



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

July 13, 2022

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
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ELECTRONIC TRANSMISSION
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The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
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ELECTRONIC TRANSMISSION
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The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
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The Honorable Mike Huval
Chairman of the House Insurance Committee
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RE: Summary Report, Regulation 84—Recognition and Selection of the Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative Huval:

The Louisiana Department of Insurance (LDI) hereby submits the following summary report required by La. R.S. 49:968(D)(1)(b) and announces its intention to proceed with final rulemaking of Regulation 84, which was published as a Notice of Intent in the June 2022 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI on the proposed regulation. The LDI did not receive any written or oral comments before the end of the comment period.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 42
Group Self-Insurance Funds**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule revisions repeal Regulation 80, which was implemented under the provisions of Act 878 of 2004. This regulation exempted commercial property and casualty insurers from the rate approval process unless the commissioner determines that the market for a line of insurance is noncompetitive. LDI is amending Regulation 42 to update statutory references and revise language to align with current law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule revisions amend Regulation 42. LDI is amending Regulation 42 to update statutory references and revise language to align with current law.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

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Evan Brasseaux
Interim Deputy Fiscal Officer
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NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 84—Recognition and Selection of the
Applicable CSO Mortality Table in Determining Minimum
Reserve Liabilities and Nonforfeiture Benefits
(LAC 37:XIII.Chapter 107)**

The Department of Insurance, pursuant to the authority of Louisiana Insurance Code, R.S. 22:1 et seq., specifically R.S. 22:11, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 84—Recognition and Use of the 2001 CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits, henceforth known as Regulation 84—Recognition and Selection of Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

The purpose of Regulation 84 is to prescribe usage of the appropriate mortality tables for life insurance, particularly minimum reserve liabilities and nonforfeiture benefits, in recognition of the Standard Valuation Manuals adopted by the National Association of Insurance Commissioners (NAIC). Policies issued on or after January 1, 2020 will now use mortality tables from the Valuation Manuals most recently adopted by NAIC, rather than the 2001 CSO Mortality Table in use immediately prior to that date.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 107. Regulation 84—Recognition and Selection
of Applicable CSO Mortality Table in
Determining Minimum Reserve
Liabilities and Nonforfeiture Benefits**

§10701. Authority

A. This regulation is promulgated by the commissioner of insurance pursuant to authority granted under the Louisiana Insurance Code, Title 22, §22:1 et seq., particularly the Standard Valuation Law, see Title 22, §753 and the Standard Nonforfeiture Law for Life Insurance, see Title 22 §936.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:

§10703. Purpose

A. The purpose of this regulation is to recognize, permit and prescribe the use of the applicable Commissioners Standard Ordinary (CSO) Mortality Table in accordance with R.S. 22:753 (the Standard Valuation Law for Life Insurance), R.S. 22:936 (the Standard Nonforfeiture Law for Life Insurance) and Sections 10909.A and Sections 10909.B of Regulation 85.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:

§10705. Definitions

* * *

Valuation Manual—manual of valuation instructions as adopted by NAIC that sets forth the minimum reserve and related requirements for jurisdictions where the Standard Valuation Law or legislation including substantially similar terms and provisions has been enacted. The purpose of the VM-20 is to assign the appropriate CSO mortality table and interest rate for use in determining the minimum nonforfeiture standard for life insurance policies issued on or after the operative date of the applicable *Valuation Manual* as authorized and superseded by applicable state requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2541 (October 2005), amended LR 48:

§10707. CSO Mortality Tables

A. At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this regulation, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after January 1, 2005 and before the date specified in Subsection B to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes. Notwithstanding the preceding, the commissioner may

specify restrictions on the use of this table for certain categories of life insurance for which the use of this table's mortality assumption is not representative of the business' underlying mortality experience.

B. Subject to the conditions stated in this regulation, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued January 1, 2009 through December 31, 2016, to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable.

C. Subject to the conditions stated in this regulation, either the 2001 CSO Mortality Table or the 2017 CSO Mortality Table may be used in determining the minimum standards for policies issued January 1, 2017 through December 31, 2019, to which R.S. 22:753, R.S. 22:936 and Sections 10909.A and B of Regulation 85 are applicable.

D. Subject to the conditions stated in this regulation, minimum standards for policies issued on or after January 1, 2020 shall be determined using the mortality table in the Valuation Manual adopted by the NAIC at the time of issuance of the policy.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005), amended LR 48:

§10709. Conditions

A. - A.1. ...

2. smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by R.S. 22:753 and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

A.3. - B. ...

C. For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 10911 of Regulation 85 relative to use of the select and ultimate form.

D. When the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the commissioner shall be based on an asset adequacy analysis as specified in §2109.A.1 of Regulation 47 of the Louisiana Insurance Regulations. A commissioner may exempt a company from this requirement if it only does business in this state and in no other state.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005), amended LR 48:

§10711. Applicability of the 2001 CSO Mortality Table or Its Successor Table to Regulation 85

A. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, may be used in

applying Regulation 85 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, in §10707 of this regulation.

1. Section 10905.A.(2).(b). The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20.

2. Section 10907. All calculations are made using the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in §10909.B of this regulation. The value of "qx+k+t+1" is the valuation mortality rate for deficiency reserves in policy year k+t, using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves.

3. Section 10909.A. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum standard for basic reserves.

4. Section 10909.B. The 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in §10909.B.3.a. through i. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20, unless the combination is explicitly required by regulation or necessary to be in compliance with relevant actuarial standards of practice.

5. Section 10911.C. The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table, or its successor table adopted by the NAIC and detailed in VM-20.

6. Section 10911.E.4. The calculations specified in §10911.E shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

7. Section 10911.F.4. The calculations specified in §10911.F shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

8. Section 10911.G.2. The calculations specified in §10911.G shall use the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

9. Section 10913.A.1.b. The one-year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table or its successor table adopted by the NAIC and detailed in VM-20.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2542 (October 2005).

§10713. Gender-Blended Tables

A. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2005, through December 31, 2016, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

B. For any ordinary life insurance policy delivered or issued for delivery in this state on and after January 1, 2017, until the operative date of VM-20 as established by the NAIC, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2017 CSO Mortality Table (M) and the 2017 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2017 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

C. For any ordinary life insurance policy delivered or issued for delivery in this state on and after the operative date of VM-20 as established by the NAIC, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is prescribed in VM-20 that is a blend of the prescribed mortality tables male and female rates may, at the option of the company for each plan of insurance, be substituted for the prescribed mortality table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this Subsection of the regulation.

D. The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

E. It shall not, in and of itself, be a violation of R.S. 22:1211 et seq. for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 48:

§10717. Effective Date

A. This regulation shall take effect upon final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, 22:753, 22:936 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2543 (October 2005), amended LR 48:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the

adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed rule. The proposed regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulation will have no effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulation will have no effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, by faxing comments to (225) 342-1632, or electronically at regulations@ldi.la.gov. Comments will be accepted through the close of business, 4:30 p.m., July 11, 2022.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 84—Recognition and Selection of the Applicable CSO Mortality Table in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule is not anticipated to result in implementation costs or savings to the state or local governmental units. The proposed rule is being amended to allow the use of mortality tables from the Valuation Manuals most recently adopted by the NAIC.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule is not anticipated to result in any costs to directly affected persons, small businesses or non-governmental groups. The rule is amended to prescribe policies issued on or after January 1, 2020 to use mortality tables from the Valuation Manuals most recently adopted by NAIC.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will have no impact upon competition and employment in the state.

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Evan Brasseaux
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Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 100—Coverage of Prescription
Drugs through a Drug Formulary
(LAC 37:XIII.Chapter 41)**

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to amend Regulation 100 to provide updates in regard to the specific notice requirements a health insurance issuer must follow when implementing a modification of certain drug coverages in accordance with Act No. 217 of the 2021 Regular Session.

**Title 37
INSURANCE**

Part XIII. Regulations

Chapter 41. Regulation Number 100—Coverage of Prescription Drugs through a Drug Formulary

§14101. Purpose

A. ...

B. The purpose of the amendment to Regulation 100 is to update the Regulation to account for the notice requirements that were added to R.S. 22:1068(D)(3) and R.S. 22:1074(D)(3) by Act No. 217 of the 2021 Regular Session that a health insurance issuer must follow when modifying certain drug coverages offered in the group and individual markets.

AUTHORITY NOTE: Promulgated in accordance with R.S.22:11, R.S. 1068(D) and R.S. 22:1074(D).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 38:1028 (April 2012), amended LR 48:

§14111. Requirements for the Modification Affecting Drug Coverage

A. - B. ...

C. A modification of drug coverage for any drug increasing over \$300 per prescription or refill with an increase in the wholesale acquisition cost of at least 25% in the prior 365 days may occur at any time provided that 30-day notice of the modification of coverage is given. The 30-day notice of the modification of coverage shall include information on the health insurance issuer's process for an enrollee's physician to request an exception from the health