

**STATE OF NEW YORK  
DEPARTMENT OF FINANCIAL SERVICES  
THIRD AMENDMENT TO 11 NYCRR 94  
(INSURANCE REGULATION 56)**

**VALUATION OF INDIVIDUAL AND GROUP ACCIDENT AND HEALTH INSURANCE  
RESERVES**

I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1303, 1304, 1305, 1308, 4117, 4217, 4310, and 4517 of the Insurance Law, do hereby promulgate the Third Amendment to Part 94 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 56) to take effect upon publication in the State Register, to read as follows:

**(New Matter is Underscored; Matter in Brackets is Deleted)**

**A new subdivision (v) is added to section 94.3 to read as follows:**

(v) *Worksite disability policy* means an individual short-term disability policy that is sold at the worksite through employer-sponsored enrollment, covers normal pregnancy, and has a benefit period not exceeding 24 months; but does not include a policy providing business overhead expense coverage, disability buyout coverage, or key person disability insurance.

**Section 94.4(b)(1)(ii)(a) is amended to read as follows:**

(a) Claims incurred under an individual policy.

(1)(i) in calculating the claim reserve on any valuation date for a claim incurred under an individual policy prior to January 1, 2020, or prior to an earlier date if elected under subclause (2) of this clause:

[(i)](A) with respect to claim termination rates for claim durations from date of disablement of less than two years, an insurer shall use the termination rates specified in section 94.10 of this Part; provided, however, the insurer may base its termination rates on the insurer's own credible claim termination rate experience or upon other assumptions designed to place a sound value on the liabilities; and

[(ii)](B) claim termination rates for claim durations after the first two years from the date of disablement must be those specified in section 94.10 of this Part.

[(2)](ii) Example: A study of the insurer's claim termination rates shows that for claims terminating in the first 24 months from date of disablement the claim termination rates are 110 percent of the adjusted termination rates shown in section 94.10 of this Part. An open claim as of December 31, 2002 that has a date of disablement of March 31, 2002 and an elimination period of 90 days:

[(i)](A) in order to calculate the claim reserve as of December 31, 2002 an insurer may increase the adjusted termination rates for months 10 through 24 by 10 percent, but must use 100 percent of the adjusted termination rates for all claim durations beyond the 24th month;

[(ii)](B) in order to calculate the claim reserve as of December 31, 2003 an insurer may increase the adjusted termination rates for months 22 through 24 by 10 percent, but must use 100 percent of the adjusted termination rates for all claim durations beyond the 24th month;

(2) An insurer may elect to apply the minimum reserve standards in section 94.10(a)(1)(i)(b)(2) of this Part for a claim incurred under an individual policy on or after January 1, 2017 and prior to January 1, 2020, provided such standards are applied to all applicable claims incurred on or after the date elected.

(3) In calculating the claim reserve on any valuation date for a claim incurred under an individual policy on or after January 1, 2020, or on or after an earlier date if elected under subclause (2) of this clause, the provisions in section 94.10(a)(1)(i)(b)(2)(i), (ii) and (iii) of this Part are not required if the insurer meets the own experience measurement exemption in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172).

(4) Within three years of January 1, 2020, or an earlier date if elected under subclause (2) of this clause, the insurer may elect to apply the standards of section 94.10(a)(1)(i)(b)(2) of this Part to all open claims incurred prior to January 1, 2020. Once an insurer elects to calculate reserves for all open claims based on section 94.10(a)(1)(i)(b)(2) of this Part, all future valuations must be on that basis.

(5) In lieu of subclause (1) through (4) of this clause, for a claim incurred under a worksite disability policy in any year, the insurer may elect to base its reserve on the insurer's own credible experience using claim run-out analysis or claim triangles, or upon other assumptions and methods designed to place a sound value on the liabilities.

**Section 94.10(a)(1)(i) is amended to read as follows:**

(i) Disability income benefits due to accident or sickness.

(a) Contract reserves. In establishing contract reserves:

(1) for contracts issued prior to January 1, 1965: The minimum standard is the standard used prior to that date provided it puts a sound value on the liabilities under the policy. Otherwise the 64CDT shall be used;

(2) for contracts issued on or after January 1, 1965 and prior to January 1, 1989: 64CDT shall be used; and

(3) for contracts issued on or after January 1, 1989 and prior to January 1, 2020, or prior to an earlier date if elected under subclause (4) of this clause: 85CIDA or 85CIDB shall be used. Each

insurer shall elect, with respect to all individual policies issued in any one statement year, whether it will use 85CIDA or 85CIDB as the minimum standard.

(4) An insurer may elect to apply the minimum reserve standards in subclause (5) of this clause for contracts issued on or after January 1, 2017 and prior to January 1, 2020, provided such standards are applied to all contracts issued on or after the date elected.

(5) For contracts issued on or after January 1, 2020, the insurer shall use the 2013 Individual Disability Income Valuation Table (2013 IDI Valuation Table)<sup>6</sup>, which was adopted by the NAIC in 2016, with modifiers as determined in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172).

(6) Within three years of January 1, 2020, or an earlier date that an insurer begins to use the 2013 IDI Valuation Table under subclause (4) of this clause, the insurer may elect to apply that morbidity standard for all policies issued subject to other valuation tables, provided that the insurer:

(i) applies the morbidity standard to all in force policies and incurred claims;

(ii) elects or has elected to apply the 2013 IDI Valuation Table to all claims incurred regardless of incurred date;

(iii) maintains policy records on policies issued prior to January 1, 2020 that include all data elements needed to utilize the 2013 IDI Valuation Table; and

(iv) once the insurer elects to calculate reserves for all in force policies based on the current morbidity standard, the insurer makes all future valuations on that basis.

(b) Claim reserves.

(1) For claims incurred on or after January 1, 2001 and prior to January 1, 2020, an insurer shall use the 85CIDA with claim termination rates multiplied by the following adjustment factor:

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<sup>6</sup> 2013 Individual Disability Income Valuation Table (2013 IDI Valuation Table), published by the National Association of Insurance Commissioners, is hereby incorporated by reference in this Part. The 2013 IDI Valuation Table and instructions are readily available without charge at the following internet address: [http://www.naic.org/documents/01\\_2013\\_idi\\_valuation\\_table\\_workbook\\_and\\_instructions\\_version\\_1\\_3.zip](http://www.naic.org/documents/01_2013_idi_valuation_table_workbook_and_instructions_version_1_3.zip). The 2013 IDI Valuation Table and instructions are also available for public inspection and copying at the New York State Department of Financial Services at One State Street, New York, NY 10004.

<b>Duration</b>	<b>Adjustment Factor</b>	<b>Adjusted Termination Rates*</b>
Week 1	0.366	0.04831
2	0.366	0.04172
3	0.366	0.04063
4	0.366	0.04355
5	0.365	0.04088
6	0.365	0.04271
7	0.365	0.04380
8	0.365	0.04344
9	0.370	0.04292
10	0.370	0.04107
11	0.370	0.03848
12	0.370	0.03478
13	0.370	0.03034
Month 4	0.391	0.08758
5	0.371	0.07346
6	0.435	0.07531
7	0.500	0.07245
8	0.564	0.06655
9	0.613	0.05520
10	0.663	0.04705
11	0.712	0.04486
12	0.756	0.04309
13	0.800	0.04080
14	0.844	0.03882
15	0.888	0.03730
16	0.932	0.03448
17	0.976	0.03026
18	1.020	0.02856
19	1.049	0.02518
20	1.078	0.02264
21	1.107	0.02104
22	1.136	0.01932
23	1.165	0.01865
24	1.195	0.01792
Year 3	1.369	0.16839
4	1.204	0.10114
5	1.199	0.07434
6 and later	1.000	**

\*The adjusted termination rates derived from the application of the adjustment factors to the DTS Valuation termination rates shown in exhibits 3a, 3b, 3c, 4, and 5 (*Transactions of the Society of*

*Actuaries (TSA) XXXVII*, pp. 457-465) is displayed. The adjustment factors for age, elimination period, class, sex, and cause displayed in exhibits 3a, 3b, 3c, and 4 are applied to the adjusted termination rates shown in this table.

\*\*Applicable DTS Valuation Table duration rate from exhibits 3c and 4 (*TSA XXXVII*, pp. 462-463).

The 85CIDA tables so adjusted for the computation of claim reserves shall be known as The Commissioners Individual Disability Tables C (85CIDC).

(2) For claims incurred on or after January 1, 2020, the insurer shall use the 2013 IDI Valuation Table with modifiers as determined in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172), including:

(i) the use of the insurer's own experience as determined in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172);

(ii) an adjustment to include an own experience measurement margin as determined in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172); and

(iii) the application of a credibility factor as determined in accordance with the standards of valuation of individual disability income reserves governed by Part 83 of this Title (Insurance Regulation 172).

[(2)](3) For claims incurred prior to January 1, 2001, each insurer may elect one of the following to use as the minimum standard:

(i) the minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the claim is incurred; or

(ii) the standard as defined in subclause (1) or (2) of this clause, applied to all open claims, provided the insurer maintains claim records that include all data elements needed to utilize the standard defined in subclause (1) or (2) of this clause.

Once an insurer elects to calculate reserves for all open claims on the standard defined in subclause (1) or (2) of this clause, all of the insurer's future valuations must be on that basis. This option, with respect to subclause (2) of this clause, may be selected only if the insurer maintains claim records that include all data elements needed to utilize the 2013 IDI Valuation Table.

[(3)] (4) For policies with an elimination period, the insurer shall consider the duration of disablement [should be considered] as dating from the time that benefits would have begun to accrue had there been no elimination period.

[(4) A] (5) An insurer shall consider a new disability connected directly or indirectly with a previous disability, which had a duration of at least one year and terminated within six months of the new disability, [should be considered] to be a continuation of the previous disability.

**Footnote 6 in section 94.10(a)(1)(ii)(a)(1) is renumbered as footnote 7.**

**Footnote 7 in section 94.10(a)(1)(ii)(a)(2) is renumbered as footnote 8.**

**Footnote 8 in section 94.10(a)(1)(iii)(a) is renumbered as footnote 9.**

**Footnote 9 in section 94.10(a)(1)(iv)(a) is renumbered as footnote 10.**

**Footnote 10 in section 94.10(c)(1) is renumbered as footnote 11.**



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

I, Maria T. Vullo, Superintendent of Financial Services, do hereby certify that the foregoing is the Third Amendment of Part 94 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 56) signed by me on June 29, 2017 pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301, 1303, 1304, 1305, 1308, 4117, 4217, 4310, and 4517 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the State Register on April 26, 2017. No other publication or prior notice is required by statute.

A handwritten signature in cursive script, reading 'Maria T. Vullo', written in black ink.

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Maria T. Vullo  
Superintendent of Financial Services

Date: June 29, 2017