

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 04 .0416

RECOMMENDED ACTION:

- Approve, but note staff's comment
- X Object, based on:
 - X Lack of statutory authority
 - Unclear or ambiguous
 - Unnecessary
 - Failure to comply with the APA
- Extend the period of review

COMMENT:

This Rule governs the billing procedures by insurers for automobile insurance. The two laws cited in the History Note, G.S. 58-9 and 58-248.34, do not exist. Staff notes that the Rule was last amended by the agency in 1989, so it is possible the citations were recodified in the past 30 years. However, staff cannot discern whether those laws ever existed or what they would be codified as in the current General Statutes.

As the agency has not presented any authority to promulgate this Rule, staff recommends objection for lack of statutory authority.

Amanda J. Reeder
Commission Counsel

1 **11 NCAC 04 .0416** is readopted as published in NCR 35:14 1558 as follows:

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3 **11 NCAC 04 .0416 BILLING PROCEDURES FOR AUTOMOBILE INSURANCE**

4 (a) With respect to new business, an insurer shall take no more than 90 days from the effective date of the policy to
5 make any investigation other than review of the initial application and to bill the insured for proper classification or
6 sub-classification.

7 (b) With respect to renewal business, an insurer shall not bill for any additional premium after the renewal quotation is
8 made (for any condition which existed at the time of renewal and which is on the driver's motor vehicle record).

9 (c) With respect to renewal business, if the insured does not provide complete rating information necessary to
10 underwrite the policy or makes an effort to withhold rating information, the insurer shall take no more than 90 days
11 from the effective date of the renewal to make inquiry of the insured, to make any other investigation and to bill the
12 insured for proper classification and sub-classification.

13 (d) When an insurer obtains information from sources other than the Department of Motor Vehicles for use in
14 underwriting an automobile policy and the insured alleges that such information is incorrect, the insurer shall verify the
15 accuracy of such information.

16 (e) Unearned premium refunds shall be determined from the later of either the date the consumer gives direct notice to
17 a company or an agent of the company of such cancellation or the effective date of cancellation requested by the
18 insured. In the case of physical damage insurance where there is a loss payee, the effective date of cancellation for the
19 purposes of determining unearned premium refund shall be ten days from the date cancellation notice was given
20 directly to a company or a company's agent. However, if the consumer can show proof that within the ten day period in
21 this Rule where cancellation involves a loss payee, that the consumer had obtained replacement physical damage
22 coverage which included the loss payee, then determination of the cancellation date for purposes of determining
23 unearned premium refund shall be had, from the last date of any lapse in coverage for the loss payee during the ten day
24 time set out in this Rule, or; in the case of no lapse, shall be determined as if no loss payee was involved.

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26 *History Note: Authority G.S. 58-9; 58-248.34;*

27 *Eff. December 15, 1979;*

28 *Amended Eff. ~~April 1, 1989; July 1, 1986. July 1, 1986; April 1, 1989;~~*

29 *Readopted Eff. October 1, 2021.*

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