

September 30, 1993

SUBJECT: INSURANCE

Circular Letter No. 4 (1993)
September 30, 1993

TO: ALL INSURERS AND OTHER ENTITIES REQUIRED TO SUBMIT ANNUAL STATEMENTS OR OTHER STATEMENTS AND REPORTS TO THE INSURANCE DEPARTMENT

RE: PENALTIES FOR NON-COMPLIANCE WITH THE FILING REQUIREMENTS SET FORTH IN INSURANCE LAW §§ 307 AND 308

Commencing with annual statements, other statements and/or reports required to be filed on or after March 1, 1994, the Department intends to strictly enforce the statutory filing requirements of §§ 307 and 308 of the Insurance Law and impose civil penalties for any violations thereof.

Pursuant to § 307, every organization which is required to report to the Superintendent or is subject to the examination of the Superintendent must file an annual statement showing its financial condition. Attached are lists of the due dates for filings of annual statements under § 307. Pursuant to § 308 the Superintendent may require the filing of other reports and quarterly or other statements of any authorized insurer and, pursuant to Article 44 of the Public Health Law, of health maintenance organizations.

Section 307(a)(2) provides that the Superintendent shall prescribe the form of the annual statement, which may be a printed document and/or electronic media, that the Superintendent determines best presents a true picture of the condition of the reporting entity. Pursuant to § 308(b), the Superintendent may require the filing of quarterly or other statements in a form which the Superintendent shall prescribe. The Superintendent has prescribed that certain annual statements, other statements, and reports be filed on electronic media as well as in hard copy. Non-compliance with the filing requirements, whether on hard copy or electronic media, may result in the imposition of penalties.

Section 307(a)(4) of the Insurance Law provides, in pertinent part, as follows:

(4) Every insurer and every fraternal benefit society which is authorized to do an insurance business in this state, and every pension fund, retirement system or state fund which is required by any law of this state to report to the superintendent, which willfully fails to file an annual statement as required by this section... shall, in addition to other penalties provided by this chapter, be subject, upon due notice and opportunity to be heard, to a penalty in the amount of up to two hundred fifty dollars [\$ 250] per day of delay, not to exceed twenty-five thousand dollars [\$ 25,000] in the aggregate, for each such failure.

While § 308 does not contain its own penalty provision, penalties for non-compliance with its filing requirements may be assessed pursuant to § 109. Under that section, an authorized insurer who willfully violates the Insurance Law is liable to pay a penalty in a sum not exceeding five hundred dollars [\$ 500] for each offense.

The failure to file annual statements, other statements and reports; the late or incomplete submission of annual statements, other statements and reports; the timely submission of annual statements, other statements and reports which contain incorrect or inconsistent data; and the filing of annual statements, other statements and reports to Department

locations other than those specifically denoted in the instructions for filing such items, constitute a willful failure to timely file such statement or report.

As to annual statement filings which are incomplete, penalties under § 307 will accrue each day until the complete filing is received. Regarding the submission of annual statement filings containing inconsistent or otherwise incorrect data, the violation ends only when the Department receives updated, corrected and consistent data from the filing entity. Until such time, the § 307 penalties will continue to accrue each day.

The Department is aware that many filing entities do not produce the electronic media versions of the annual statement blanks and quarterly reports internally, but instead contract with outside vendors who provide the software for this purpose or produce the electronic media version. These filing entities are hereby informed that they are responsible for the product generated by the vendor or the vendor's software and will be held accountable therefor. Any late or incomplete filings, or filings which contain inconsistencies, whether produced by the filing entity or generated by outside vendors or their software, will be imputed to the filing entity.

Please acknowledge receipt of this Circular Letter by October 29, 1993, in writing, to:

Mr. Mel Kwassman
Principal Insurance Examiner
Insurance Regulatory Systems Bureau
New York State Insurance Department
160 West Broadway
New York, New York 10013

Very truly yours,

[SIGNATURE]

SALVATORE R. CURIALE

Superintendent of Insurance

ANNUAL STATEMENT BLANKS FILING DATES

Annual Statement Blanks	Due Date
Property/Casualty Annual Statement	March 1
Consolidated Annual Statement	April 1
Insurance Expense Exhibit	April 1
Management's Discussion and Analysis	April 1
Schedule H - Accident and Health Exhibit	April 1
Credit Insurance Experience Exhibit	May 1
Long Term Care Experience Reporting Forms	May 1
Audited Financial Statement	June 1
Accident and Health Policy Experience Exhibit	June 30
New York Supplement to Property/Casualty Annual Statement	March 1
Insurance Expense Exhibit - Supplement	April 1

ANNUAL STATEMENT BLANKS FILING DATES

Annual Statement Blanks	Due Date
Accident and Health Policy Experience Exhibit	June 30
Health Maintenance Organizations Annual Statement	April 1
HMO New York Data Requirements - Annual	April 1
Title Annual Statement	March 1
Hospital, Medical and Dental Service or Indemnity Corporation Annual Statement	March 1
New York Supplement to Hospital, Medical and Dental Service or Indemnity Corporation Annual Statement	March 1
Life and A&H Annual Statement	March 1
Schedule S, Part 3C, Sections 1 & 2 and the Schedule S General Interrogatories	April 1
Management's Discussion and Analysis	April 1
Interest Sensitive Life Insurance Products Report	April 1
Credit Insurance Experience Exhibit	May 1
Long Term Care Experience Reporting Forms	May 1
Audited Financial Statement	June 1
Accident and Health Policy Experience Exhibit	June 30
Life, Health & Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit	June 30
Adjustments to Life, Health & Annuity Guaranty Association Model Act Assessment Base Reconciliation Exhibit	June 30
New York Supplement to Life and A&H Annual Statement	March 1
NY Accident and Health Policy Experience Exhibit	June 30
Life and A&H Separate Accounts Annual Statement	March 1
Fraternal Benefit Society Annual Statement	March 1
Interest Sensitive Life Insurance Products Report	April 1
Long Term Care Experience Reporting Forms	May 1
Audited Financial Statement	June 1
Fraternal Benefit Societies - Supplement to Valuation Report	June 30
New York Supplement to Fraternal Benefit Society Annual Statement	March 1
NY Accident and Health Policy Experience Exhibit	June 30
Life and A&H Annual Statement as Approved for Canadian Companies	March 1

ANNUAL STATEMENT BLANKS FILING DATES

Annual Statement Blanks	Due Date
Retirement Systems and Pension Funds Annual Statement (New York Form)	March 1
Charitable Annuities Societies Annual Statement (New York Form)	March 1