

Readopt with amendment Ins 1403, effective 1-25-21 (Document #13162), to read as follows:

PART Ins 1403 THE WRITING OF AUTOMOBILE INSURANCE IN THE VOLUNTARY MARKET

Ins 1403.01 Purpose. This part establishes the rules and guidelines that foster a competitive and dynamic private passenger automobile insurance market with products readily available to residents of the state of New Hampshire at rates and premiums which are adequate, reasonable, and not unfairly discriminatory.

Ins 1403.02 Definitions Applicable to the Voluntary Market.

(a) “Automobile insurance” means primary insurance, including non-owned vehicle only policies, against bodily injury or property damage, including legal liability, arising out of the ownership, operation, maintenance, or use of motor vehicle(s). The term includes medical payments insurance, physical damage insurance, uninsured motorists insurance, and other related insurance coverage arising out of the ownership, operation, maintenance, or use of motor vehicle(s), but does not include umbrella or excess coverage.

(b) “Commissioner” means the commissioner of insurance.

(c) “Eligible risk” means a person who *is a resident of New Hampshire when the policy is issued or renewed or the vehicle to be insured is principally garaged in New Hampshire when the policy is issued or renewed* ~~[has signed a residency statement pursuant to RSA 417-A:3-b and Ins 1407.01].~~

(d) “Experience period” means the time period of 3 years immediately preceding the effective date of the policy.

(e) “Exposure” means the rating units on which insurance premium is based. For automobile insurance, exposure unit means one car insured for one 12-month period.

(f) “Insurer” means a licensed company, or group of affiliated companies, that are authorized to transact automobile insurance in the state of New Hampshire and, if a group of companies, are affiliated by ownership or contractual relationship encompassing joint operations or processes filed and approved by the commissioner.

(g) “Licensed driver” means any person with an authorized driver’s license or any other license or permit to drive a vehicle issued under the laws of this state, including any temporary or learner’s permit.

(h) “Motor vehicle” means any of the following vehicles ~~[-, whether owned, leased for a contract period of at least 6 months, or not owned by the insured, so long as the vehicle is not one that is used as a public livery conveyance for passengers, rented to the insured with a driver, furnished to an insured for regular use, or used without express or implied consent of the owner]:~~

- (1) An automobile;
- (2) A pick-up *truck* ~~[body], [-a] panel truck, or similar type vehicle [not customarily used in the occupation, profession, or business of the insured other than farming];~~
- (3) Motorcycle, motorbike, motorscooter, or similar 2-wheel or 3-wheel vehicle;
- (4) Off highway recreational vehicles which are registerable under RSA 215-A; or

(5) Motorhomes, meaning a self-propelled motor vehicle with a living area that is an integral part of the vehicle chassis or a pickup with a permanently attached camper body in which the living area or camper body consists of facilities for cooking and sleeping.

(i) “Person” means any natural person, spouse, family member, or any individual with express or implied consent to use a motor vehicle.

(j) “Policy of automobile insurance” means a policy issued with respect to any motor vehicle registered or principally garaged in this state, insuring a person as named insured, or one or more related individuals resident of the same household, and under which the insured vehicles therein designated includes a private passenger automobile.

(k) “Policy period” means:

(1) The period of time set forth in the policy itself during which the policy is to remain in effect; or

(2) Twelve months if the policy contains no fixed expiration date.

(l) “Private passenger automobile” means any motor vehicle as defined in (h) above ***written for personal, family, or household use that is intended for non-commercial coverage.***

(m) “Prospective loss cost” means the expected average loss per unit of exposure.

(n) “Rate” means that cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations. The term does not include minimum premiums.

(o) “Rating plan” means a system by which insurers establish a premium or rate to be charged for insurance coverage.

(p) “Renewal” means the issuance and delivery by an insurer of a policy superseding at the end of the policy period a policy previously issued and delivered by the same insurer and having the types and limits of coverage at least equal to those contained in the policy being superseded.

(q) “Replacement policy” means a policy that a company issues to replace a voluntary policy for the purpose of ceding the insured to the facility or moving the insured to a higher rated company or tier.

(r) “Resident” means[~~z~~] ***a person who is domiciled in the state of New Hampshire and who, through all of his or her actions, has demonstrated a current intent to designate this state as his or her true, fixed, and permanent residence to the exclusion of all others. Resident status shall not be lost by a temporary absence from this state, including but not limited to travel and military service, if there is an intent to return to this state as the person’s true, fixed, and permanent residence to the exclusion of all other.***

~~{(1) A person who maintains his or her true, fixed, and permanent residence within the state of New Hampshire and does not claim residency in any other state for any purpose and who has, through all of his or her actions, demonstrated a current intent to designate that the permanent residence is his or her principal place of physical presence for the indefinite future, to the exclusion of all others; or~~

~~(2) A person who is without a permanent street address due to homelessness or a person who is temporarily without a permanent street address due to traveling outside of the state of New~~

~~Hampshire in a recreational vehicle for a period not to exceed 2 years and who has met and can demonstrate the requirements of RSA 261:52 b or RSA 261:52 c.]~~

(s) “Supplementary rate information” means any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, and any other similar information needed to determine an applicable rate in effect or to be in effect.

(t) “Supporting information” means:

- (1) The experience and judgment of the filer and the experience or data of other insurers or organizations relied upon by the filer;
- (2) The interpretation of any statistical data relied upon by the filer;
- (3) A description of methods used in making the rates; and
- (4) Other similar information relied upon by the filer.

(u) “Tier” means a level or division of a company's or group's rating system that will yield a separate and distinct rate for automobile insurance.

(v) “Underwriting guidelines” mean:

- (1) Any written mechanism developed as an aid in the selection, placement or tiering of private passenger automobile risks; and
- (2) The portion of the rate classification system submitted to the commissioner pursuant to RSA 412:16.

Ins 1403.03 Voluntary Market Refusal to Write; Refusal to Renew; Cancellation.

(a) Insurers shall make the same coverage and limits available to each applicant or insured, regardless of tier or company placement, up to the maximum coverage options available in the facility shown under Ins 1406.10(a), unless the insurer's maximum available underlying limits, or reinsurance contracts, preclude it from offering such coverage and limit options. The limits of liability shall not be provided at different amounts within the same policy of automobile insurance unless permitted by RSA 259 or RSA 264.

(b) Insurers shall not claim that suspension or revocation of an insured's driving privileges are grounds for asserting that coverage has been forfeited under the provisions of RSA 264:3 or cancelled under RSA 417-A:4, when the suspension or revocation can be directly attributed to the insurer's failure to file the necessary certification in compliance with RSA 264.

(c) Insurers shall establish and maintain a system by which each automobile policy cancellation, other than for nonpayment of premium, and each nonrenewal, other than at the insured's request, is recorded together with the specific reason for the cancellation or nonrenewal. Cancellation reasons such as “for underwriting reasons” or “does not meet underwriting requirements” are lacking in specificity and shall not be sufficient reasons for compliance with the provisions of RSA 417-A:5.

(d) For the purposes of this section, and to comply with the provisions of RSA 417-A:1 II., if the policy of automobile insurance provides for a policy period of less than 12 months in duration, the policy period means 12 months.

(e) Insurers shall not penalize producers in any way for submitting applications for a policy of automobile insurance to such insurer. A pattern of agency terminations by an insurer shall be deemed evidence of an intent by an insurer to circumvent RSA 417-A:3.

(f) Insurers shall not void or cancel a policy back to its inception date, unless permitted by law.

Ins 1403.04 Movement or Placement of a Policy in the Voluntary Market.

(a) A new business applicant shall not be placed into a program or tier solely because of any of the factors cited in RSA 417-A:3 and RSA 417:4, VIII(e).

(b) No insurer shall move a policy to a different tier within one company, or from one company to another within a group, which results in a different rate for the insured unless it does so in accordance with its underwriting guidelines filed with the commissioner in accordance with the provisions of RSA 412.

(c) A member of affiliated companies may refuse to write, cancel, or refuse to renew a policy consistent with RSA 417-A and with its filed underwriting guidelines so long as the member provides the applicant or insured with the ability to immediately obtain a policy from another member of the affiliated companies. If the member cancels or refuses to renew, the replacement offer and terms shall be delivered or mailed together with the notice of cancellation or nonrenewal.

(d) The movement of a policy from one company to another within an insurance group or the movement of a policy to a different tier within one company shall be permitted within the first 60 days of the initial policy period if the movement is consistent and in compliance with the company's filed underwriting guidelines. Otherwise such movement shall only occur on the renewal date of the policy and shall require a 45-day written notice of such action to the policyholder. The replacement offer and terms shall be delivered or mailed together with the notice of cancellation or nonrenewal.

(e) The following shall not be used or considered in any rating plan or set of underwriting criteria:

(1) The following occurrences or instances:

- a. Where the automobile was lawfully parked. An automobile rolling from a parked position shall be considered unlawfully parked under the operation of the last operator;
- b. Where the applicant, other operator residing in the same household, or owner was reimbursed by, or on behalf of, a person responsible for the accident or has a judgment against such person;
- c. Where the automobile of an applicant or other operator residing in the same household was struck in its rear by another vehicle, and the applicant or other resident operator has not been convicted of a moving traffic violation connected therewith;
- d. Where the operator of the other automobile involved in such accident was convicted of a moving traffic violation, and the applicant or other resident in the same household was not convicted of a moving traffic violation in connection therewith;
- e. Where the automobile operated by the applicant or other operator residing in the same household is damaged as a result of contact with a "hit and run" driver, and the applicant or other operator so reports the accident to the proper authority within 24 hours;
- f. Accidents involving damage by contact with animals;
- g. Accidents involving physical damage limited to and caused by flying gravel, missiles, or falling objects;
- h. Accidents occurring as a result of the operation of an automobile in response to an emergency if the operator, at the time of the accident, was responding to a call to duty as a paid or volunteer member of any police or fire department, first aid squad, or of any law

enforcement agency but not an accident occurring after the emergency situation ceases or after the private passenger automobile ceases to be used in response to such emergency;
or

i. Accidents occurring as a result of the operation of a vehicle by a municipal public works or highway department employee while on official duty but not an accident occurring once the municipal public works or highway department employee is no longer on official duty;

(2) Lack of prior insurance in the following instances:

a. Applicants who were previously listed on a family member's policy;

b. Applicants who are newly licensed operators;

c. Applicants who have had, within the past 30 days, use of an insured company vehicle;
or

d. Applicants who are returning military personnel; or

(3) A requirement of continuous employment.

Ins 1403.05 Evidence of Financial Responsibility. The insurer shall protect the driving privileges of its insureds licensed to operate a motor vehicle in the state of New Hampshire. Therefore, upon notice to the insurer that it has become necessary for an insured to file evidence of financial responsibility with the state of New Hampshire, the insurer or producer covering the risk shall provide the insured with evidence of financial responsibility as soon as the insurer or producer becomes aware of the requirement or upon request of the insured.

APPENDIX

| Rule | State Statute the Rule Implements |
|-------------|--|
| Ins 1403.01 | RSA 400-A:15, I; RSA 412:3;[-] RSA 412:9 ; RSA 412:15; RSA 412:16; RSA 412:43 |
| Ins 1403.02 | RSA 400-A:15, I; RSA 412:15; RSA 412:16; RSA 412:43 |
| Ins 1403.03 | RSA 400-A:15, I; RSA 412:16; RSA 412:43 |