

certain factors that may affect the insurance protection available to you under the new policy.

1. Health conditions which you may presently have, (preexisting conditions) may not be immediately or fully covered under the new policy. This could result in denial or delay of a claim for benefits present under the new policy, whereas a similar claim might have been payable under your present policy.

2. You may wish to secure the advice of your present insurer or its producer regarding the proposed replacement of your present policy. This is not only your right but it is also in your best interests to make sure you understand all the relevant factors involved in replacing your present coverage.

3. If, after due consideration, you still wish to terminate your present policy and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical/health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy had never been in force. After the application has been completed and before you sign it, reread it carefully to be certain that all information has been properly recorded.

[Company Name] _____

Date Mailed or Provided to Applicant _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1964 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:2010 (November 2018).

James J. Donelon
Commissioner

1811#004

RULE

**Department of Insurance
Office of the Commissioner**

**Regulation 110—Declaratory Orders
(LAC 37:XIII.Chapter 157)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950, et seq., has adopted Regulation 110—Declaratory Orders.

R.S. 49:962 provides that “each agency shall provide by rule for the filing and prompt disposition of petitions for declaratory orders and rulings as to the applicability of any statutory provision or of any rule or order of the agency.” Additionally, R.S. 22:2(E) provides that “the commissioner of insurance shall have the authority to make reasonable rules and regulations, not inconsistent with law, to enforce, carry out, and make effective the implementation of this Code.” The purpose of Regulation 110 is to define declaratory orders and to provide for the filing and prompt disposition of petitions for declaratory orders. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 157. Regulation 110—Declaratory Orders

§15701. Purpose

A. The purpose of Regulation 110 is to define declaratory orders and to provide for the filing and prompt disposition of declaratory orders, as authorized by R.S. 49:962.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15703. Definitions

A. As used in Regulation 110, the following terms shall have the meanings specified.

Commissioner—the commissioner of the Louisiana Department of Insurance.

Department—the Louisiana Department of Insurance.

Declaratory Order—a written statement issued by the department at the request of a person regulated by the department as to the applicability of any statutory provision or of any rule or order of the agency.

Litigation—involvement in any civil, criminal, administrative, regulatory, or disciplinary proceeding or action.

Person—any individual, company, insurer, association, organization, reciprocal or inter-insurance exchange, partnership, business, trust, limited liability company, or corporation regulated by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15705. Declaratory Orders, Generally

A. A declaratory order is not an agency rule or regulation but shall have the same status as a final agency decision or an order in an adjudicated case.

B. A declaratory order shall have effect only upon the person requesting it and the commissioner and shall continue in effect unless a subsequent bulletin, advisory letter, directive, rule/regulation, court case, or statute supersedes it, or until the commissioner rescinds it. If a declaratory order is superseded or rescinded, such action shall have effect prospectively only, and the declaratory order shall cease to be effective as of 30 days after the date of the action that superseded or rescinded it.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15707. Disposal of Petitions; Form; Reasons to Issue or not Issue Declaratory Orders

A. The commissioner shall decide within 60 days after the filing of a petition for a declaratory order whether to accept or reject the petition.

B. A petition for a declaratory order shall be submitted in writing to the commissioner, in the manner specified on the department’s website, by a person regulated by the department or the person’s legal representative. Petitions shall contain the following information:

1. the title of the petition (e.g., “Petition for Declaratory Order”);

2. the name, address, and telephone number of the person regulated by the department requesting the declaratory order;

3. a power of attorney or mandate, if the person is represented by a third party;

4. specific questions to be answered or issues to be addressed;

5. complete statement of all relevant facts;

6. citations to or copies of relevant statutes, rules/regulations, or orders of the department at issue, and, if the petitioner takes a specific position on the issue, the arguments, reasons, and provisions of law supporting such position;

7. copies of all relevant documents; and

8. a signed statement stating to the best of the person's knowledge:

a. whether the person requesting the declaratory order has the same issue under examination or review with the department or any other insurance regulator;

b. whether the person requesting the declaratory order has been notified in writing that an examination with the department or any other insurance regulator is pending;

c. whether the person requesting the declaratory order is litigating the issue in the state of Louisiana or is aware of the person's involvement in litigation on the same issue in other jurisdictions;

d. whether the department or any other insurance regulator has previously issued a declaratory order or ruling, no-action letter, or similar declaratory statement on the same issue (with a copy attached);

e. whether the attorney general has been, or will be, requested to issue an opinion concerning the issue prior to the issuance of the declaratory order; and

f. that, prior to the issuance of a declaratory order, if the requesting person is notified of a pending examination by the department or any other insurance regulator, the requesting person will notify the commissioner of the pending examination.

C. A petition for a declaratory order may not be used to delay or interrupt an examination.

D. Reasons for issuing a declaratory order may include but not be limited to:

1. it has been requested by a person regulated by the department, or the person's representative who has a power of attorney or mandate; and

2. the law and rules/regulations or department's orders are not clear.

E. Reasons for not issuing a declaratory order may include but not be limited to:

1. the law and rules/regulations or department's orders are clear;

2. a rule/regulation would be more appropriate under the Administrative Procedure Act;

3. the inquiry concerns alternative fact scenarios, speculative or supposed facts, or purely hypothetical situations;

4. the inquiry concerns matters scheduled for an examination or currently involved in an examination, appeal, or litigation;

5. the inquiry concerns an issue that is being litigated or may be litigated in the near future;

6. the request is incomplete because it does not contain all of the information required by §15707.B;

7. the request can best be handled by another means, such as through issuance of a bulletin, advisory letter, directive, or rule/regulation; or

8. the requesting person withdraws the request at any point prior to issuance of the declaratory order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2011 (November 2018).

§15709. Rescissions

A. The commissioner reserves the right to change positions reflected in prior declaratory orders. If a declaratory order is rescinded due to a change in the commissioner's position, the rescinded declaratory order ceases to be effective as of 30 days after the date of the rescission.

B. If a declaratory order is rescinded and is subsequently reissued due to a change in the commissioner's position, the rescinded declaratory order ceases to be effective as of 30 days after the date of the rescission, and the reissued declaratory order shall be effective as of the effective date of the rescission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15711. Confidential or Privileged Treatment

A. The commissioner shall maintain as confidential or privileged any documents, materials, or other information submitted with or included in a petition for a declaratory order that are required to be maintained as confidential or privileged pursuant to any provision of Title 22 of the Revised Statutes, any exception to the Public Records Law (R.S. 44:1 et seq.), or any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15713. Effective Date

A. Regulation 110 shall become effective upon promulgation in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

§15715. Severability

A. If any Section or provision of Regulation 110 or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Regulation 110 to any persons or circumstances that can be given effect without the invalid section or provision or application, and, for these purposes, the Sections and provisions of Regulation 110 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:2(E) and 49:962.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 44:2012 (November 2018).

James J. Donelon
Commissioner

1811#009