

Commonwealth of Puerto Rico  
OFFICE OF THE COMMISSIONER OF INSURANCE  
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Approved: Carlos S. Quiros  
Secretary of State  
By: Lourdes I. de Pierluisi  
Assistant Secretary of State

AMENDMENTS TO INSURANCE REGULATION

Article 1. - By virtue of the provisions of Section 2.040 of Public Law No. 77, enacted on June 19, 1957, as amended, I hereby notify the insurance industry, the insurance subscribing public, and the public in general of the approval of an amendment to Rule 39 of the Regulations of the Puerto Rico Insurance Code that will read as follows

RULE 39

MASS MARKETING PLANS AND FICTITIOUS GROUPS

Authority: Sections 12.040 and 27.080

Section 1. Purpose. - The purpose of this rule is to allow the sale of individual property and casualty insurance subject to the provisions herein, under mass-marketing plans, and to establish rules that will prevent abusive practices in connection with this kind of sale, while preserving for the insureds the benefits obtained in acquiring individual policies by taking advantage of the potential benefits of mass marketing.

Section 2. - Eligibility. - Only those insureds who are individual members of an eligible group are eligible and the

insurance may only be offered for risks related to the individual or the individual's property in which the person as an insurable interest, except real or personal property damage insurance, weather-related or contingency insurance written for risk defined as customary in the business, but not including liability insurance professional and non-professional and motor vehicle liability insurance, will not be eligible.

Sections 3. - Definitions.

(a) Mass marketing, for the purposes of this regulation, is a form of marketing property and casualty insurance that produces savings in terms of processing and handling costs of insurance (not including savings on loss experience due to assumed risk) that may be transferred to the members of the eligible group.

(b) Mass marketing Plan, for the purposes of this regulation, means the combination of rules and procedures registered by an authorized insurer and approved by the Commissioner that allows the insurer to use mass marketing for the sale of property and casualty insurance to an eligible group.

(c) Eligible Group, for the purposes of this regulation, means any of the following groups:

(1) Active employees of an employer or of any

subsidiary corporation or corporations, and retired employees of such employer or corporations that participate in a pension plan, and the employees of affiliated corporations or the partners of one or more partnerships, if the business of said affiliated corporations or of the partnerships is under common control by means of stock ownership or contractual agreement.

(2) Retired employees participating in pension plans or funds established by the federal government of the United States of America or by the government of the Commonwealth of Puerto Rico, its instrumentalities, entities, corporations, authorities, and municipalities.

(3) Members of a labor union.

(4) Members of a cooperative association, or an association of persons who are licensed by the Commonwealth of Puerto Rico to practice a recognized profession, or of federal, state or municipal employee associations, or trade associations or organizations.

(5) Members of non-profit incorporated clubs.

(6) Employees or ex-employees who owe money to a retirement system established by the employer.

(7) Insureds under property policies that have been cancelled because the insurer was declared insolvent by the Commissioner and/or are subject to a liquidation order entered by a court of competent jurisdiction.

(d) Property and Casualty Insurance - Means insurance to which sections 4.040, 4.050, 4.060, 4.070, 4.080, and 4.090 of the Puerto Rico Insurance Code are applicable.

Section 4. - General Provisions. - Mass marketing plans shall comply with the following provisions and requirements:

(a) All contact efforts made by the insurer with the members of an eligible group with regard to obtaining, placing, and administering insurance will be made exclusively through an authorized representative of the eligible group and of the producer of the plan who is registered with the Office of the Commissioner of Insurance.

(b) The filing of the mass marketing plan with the Commissioner, shall indicate or contain, as the case may be:

(1) The name and address of the place of business of the producer of the plan where all activities related to obtaining and placing insurance occur.

(2) The percentage of the commission that se will be paid to the producer.

(3) The percentage of the premium discount to be granted.

(4) If the plan includes more than one class or subdivision of insurance, it shall indicate separately the information required in paragraphs (2) and (3) for each class or subdivision. The plan shall be filed with the Commissioner using a duplicate letter of transmittal and will include information to justify the discounts being requested.

(5) The number of eligible members at the time of the filing, certified by an authorized representative of the eligible group.

(6) An authorization signed by an authorized representative of the eligible group allowing the filing of the plan and designating the producer included in the filing as the producer elected by the members of the group. It is further provided that more than one insurer may be authorized to file the same class of insurance for the same eligible group if and only if the number of members of the group is greater than the number of insurers multiplied by 25.

(7) A detailed statement of the insurance activities of the group or representatives of the group.

(8) Any other information that the Commissioner may require.

(c) An eligible group will be constituted by twenty-five (25) or more members at the time of the filing of the mass marketing plan. The mass marketing plan will have and maintain at least twenty-five (25) participating members for each class or subdivision of any class of insurance included in the plan within six months of the effective date of the plan. It is further provided that after six months of the date of approval and within thirty (30) days of such period, the insurer shall notify the Commissioner in writing of the number of participants at that time in each class or subdivision of any class of insurance included in the plan. If at any subsequent time after the first six months of the approval, the number required herein is not met, the insurer shall terminate the plan and withdraw the filing of such plan or class of insurance or request that the Commissioner grant an extension of the period needed in order to obtain the minimum number of participants.

(d) No insurer will sell insurance under a mass marketing plan if as a condition of employment or membership in an association or organization any employee or member must

purchase insurance under such a plan, or if an employee or member will be subject to a penalty or discrimination by reason of not participating in the plan.

(e) No insurer will sell any insurance under a mass marketing plan if the purchase of insurance available under such plan is contingent on the purchase of any other product, service or insurance not provided under the plan, or if the purchase of any other product, service or insurance not provided under the plan is contingent on the purchase of insurance available under the mass marketing plan.

(f) The insurer will accept all of the members of eligible groups, as defined in Section 3, that are eligible according to the insurer's selection standards and who wish to participate in the plan. No insurer will use underwriting standards for the selection of an individual risk in a mass marketing plan that are in general more restrictive than the standards used by the insurer for the selection of an individual risk for the sale in Puerto Rico of the same class of insurance in plans other than mass marketing plans. At the discretion of the insurer, spouses, children or dependents of members of the eligible groups living under the same roof may be accepted.

(g) No mass marketing plan will be established nor allowed to be established that will limit the participation of members that would otherwise be eligible for insurance as provided in Section 3 of this Rule, based on providing specific limits of insurance that are different from those required by law or regulation by a public body or insurance coverage with deductible amounts or other restrictions in the applicable rules and/or forms that the insurer does not normally use in underwriting individual risks.

(h) No insurer that issues an insurance policy under a mass marketing plan will cancel the policy after sixty (60) days of the effective date of the policy except for one of the following reasons:

(1) Failure to pay premium by the insured.

(2) In the case of property and motor vehicle insurance, when the eligible member has ceased to have an insurable interest in the insured property or when the insured property has been totally destroyed by the insured risks and the policy does not cover any other property.

(3) In the case of motor vehicles, when the driver's license of the named insured in the policy or any other operator, residing in the home of the



named insured who usually operates the motor vehicle covered by the policy is cancelled or suspended, unless, in the case of the operator, the operator is specifically excluded from the policy.

(i) When an insured has ceased to be a member of an eligible group, such ex-member will have a right to have the policy continue until the expiration date.

(j) No insurer that issues a policy under a mass marketing plan will refuse to renew the policy except by written notice to the insured at least twenty (20) days before the expiration date of the contract. Otherwise, the insurer shall proceed as provided by regulation for policy renewal procedures, except as provided in paragraph (k) below.

(k) For the purposes of legal, regulatory or contractual provisions limiting the cancellation and the insurer's refusal of renewal, failure by the employer, the association or the organization to pay past due premiums for any reason (including, but not limited to, the interruption or termination of employment or ceasing to be a member) will not be considered a failure to pay premiums by any insured under any of the plans that provide for premiums being paid by the employer, association, or organization, unless the insured has been notified in writing of such lack of payment and that such insured has not paid the premiums within fifteen (15) days of such notice or of the due date of such premium, whichever is

later, under the mass marketing plan.

(1) In the event of cancellation or refusal to renew a policy of an eligible member under a mass marketing plan, the employer, association or organization will have a right to consult with the insurer and to submit supporting evidence for its opposition to the cancellation or refusal to renew.

Section 5. - FORMS AND RATES.

(a) The forms, rates, rating plans, and any modification thereof under a mass marketing plan shall comply with the applicable provisions of the Puerto Rico Insurance Code and Insurance Regulations. The rates that are applicable to a mass marketing plan will not be considered unfairly different with regard to rates other than those of the mass marketing plan because there are different rates for insureds with similar loss exposure, but different cost factors, provided the rates reflect the differences with reasonable precision. Rates will not be considered unfairly unequal if they are averaged broadly among the insured of a mass marketing plan.

(b) The use of master policies and certificates will be permitted only when the policyholder of the master policy has an insurable interest in the thing being insured. Renewal of an individual policy issued under a mass marketing plan will be permitted by issuing of an endorsement or certificate that

indicates any change in the original contractual agreements of the policy.

Section 6. - SEPARATE STATISTICS

(a) All insurers that sell insurance under mass marketing plans must keep separate statistics of historical premium, loss, and expense experience for such plans.

(b) The use of modified rate plans previously approved by the Commissioner of Insurance and based on the expense experience of the mass marketing plan will be allowed. It is further provided that the historical premium, loss, and expense experience will be reported annually to the Commissioner in the manner that may be established by the Commissioner, no later than March 31 of the following year and to the statistics-gathering organizations in the manner provided by such in their statistical plans.

Sections 7. - PRODUCERS. No insurer will write any mass marketing plan except through an authorized agent of such insurer or broker, who are residents of Puerto Rico. A general agent may not be a producer unless the agent holds a corporate agent license.

Section 8. - COMPULSORY FACILITIES. Any agent or broker that sells insurance under a mass marketing plan, shall, with respect to any employee or member that requests insurance under

the plan, but is denied coverage, or whose policy is cancelled or not renewed, offer such persons their services as a broker or agent for placing the insurance through the Puerto Rico Assigned Risk Plan or the Puerto Rico Joint Underwriting Association for Fire and Allied Lines.

Section 9. - FICTITIOUS GROUPS PROHIBITED.

(a) No insurer, whether authorized or not, will provide to any firm, group, or association of individuals by means of a rating plan or property, vehicle, warranty or accident insurance policy any kind of preferred premiums based on a fictitious group of such firm, group, or association of individuals and no master property, vehicle, warranty or accident policy or certificate issued to a fictitious group based on any preferred rate or policy form will include any resident or group of residents of Puerto Rico in such coverage.

(b) A fictitious group is defined herein as any group not described in Section 3 of this Rule. It is further provided that such groups will be permitted by prior approval by the Commissioner of Insurance, when it is shown to the satisfaction of the Commissioner that such groups will not create unfair discrimination nor have they been formed for the purpose of obtaining such insurance, nor by reason of religious beliefs, political beliefs, sex, ethnic origin, nationality or race.

Section 10. - TERMINATION OF THE PLAN. A mass marketing plan, once established by the insurer, may accept new members and/or renew policies that are in effect but may not cancel those that are in effect except for the reasons set forth in section 4(h). For said purpose, the insurer must send written notice to the representatives of the eligible group and to the Commissioner of Insurance, stating the reasons for such termination, no less than thirty (30) days before the date on which the insurer intends to terminate the plan. The termination of the plan, as has been stated, will in no way affect the contracts that are in effect at the time of such termination and said contracts will continue to be in effect until their normal expiration.

Section 11. - APPLICABILITY. This Rule is in addition to, but not in substitution of, other applicable requirements set forth in the Puerto Rico Insurance Code and the Insurance Regulations. The requirements of this Rule, except the provisions of Section 9, are not applicable to marketing methods other than mass marketing plans as defined in section 3.

Section 12. - All mass marketing plans that are registered and legally in use on the effective date of this Rule or any amendment thereof will have one year from such date to satisfy the requirements established in this Rule.

Article 2. - This amendment will enter into effect five days after publication in a newspaper of general circulation once a week for two consecutive weeks after approval.

Approved: July 30, 1974

Amended: September 30, 1981

October 11, 1982

Juan Antonio García  
Commissioner of Insurance