI's determination of the rule's effect on small businesses under s. 227.114:

The effect of the proposed rule on small business is positive as it reverts back to prior requirements thereby negating the need to modify existing policies or means of accessing prior copies of an insured's policy.

10. See the attached Private Sector Fiscal Analysis.

These changes will not have a significant fiscal effect on the private sector as the proposed rule reverts back to prior requirements thereby imposing no costs on insurers or intermediaries that could be passed on to the private sector.

11. A description of the Effect on Small Business:

This rule will have little to no fiscal effect on regulated small businesses as the proposed rule imposes no new requirements and returns all Flesch scores and access requirements back to 2010 standards.

12. Agency contact person:

A copy of the full text of the proposed rule changes, analysis and fiscal estimate may be obtained from the Web site at: <http://oci.wi.gov/ocirules.htm> or by contacting Inger Williams, OCI Services Section, at:

Phone: (608) 264-8110
Email: inger.williams@wisconsin.gov
Address: 125 South Webster St – 2nd Floor, Madison WI 53703-3474
Mail: PO Box 7873, Madison, WI 53707-7873

13. Place where comments are to be submitted and deadline for submission:

The deadline for submitting comments is 4:00 p.m. on the 10th day after the date for the hearing stated in the Notice of Hearing.

Mailing address:

Julie E. Walsh
Legal Unit - OCI Rule Comment for Rule Ins 607
Office of the Commissioner of Insurance
PO Box 7873
Madison WI 53707-7873

Street address:

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125 South Webster St – 2nd Floor
Madison WI 53703-3474

Email address:

Julie E. Walsh
julie.walsh@wisconsin.gov

Web site: <http://oci.wi.gov/ocirules.htm>

The proposed rule changes are:

SECTION 1. Ins 6.07 (4) (a) (intro.), 1. and 2. are repealed and recreated to read:

Ins 6.07 (4) (a) In addition to any other requirements of law, no consumer insurance policy, unless excepted under sub. (5), shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this section, unless:

1. The text achieves a minimum score of 50 for those policies labeled as Medicare supplement policies as defined by s. Ins 3.39 and a minimum score of 40 for all other policies included under this rule, on the Flesch reading ease test as described in par. (b), or an equivalent score on any other comparable test as provided in par. (c) or this subsection unless a lower score is authorized under sub. (7);
2. It is printed, except for specification pages, schedules and tables, in not less than 10 point type, one point leaded;

SECTION 2. Ins 6.07 (4) (a) 5. is repealed and recreated to read:

Ins 6.07 (4) (a) 5. It contains a single section listing exclusions, or the exclusions are given at least equal prominence;

SECTION 3. Ins 6.07 (4) (a) 8. is repealed.

SECTION 4. Ins 6.07 (4) (d) is repealed.

SECTION 5. Ins 6.07 (9) is repealed.

SECTION 6. This rule may be enforced under ss. 601.41, 601.64, 601.65, 628.10, 631.20 (4m), Stats., or ch. 645, Stats., or any other enforcement provision of chs. 600 to 646, Stats.

SECTION 7. These changes will take effect on the first day of the month after publication, as provided in s. 227.22(2)(intro.), Stats.

Dated at Madison, Wisconsin, this _____ day of _____, 2011.

Theodore K. Nickel
Commissioner of Insurance

**Office of the Commissioner of Insurance
Private Sector Fiscal Analysis**

for Section Ins 6.07 relating to readability and electronic access to insurance policies and affecting small business

This rule change will have no significant effect on the private sector regulated by OCI.

FISCAL ESTIMATE WORKSHEET

Detailed Estimate of Annual Fiscal Effect

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number INS 607

Subject
readability and electronic access to insurance policies and affecting small business

One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):
None

Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$ 0	\$ -0
(FTE Position Changes)		(0 FTE)	(-0 FTE)
State Operations - Other Costs		0	-0
Local Assistance		0	-0
Aids to Individuals or Organizations		0	-0
TOTAL State Costs by Category		\$ 0	\$ -0
B. State Costs by Source of Funds			
GPR		\$ 0	\$ -0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
C. State Revenues Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$ 0	\$ -0
GPR Earned		0	-0
FED		0	-0
PRO/PRS		0	-0
SEG/SEG-S		0	-0
TOTAL State Revenues		\$ 0 None	\$ -0 None

NET ANNUALIZED FISCAL IMPACT

	<u>STATE</u>		<u>LOCAL</u>
NET CHANGE IN COSTS	\$ <u>None 0</u>	\$	<u>None 0</u>
NET CHANGE IN REVENUES	\$ <u>None 0</u>	\$	<u>None 0</u>

Prepared by: Julie E. Walsh	Telephone No. (608) 264-8101	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccy)

FISCAL ESTIMATE

- ORIGINAL UPDATED

 CORRECTED SUPPLEMENTAL

LRB Number	Amendment No. if Applicable
Bill Number	Administrative Rule Number INS 607

Subject
readability and electronic access to insurance policies and affecting small business

Fiscal Effect
State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.
 Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation
 Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No local government costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____
2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	<input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts

Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	Affected Chapter 20 Appropriations
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Assumptions Used in Arriving at Fiscal Estimate

Long-Range Fiscal Implications

None

Prepared by: Julie E. Walsh	Telephone No. (608) 264-8101	Agency Insurance
Authorized Signature:	Telephone No.	Date (mm/dd/ccyy)