GOVERNMENT OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

April 26, 2004

RULING LETTER NO.: N-I-4-52-2004

TO ALL LOCAL INSURERS, HEALTH SERVICES ORGANIZATIONS, NON-PROFIT INSURANCE ASSOCIATIONS, GENERAL AGENTS OR MANAGERS OF FOREIGN INSURERS AUTHORIZED TO DO INSURANCE BUSINESS IN PUERTO RICO AND ALL AGENTS AND ADJUSTERS.

Re: Procedure for requesting an extension of the term for adjusting and resolving claims

Dear Sirs and Madams:

Article 27,162(1) of the Puerto Rico Insurance Code provides that:

> "The investigation, adjustment and resolution of any claim shall be made in the shortest reasonable period of time within the first forty-five (45) days after all the documents needed to resolve said claim have been submitted to the insurer. The first period may only be extended under extraordinary circumstances, but such extension shall never exceed the term of ninety (90) days from the date the claim was submitted. In those cases in which the insurer needs time in addition to the ninety (90) days, it shall thus be requested in writing to the Commissioner twenty (20) days before the expiration of said ninety (90) days, and the claimant shall also be notified thereof. If the Commissioner finds that the request for additional time is unreasonable, either because it is not duly justified or that the additional time requested is excessive, he shall notify the insurer that said extension is not permissible and that he should, therefore, resolve the claim during the term established by regulations or within the additional term granted in said notice." (Emphasis supplied.)

It may be inferred from these provisions that an extension of time should only be used under extraordinary circumstances. It may also be inferred that the term provided for in Article 27.162, *supra*, begins to run from the time the claimant or the claimant's

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authorized representative submits the claim to the insurer.[1] It is further provided that, as has been the jurisprudence of our highest court, the limit provided therein is the maximum limit provided to our licensees[2] for adjusting and resolving a claim.[3]

Therefore, the Office of the Commissioner of Insurance of Puerto Rico ("the OCI"), undertook an evaluation of the procedure currently used to process and grant requests for extensions of time for adjusting and resolving claims. As a result of this evaluation, the OCI realized that in practice, the mechanism of an extension was being used regularly and automatically, and the exception was that claims were being adjusted and resolved during the time provided by law. It was also found that the immense majority of reasons provided by the licensees were for an indefinite duration, which defeats the very concept of an extension of time.

Given this situation, the OCI considers that is necessary to establish a more efficient procedure for requesting and granting extensions of the provided in the Code for the adjustment and resolution of claims, so that in the majority of cases the claimants may count on a timely efficient adjustment of their claims. To said effect, the OCI is eliminating the form used to request an extension of time as established in paragraph 8 of Ruling Letter No. N-C-5-70-95, dated December 27, 1995 and establishes a new procedure which is explained in the following paragraphs.

We emphasize that except with regard to eliminating the form established in Ruling Letter No. N-C-5-70-95, dated December 27, 1995, no provision of this Ruling Letter may be deemed to revoke any of the principles established in the following letters, to wit, Ruling Letter No. N-OE-5-54-93 dated April 1993, Ruling Letter No. N-OE-5-58-93, dated June 8, 1993, and Ruling Letter No. N-C-5-70-95, dated December 27, 1995.

Beginning on May 15, 2004, the procedure our licensees should follow for processing a request for an extension of the term for the adjustment and resolution of claims shall be as follows:

1. Any licensee seeking an extension of the term for the adjustment and resolution of a claim should submit within twenty (20) days before the expiration of the ninety (90) day term, to be counted from the date of submission of the claim, a written request signed by an authorized representative, stating the following:

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[1] See *Comisionado de Seguros v. General Accident Ins, Co.,* 132 D.P.R. 543 (1993) Ruling Letter No. N-0E-02-54-93, April 8, 1993; Ruling Letter N-0E-5-58-93, June 5, 1993.

[2] When we refer to the licensees in this Ruling Letter, we are referring to all local insurers, health services organizations, non-profit insurance associations, general agents or managers of foreign insurers authorized to do insurance business in Puerto Rico, and all agents and adjusters.

[3] See *Comisionado de Seguros v. General Accident Ins, Co.,* 132 D.P.R. 543 (1993); Ruling Letter No. N-0E-02-54-93, April 8, 1993; Ruling Letter N-0E-5-58-93, June 5, 1993.; Ruling Letter No. N-C-5-70-95, December 27, 1995.

a. General circumstances of the claim:

   i. Name of the claimant and contact information.
   ii. Nature of the claim.
   iii. Date of submission of the claim
   iv. Name of the adjuster in charge of the claim and contact information, including telephone and fax numbers, email address, etc.

b. A detailed explanation of:

   i. the causes that prevented that the adjustment and resolution of the claim be completed within the first forty-five (45) days to be counted from the date the claim was submitted to the licensee.
   ii. the causes that prevent adjustment and resolution of the claim within a ninety (90) day term to be counted from the date the claim was submitted to the licensee.
   iii. the reasons why the licensee considers that the OCI should grant the extension being requested.

c. In the case of a request that follows a prior request for an extension, instead of the requirements set forth in above paragraph (b), the licensee shall provide a detailed explanation of:

   i. the reasons that prevented the adjustment and resolution of the claim within the term granted under the previous request for an extension of time.
   ii. the reasons why the licensee considers that the OCI should grant an additional extension of time.

d. The general status of the claim at the time of the request for an extension of time, including a description of the date and nature of the last action taken, as well as a description of pending action.

e. The time the licensee is requesting.

f. Certification of notice to the claimant of the copy of the request.

The licensee shall keep a copy of the case record of the claim available for inspection by the OCI, as well as any other document to support the request for an extension.

2. When the reason provided by the applicant as a justification for the request for an extension is one of the reasons stated below, the applicant shall also comply

with the following requirements:

a. Cases before a General Court of Justice of the Commonwealth of Puerto Rico or in the United States District Court or at the Office of the Minors' Advocate or Legal Counsel, the State Insurance Fund (C.F.S.E.) or the Automobile Accident Compensation Administration (A.C.A.A.) If the adjustment and resolution of a claim cannot be effected as provided by law because the licensee, the insured, or the claimant has brought an action in a General Court of Justice of the Commonwealth of Puerto Rico or in the United States District Court or with the Office of the Minors' Advocate or Legal Counsel, or at the C.F.S.E. or at the A.C.A.A, to settle the controversy that is the object of the claim, the licensee shall provide proof of such action, indicating in the request the case caption and number as well as the forum and the name of the judge, examining officer or official who is seeing the case. In addition to the claim record, the licensee shall keep a record available for inspection by the OCI of all legal motions that have been submitted.

In these cases, if the OCI determines that in fact the controversy that is the object of the action is in effect the controversy that is the object of the claim with the licensee, pursuant to paragraph 9 of Ruling Letter No. N-C-5-70-95, dated December 27, 1993, the OCI will grant an indefinite extension of time that will expire fifteen (15) days after the final judgment on the controversy. [4]

b. Claimer is under medical treatment - if the adjustment and resolution of a claim cannot be done according to law because the claimant is undergoing medical treatment, the licensee should provide proof to that effect in the request and explain that the treatment is indispensable for the adjustment and resolution of the claim. The licensee shall maintain in the claim record evidence of the date on which the claimant began treatment and the approximate date on which treatment should end, the name of the physician, and contact information, for inspection by the OCI. This information shall be kept in a manner that no privacy rights of the insured may be violated.

In the case of claims for medical expenses, the licensee should bear in mind that each event of medical treatment for the insured may give rise to a distinct and separate claim for medical expenses. Therefore, the licensee must comply with the requirements of this Letter with regard to each and every claim that is submitted by the insured.

c. Non-response of claimant with regard to an offer - If the adjustment and

[4] See, Ruling Letter No. N-C-5-70-93, December 27, 1995.

resolution of a claim cannot be processed according to law because the claimant has neither accepted or rejected a reasonable offer for the adjustment and resolution of the claim that was notified in writing by the licensee within the first seventy (70) days from the date the claim was submitted, in the request the licensee shall provide evidence of the amount of the offer, the date and the manner in which the claimant was notified, as well as a description of further efforts that have been made to contact the claimant. The licensee shall have available for inspection by the OCI in the claim record a copy of the notice of the offer and any other evidence of the efforts made by the licensee to contact the claimant and obtain the claimant's response.

3. Licensees who wish to request an extension of the term for the adjustment and resolution of a claim shall also notify the claimant with a copy of the request at the time of the request. For the purpose of notice, the licensee shall use the Form for Notifying a Request for an Extension of Time, enclosed with this Ruling Letter, and provide the claimant with a copy of the request for an extension of time that was submitted to the OCI. Likewise, the licensee must submit proof to the OCI of having sent such notice pursuant to these requirements.

4. The OCI will verify the licensee's compliance with the established procedure, evaluate the request, and notify the licensee of a determination regarding the request for an extension of time, within fifteen (15) of the date that the request and the proof of notice to the claimant are received by the OCI. Within the first ten (10) days of said fifteen (15) day term the claimant will be able to submit objections, if any, to the licensee's request. However, if the OCI does not notify the licensee of a determination with regard to the request for an extension of time within said fifteen (15) days, the licensee shall be obligated to adjust and resolve the claim as soon as may be subsequently required by the OCI in writing. In these cases, the OCI deems that for the purpose of determining compliance by the licensee with the term provided for the adjustment and resolution of a claim, the time in excess of ninety (90) days that the OCI may take notify the licensee of a decision with regard to the request for an extension of time will not be taken into consideration.

You are advised that the OCI will not consider or evaluate a request for an extension of time in which it is stated that the adjustment and resolution cannot be carried out according to law because in spite of licensee's efforts, the claimant has not provided the licensee with all of the required and necessary documents for the adjustment and resolution of the claim. In such cases, the licensee should deny the claim. Likewise, the licensee should advise the claimant in writing that the claim is being denied within ninety (90) days, indicating the reason for such action, while at the same time advising the claimant regarding the requirements that must be complied with in submitting a

claim to the licensee and the documents that must be submitted. In addition, the licensee must advise the claimant of the right to resubmit the claim, and indicate the timeframe the claimant has to do so under the terms of the policy. The licensee shall maintain available for inspection by the OCI evidence in the claim record with regard to efforts made to request that claimant should submit the required documents, as well as a copy of the written notice of denial, and any other communication from the claimant regarding the denial.

We remind you that under current regulations, to establish a claim, the claimant must submit notice in writing to the licensee or the licensee's authorized representative, stating the relevant facts of the claim and for which the claimant has a right to compensation for a compensable damage.[5]

Finally, the OCI revokes paragraph 10 of Ruling Letter N-C-5-70-95, dated December 27, 1995 and establishes that only the following events will constitute the resolution of a claim:

a. payment in full of the claim; or

b. a written denial of the claim based on justified grounds; or

c. notification of a reasonable offer, followed by payment within 15 days of the notice of the offer. Disbursement need not be made if within seventy (70) days to be counted from the time the claim was submitted if the licensee requests an extension of time due to a lack of response by the claimant to the offer according to paragraph 2(c) of this Ruling Letter.

We hereby require that all local insurers, health services organizations, non-profit insurance associations, general agents or managers of foreign insurers authorized to do insurance business in Puerto Rico, and all agents and adjusters take action to implement the aforementioned procedures and strictly comply with the orders set forth herein.

Very truly yours,

SIGNED

Dorelisse Juarbe Jiménez
Commissioner of Insurance
Enclosure

[5] See, Ruling Letter No. N-0E-5-58-93, June 8, 1993

GOVERNMENT OF PUERTO RICO

OFFICE OF THE COMMISSIONER OF INSURANCE

Name and address of Insurer _____
_____
_____
_____

Claim number_____
Name of the claimant_____
Number of the policy_____
Name of the insured_____

Telephone Number of Insured _____

Indicate(X) if this request is a first request for an extension of time or an additional request

If this is the first request, state the date on which the claim was submitted
_____
(Day/Month/Year)

If this is an additional request, state the number assigned by the Commissioner of Insurance to the first request _____
_____

I_____, acting as _____ of the Insurer, being duly authorized CERTIFY that I have sent the claimant on the date stated below this notice and a copy of the request for an extension of time that I sent on this same date to the Office of the Commissioner of Insurance. I further certify that the name, mailing address, and telephone number of the claimant are as follows.

Name and address of Claimant_____
_____
_____

Telephone number of claimant_____
Other telephone number of claimant_____

_____
Signature of Insurer's Representative

_____
(Day/Month/Year)

_____
Print name

_____
Title

NOTICE TO THE CLAIMANT:

THE AFOREMENTIONED INSURER HAS REQUESTED THAT THE OFFICE OF THE COMMISSIONER OF INSURANCE GRANT AN EXTENSION OF THE TERM OF NINETY (90) DAYS PROVIDED UNDER ARTICLE 27.162 OF THE PUERTO RICO INSURANCE CODE TO INVESTIGATE, ADJUST, AND RESOLVE THE CLAIM SUBMITTED BY YOU. A COPY OF THE REQUEST SUBMITTED BY THE INSURER SHOULD HAVE BEEN SENT TO YOU AS AN ENCLOSURE, ALONG WITH THIS FORM.

IF YOU CONSIDER THAT THE OFFICE OF THE COMMISSIONER OF INSURANCE SHOULD NOT GRANT AN EXTENSION OF TIME REQUESTED BY THE INSURER, YOU MUST SUBMIT YOUR OBJECTION IN WRITING WITHIN TEN (10) CALENDAR DAYS TO BE COUNTED FROM THE DAY ON WHICH YOU RECEIVE THIS NOTICE FORM. IF YOU DID NOT RECEIVE AS AN ENCLOSURE THE REQUEST SUBMITTED BY THE INSURER TO OUR OFFICE, PLEASE STATE SO IN YOUR COMMUNICATION. YOU SHOULD INCLUDE A COPY OF THIS NOTICE IN YOUR COMMUNICATION. PLEASE SEND THE COMMUNICATION TO: CONSUMER AFFAIRS UNIT, OFFICE OF THE COMMISSIONER OF INSURANCE, PO BOX 5330, FERNANDEZ JUNCOS STATION, SANTURCE, PUERTO RICO 009111-8330.

YOU ARE ADVISED THAT ANY OBJECTION SUBMITTED AFTER THE TERM OF TEN (10) DAYS WILL BE EVALUATED BY THE OFFICE FOR THE SOLE PURPOSE OF DETERMINING WHETHER THERE IS A SITUATION THAT WARRANTS A MODIFICATION OF ANY DECISION MADE BY THE OFFICE ABSENT A TIMELY RECEIPT OF THE OBJECTION.[1]

[1] The Office of the Commissioner of Insurance will evaluate the request for an extension of time submitted by an insurer within fifteen (15) days such request is notified to the Office.