

**SUBCHAPTER GG. Minimum Reserve Standards for Individual
and Group Accident and Health Insurance****28 TAC §3.7001**

INTRODUCTION. The Texas Department of Insurance adopts amendments to 28 TAC §3.7001, concerning the minimum reserve standards for individual and group accident and health insurance. Section 3.7001 implements Insurance Code §425.072. The amendments are adopted with changes to the proposed text published in the June 15, 2018, issue of the *Texas Register* (43 TexReg 3864). Section 3.7001(a)(2) and (3) are changed to correct punctuation errors by adding two commas.

REASONED JUSTIFICATION. Amending §3.7001 is necessary for the following two reasons: (1) to comply with Insurance Code §425.072(a), which requires using the valuation manual for setting reserves on accident and health insurance policies issued on or after the operative date; and (2) to provide for the same claim reserve requirements on all new claims under accident and health insurance policies, regardless of the policy's issue date.

The valuation manual currently provides claim reserve requirements for accident and health insurance policies issued on and after the operative date of the valuation manual (operative date), which was January 1, 2017. Senate Bill 1654, 84th Legislature, Regular Session (2015), requires that insurers use the valuation manual for reserve requirements for policies issued on and after the operative date. It also provides that policies issued prior to the operative date use the reserve requirements "in existence prior to the operative date of the valuation manual in addition to any requirements established by the commissioner and adopted by rule." Amending the rule to align the claim reserve requirements for claims incurred after the operative date on policies issued prior to the operative date with those claim reserve requirements of the valuation manual will adopt the same claim reserve requirements, regardless of the issue date, which is consistent with the intent of SB 1654.

Section 3.7001 provides the scope and general standards for coverages in Subchapter GG, which addresses the minimum reserve standards for individual and group accident and health insurance. Minimum reserve standards are technical requirements, such as morbidity tables and

appropriate assumptions, that are used by actuaries to determine the amount of claim reserves an insurer needs to hold. Amending §3.7001 is necessary to comply with Insurance Code §425.072 for policies issued after the operation date. The amendments are also necessary to provide for the same claim reserve requirements regardless of the issue date. The text of §3.7001 as proposed is changed by adding commas following "January 1, 2009," where it appears in §3.7001(a)(2) and (3).

SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenter: TDI received one written comment from the American Council of Life Insurers in support of the proposal without changes.

General.

One commenter supports the direction of the proposed amendments.

Agency Response to Comment.

TDI appreciates the supportive comment.

SUBCHAPTER GG.**28 TAC §3.7001.**

STATUTORY AUTHORITY. TDI adopts the amendments to §3.7001 under Insurance Code §§425.072, 421.001, and 36.001.

Insurance Code §425.072 provides the minimum standard of valuation for disability, accident and sickness, and accident and health insurance contracts. The standard for contracts issued on or after the operative date is the valuation manual and the standard for contracts issued before the operative date is the standard in existence before the operative date in addition to any requirements established by the Commissioner and adopted by rule.

Insurance Code §421.001(a) and (b) require insurers to maintain reserves for losses or claims as well as the expenses to adjust or settle those losses or claims. Insurance Code §421.001(c)

requires that the Commissioner shall adopt each current formula recommended by the National Association of Insurance Commissioners for establishing reserves for each line of insurance.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. The adopted amendments to §3.7001 implement Insurance Code §425.072, enacted by SB 1654, 84th Legislature, (Regular Session) (2015).

TEXT.**§3.7001. Introduction.**

(a) Scope and general standards.

(1) Pursuant to Insurance Code §425.072, all individual and group accident and health insurance coverages, including single premium credit accident and health insurance contracts, issued on and after January 1, 2017, are required to follow the standards and reserve requirements provided in the valuation manual adopted by the department pursuant to Insurance Code §425.073.

(2) In establishing claim reserves for all individual and group accident and health insurance coverages issued before January 1, 2017, and single premium credit accident and health insurance contracts issued on or after January 1, 2009, and before January 1, 2017, the provisions of this paragraph apply. An insurer may use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2016, and before January 1, 2019, and must use applicable requirements in the valuation manual for claim reserves for valuations after December 31, 2018.

(3) Unless paragraph (1) or (2) of this subsection applies, the standards in this subchapter apply to all individual and group accident and health insurance coverages issued before January 1, 2017, as well as single premium credit accident and health insurance contracts issued on or after January 1, 2009, and before January 1, 2017. All other credit insurance is not subject to the requirements provided by this paragraph.

(4) When an insurer determines that adequacy of its health insurance reserves requires reserves in excess of the minimum standards specified in this subchapter, such increased reserves must be held and must be considered the minimum reserves for that insurer.

(5) With respect to any block of contracts, or with respect to an insurer's health business as a whole, a prospective gross premium valuation is the ultimate test of reserve adequacy as of a given valuation date. Such a gross premium valuation would take into account, for contracts in force, in a claims status, or in a continuation of benefits status on the valuation date, the present value as of the valuation date of: all expected benefits unpaid, all expected expenses unpaid, and all unearned or expected premiums, adjusted for future premium increases reasonably expected to be put into effect.

(6) Such a gross premium valuation must be performed whenever a significant doubt exists as to reserve adequacy with respect to any major block of contracts, or with respect to the insurer's health business as a whole. In the event inadequacy is found to exist, immediate loss recognition must be made and the reserves restored to adequacy. Adequate reserves (inclusive of claim, premium, and contract reserves, if any) must be held with respect to all contracts, regardless of whether contract reserves are required for such contracts under the standards required under this subchapter.

(7) Whenever minimum reserves, as defined in this subchapter, exceed reserve requirements as determined by a prospective gross premium valuation, such minimum reserves remain the minimum requirement under these standards.

(b) Categories of reserves. The following sections set forth minimum standards for three categories of health insurance reserves: §3.7002 of this title (relating to Claim Reserves); §3.7003 of this title (relating to Premium Reserves); and §3.7004 of this title (relating to Contract Reserves). Adequacy of an insurer's health insurance reserves is to be determined on the basis of all three categories combined. However, the standards in these sections emphasize the importance of determining appropriate reserves for each of the three categories separately.

(c) Sections 3.7006, 3.7007, 3.7008, and 3.7009. Section 3.7006 and §3.7007 of this title (relating to Specific Standards for Morbidity, Interest, and Mortality; and Glossary of Technical Terms Used) are an integral part of the standards specified in §§3.7001 - 3.7005 of this title

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(relating to Introduction; Claims Reserves; Premium Reserves; Contract Reserves and Reinsurance). Section 3.7008 of this title (relating to Reserves for Waiver of Premium) is supplementary and is not part of the standards as such, but is included for explanatory and illustrative purposes only. Section 3.7006 of this title contains specific minimum standards with respect to morbidity, interest, and mortality, which apply to claim reserves according to year of incurral and to contract reserves according to year of issue. Section 3.7007 of this title consists of a glossary of technical terms used. Section 3.7008 of this title is supplementary and deals with waiver of premium reserves. For the purchase of existing business under certain circumstances, see §3.7009 of this title (relating to Purchase or Assumption of Existing Business).

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on November 12, 2018

/s/ Norma Garcia

Norma Garcia
General Counsel
Texas Department of Insurance

The Commissioner adopts amendments to 28 Texas Administrative Code §3.7001.

Kent C. Sullivan
Commissioner of Insurance

By: /s/ Doug Slape

Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

COMMISSIONER'S ORDER NO. **2018-5719**