



The State of New Hampshire Insurance Department

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261 Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

Christopher R. Nicolopoulos
Commissioner

David J. Bettencourt
Deputy Commissioner

WAIVER APPLICATION DECISION
RE: REQUEST OF FOREMOST INSURANCE
COMPANY GRAND RAPIDS, MICHIGAN
TO WAIVE INS 5001.06(a)(4)

I. INTRODUCTION

On or about November 9, 2021 Foremost Insurance Company (“Foremost”), submitted a written request (“request”) to the New Hampshire Insurance Department (“Department”) for a waiver from Ins 5001.06(a)(4) relative to a form filing. The form filing at issue is SERFF filing FORE-133047474. In the request, Foremost seeks a waiver from the requirement in Ins 5001.06(a)(4) that a replacement form “be resubmitted with a new form number, new edition date, or both.”

II. LEGAL AUTHORITY

Pursuant to Ins 5001.08,¹ the New Hampshire Insurance Commissioner may grant an insurer’s written request for a waiver from the application of an administrative rule within Chapter Ins 5000 if the criteria of Ins 5001.08(a)-(d) have been met.

III. DISCUSSION

In its written request for waiver, Foremost states that it seeks to change the logo that appears on customer facing documents, namely: applications, program policy jackets, declarations pages, coverage selection and rejection forms, and certificates of insurance. It explains that it is seeking the change because it would like the forms to

¹ Ins 5001.08 Waiver of Rules.

(a) The commissioner, upon the commissioner’s own initiative or upon request by an insurer, shall waive any requirement of this part if such waiver does not contradict the objective or intent of the rule and:

- (1) Applying the rule provision would cause confusion or would be misleading to consumers;
- (2) The rule provision is in whole or in part inapplicable to the given circumstances;
- (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule provision; or
- (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule provision.

(b) No requirement prescribed by statute shall be waived unless expressly authorized by law.

(c) Any person or entity seeking a waiver shall make a request in writing.

(d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

reflect its new logo which is “Foremost A Farmers Insurance Company.” Foremost represents that it is not seeking to make any other change to any of these forms. It further states that it will begin to produce forms with the new logo once its stock of forms with the current logo—“Foremost Insurance Company Grand Rapids, Michigan”²—have been exhausted.

The administrative insurance rule from which Foremost seeks a waiver, Ins 5001.06(a)(4), requires an insurer replacing a form to resubmit the form “with a new form number, new edition date, or both.”³ The purpose of Ins 5001.06(a)(4) is to allow a new edition of an insurance form to be distinguishable and identifiable from a prior version of the form.

In this instance, Foremost is not seeking to make any substantive change to the forms. Instead, it is requesting that it be allowed to replace the logo on its forms with its new logo without having to resubmit the form with a new form number and/or new edition date. Given that Foremost is not requesting any substantive changes to the forms, the Department agrees that strict application of Ins 5001.06(a)(4) is inappropriate because it “would be onerous without promoting the objective or intent of the rule provision[.]” Ins 5001.08(a)(3). Further, the Department will have access to the forms with the Grand Rapids logo in SERFF even after the forms with the new logo are filed. Consequently, no record retention concerns exist relative to allowing Foremost to file the replacement forms without a new form number or edition date. See RSA 400-A:25, III.⁴

² The current logo is hereinafter referred to as the “Grand Rapids” logo.

³ Typically, any replacement form submitted must comply with Ins 5001.06(a)(1)-(4), which provides as follows:

Ins 5001.06 Rules Applicable to All Forms.

(a) Each form shall be designated by a form number composed of numbers, letters, or both, and:

- (1) The form number shall be sufficient to distinguish the form from all other forms used by the company;
- (2) The form number may contain the prefix "Form No.";
- (3) The form number shall be placed on every page of the form; and
- (4) When a form is replaced, the form shall be resubmitted with a new form number, new edition date, or both.

⁴ RSA 400-A:25 Records; Inspection; Destruction. –

I. Unless otherwise provided by law, all records and documents of the insurance department are subject to public inspection pursuant to the right to know law, RSA 91-A. Notwithstanding the provisions of RSA 91-A, the commissioner may determine by order that it is in the public interest to make public additional records and documents or to hold certain records and documents confidential within the insurance department.

II. Except as otherwise provided by law, all records and documents of the department are subject to subpoena by a court of competent jurisdiction.

III. The commissioner may destroy at the end of 3 years from the date of filing any records determined to be no longer of any value to the state. The commissioner may destroy at an earlier date such records of the department which are readily available to the commissioner in an unaltered form from any other state or federal agency or from any licensed insurance company.

IV. CONCLUSION

In conclusion, for the reasons discussed herein, the Department concludes that strict compliance with Ins 5001.06(a)(4) would be onerous and would not promote the purpose of that rule relative to the form filing at issue because Foremost is not seeking to make substantive changes to the forms. Accordingly, the Department grants Foremost's waiver application relative to SERFF filing FORE-133047474.

Date: 1/10/2022



Christopher R. Nicolopoulos, Commissioner