

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Sections 311 and 2312 (18 **Del.C.** §§311 & 2312)
18 **DE Admin. Code** 902

GENERAL NOTICE

PUBLIC NOTICE OF NEW HEARING DATE AND EXTENDED COMMENT PERIOD

902 Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26]

Summary

The Commissioner of the Delaware Department of Insurance is extending until November 10, 2021, the comment period for the third re-proposal of amendments to Regulation 902 - Prohibited Unfair Claim Settlement Practices [Formerly Regulation 26]. Notice of the third re-proposal of amendments to Regulation 902 was published in the August 1, 2021 *Register of Regulations* at 25 **DE Reg.** 156 (08/01/2021).

As described in the third re-proposal, the Department has determined to revise proposed new subparagraph 3.2 to clarify that:

- The four percent of claims found to be a violative general business practice must fall within the same category of prohibited practices as listed in subsection 3.1 of the regulation;
- The violative general business practice must also fall within the same 12-month period;
- The presumption applies under all of 18 **Del.C.** §2304(16); and
- The presumption does not apply to health care claims to which Regulation 1310 applies.

The Department also proposes to add new subsection 3.3 to clarify that the presumption that a general business practice violation occurred does not, in and of itself, create an additional and separate general business practice violation.

The Department also proposes to add new subsection 3.4 to set forth a procedure that an insurer may follow to rebut the presumption that a violative general business practice has occurred. This proposed new subsection is modeled after a similar provision in the Code of Maryland Regulations at COMAR 31.15.07.09.

The Department proposes to add new subsection 3.5 that limits the cause of action afforded under the regulation to enforcement actions conducted by the Commissioner. Proposed new subsection 3.6 excepts from regulation under Section 3.0 those health care general business practice violations that are otherwise regulated by 18 **DE Admin. Code** 1310.

Public Comment

The Department is holding a virtual public hearing and a simultaneous in-person meeting on the proposed amendments to Regulation 902 on **Tuesday, October 26, 2021 at 10:00 a.m.** The hearing will be facilitated through Microsoft Teams Meeting as follows:

Join on your computer or mobile app

https://teams.microsoft.com/dl/launcher/launcher.html?url=%2F_%23%2F%2Fmeetup-join%2F19%3Ameeting_NDBjMTFkNjctM2JiYS00YTJILWE5OGUtZjZiZDRjMTk5Y2Mw%40thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%25228c09e569-51c5-4dee-abb2-8b99c32a4396%2522%252c%2522Oid%2522%253a%2522c35eb0e1-3e8a-4ac7-86be-43ca4a7af9b4%2522%257d%26CT%3D1631712739365%26OR%3DOutlook-Body%26CID%3D00DDD0D0-659F-479A-992C-24023DA3C584%26anon%3Dtrue&type=meetup-join&deeplinkId=9bd3218b-9ac8-4865-961f-5f5f513c634f&directDI=true&msLaunch=true&enableMobilePage=true&suppressPrompt=true

Join with a video conferencing device

979352250@t.plcm.vc

Video Conference ID: 118 603 174 9

Or call in (audio only)

+1 302-504-8986,,910040336# United States, Wilmington

Phone Conference ID: 910 040 336#

The proposed amendments can be found at <https://regulations.delaware.gov/register/august2021/proposed/25%20DE%20Reg%20156%2008-01-21.htm> and may also be viewed on the Department of Insurance website at <https://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed amendments to the regulation. Any written submission in response to this notice and relevant to the proposed amendments must be received by the Department of Insurance no later than 4:30 p.m. EST, the 10th day of November,

2021. Any such requests and any questions concerning connecting to the public hearing should be directed to:

Regulatory Specialist/Legal Unit
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25 DE Reg. 424 (10/01/21) (Gen. Notice)