2023 Excepted Benefits Moratorium Bulletin FAQs

Q: Can we continue to sell our previously approved excepted benefits plans?
A: Yes.

Q: Can we continue to advertise for our previously approved plans?
A: Yes, so long as your advertisements were approved.

Q: Can we submit new advertisements for approval?
A: Yes if the advertisements apply to previously approved plans.

Q: Can we request rate increases for previously approved plans during the moratorium?
A: Yes, though rate increases are subject to review and approval. Unreasonable rate increases will not be approved.

Q: How long will the moratorium last?
A: Until the final effective date of the amended regulation, which is pending in Case No. 2023-0007.

Q: Can we submit plans for approval under the new regulation before the moratorium is over?
A: Yes, but they will be reviewed for approval under the final regulation.

Q: Does this apply to Medicare Supplemental, dental, vision, long-term care, credit life or credit health plans?
A: No, these plans are not subject to 13.10.34 NMAC.

Q: Can we sell new disability income plans if they are approved under the compact?
A: Yes, New Mexico accepts all products approved under the Insurance Compact. State regulations found in 13.10.34 NMAC, and any accompanying Bulletins, have no impact on Insurance Company filings.

Q: Can we update forms for previously approved excepted benefits plans if the changes are not material in nature?
A: Yes, if the previously approved excepted benefits plan meets grandfathering criteria under the final rule, currently effective July 1, 2023. Carriers are required to complete and upload the OSI Grandfathered Plan Status Form available here.

Q: Can we update forms for previously approved excepted benefits that are not subject to the final rule, 13.10.34, effective July 1, 2023?
A: No.

Q: Can we submit a plan for review and approval under the current regulation, after July 1, 2023?
A: No. The current version of the rule is repealed effective July 1, 2023, regardless of the ultimate effective date of the new regulation that will be determined in Case No 2023-0007.

Q: Can we submit an amended application for use with previously approved policy forms that are grandfathered?
A: No. Previously approved products that meet the grandfathering criteria of 13.10.34.2(C) NMAC cannot be sold to new individuals or groups.

Q: Can we submit an endorsement for use with previously approved policy forms that are grandfathered?
A: No. Material changes to previously approved forms will spoil the grandfathering status of a product, as permitted under 13.10.34.2(C) NMAC.

Q. The final Rule carves out an exception to the rule for extraterritorial plans that meet the criteria specified in 13.10.34.2(B). Do we need to file anything to access that exemption?
A. Yes. Carriers must submit an informational filing that includes a PDF pipeline of the entire product filing that was approved in the state with laws and regulations that are presumably equivalent to or more protective than New Mexico law. OSI will evaluate the approved form and let the filer know if the approved product meets this criteria.