

November 28, 1967

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 8 (1967)

TO ALL INSURERS WRITING GROUP ACCIDENT AND HEALTH INSURANCE:

Your attention is directed to a recent ruling by General Counsel of the Department in connection with the payment of a contingent commission upon a favorable loss ratio where group accident and health insurance is involved. In his ruling, he stated, in part:

"they [the provisions of the Insurance Law] require in connection with group accident and health insurance, that any insurer doing business in this State must file with the Superintendent its rates of commissions, compensation or other fees or allowances to agents and brokers and may not pay for services pertaining to the service or administration thereof, 'except such as are rendered in behalf of such insurer'. Thus, any commissions payable to an agent (Section 221(7)) are limited to payment for solicitation or procurement of such insurance or fees or allowances for service or administration, which services are rendered on behalf of the insurer. Any payments not for these limited purposes are improper and unacceptable. On the other hand, Section 222, which deals with blanket accident and health insurance, does not contain any provisions requiring the filing of commission schedules and, in the absence thereof, there would be no filing made or required with respect to contingent commissions based on a favorable loss ratio."

Steps should be taken immediately to revise, as of the date of this circular letter, any agent's contract providing for payment of a contingent commission of the nature encompassed in the above quoted ruling. Retroactive application of the ruling is not contemplated by the Department.

Please acknowledge receipt of this letter.

Very truly yours,

[SIGNATURE]

Superintendent of Insurance