

STATE OF CALIFORNIA  
DEPARTMENT OF INSURANCE  
300 Capitol Mall, 17<sup>th</sup> Floor  
Sacramento, CA 98514

FINAL TEXT OF REGULATION

INTERVENOR AND ADMINISTRATIVE HEARING BUREAU FAIRNESS AND  
ACCOUNTABILITY

April 17, 2026

REG-2025-00006

In this Final Text of Regulation, proposed additions to the originally noticed Text of Regulation are underlined and proposed deletions from the originally noticed Text of Regulation are shown in ~~strikethrough~~.

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.8. Review of Rates  
Article 6. Procedures for Determination of Rates

Amend: Section 2646.2. Certification of Questions to the Commissioner.

- (a) In any hearing before an administrative law judge, the administrative law judge may, on the motion of any party or on the administrative law judge's own motion, certify a question to the Commissioner for determination during the proceedings before the administrative law judge.
- (b) The administrative law judge shall issue a decision on the motion to certify a question to the Commissioner no later than ten (10) business days after the date of service of the motion to certify a question to the Commissioner. If the decision of the administrative law judge is to decline to certify the question to the Commissioner, then any party may submit a request to the Commissioner for the Commissioner to review the decision of the administrative law judge no later than fifteen (15) business days after the date of service of the motion to certify a question to the Commissioner. The Commissioner may issue a determination on the decision of the administrative law judge declining to certify the question to the Commissioner no later than twenty (20) business days after the date of service of the motion to certify a question to the Commissioner. If the Commissioner does not issue such a determination, the request for the Commissioner to review the decision of the administrative law judge declining to certify the question to the Commissioner shall be deemed denied.
- (~~c~~) Certification shall be limited to matters that either (1) apply to numerous pending hearings; (2) are substantially in doubt and are so fundamental to the instant proceeding that absent certification there is a substantial risk that hearing time would be wasted; or

(3) in the opinion of the administrative law judge, require immediate determination by the Commissioner in the interests of justice.

- (de) The Commissioner may decline to answer the certified question without specifying any grounds. Denial of certification without reaching the merits is without prejudice to the party's right to raise the matter before the administrative law judge or the Commissioner.

Note: Authority cited: Sections 1861.01, 1861.05 and 1861.055, Insurance Code; *20th Century v. Garamendi*, 8 Cal.4th 216, 281 (1994). Reference: Sections 1861.01 and 1861.05, Insurance Code; *Calfarm Insurance Company v. Deukmejian* (1989) 48 Cal.3d 805; and *Fireman's Fund Insurance Companies v. Charles Quackenbush* (1997) 52 Cal.App.4th 599, 607.

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 1. Preamble

Adopt: Section 2649.2. Prospective Application.

Amendments to this Subchapter 4.9 shall apply prospectively. Specifically, and without limitation:

- (a) The provisions of this subchapter that are in effect on the date that an application filed pursuant to Subdivision (b) of Section 1861.05 of the Insurance Code is received by the commissioner shall apply to a proceeding on such application.
- (b) The provisions of this subchapter that are in effect on the date that the notice of proposed action that commences a rulemaking proceeding is published in the California Regulatory Notice Register shall apply to such rulemaking proceeding.
- (c) The provisions of this subchapter that are in effect on the date that a notice of noncompliance is issued pursuant to Insurance Code section 1858.1 shall apply to the proceeding arising out of such notice of noncompliance.
- (d) The provisions of this subchapter that are in effect on the date that a written complaint submitted pursuant to Insurance Code section 1858 is received by the commissioner shall apply to a proceeding arising out of such written complaint, Subdivision (c) of this Section 2649.2 notwithstanding.

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 3. Definitions

Amend: Section 2651.1. Definitions.

The following definitions shall apply to Subchapter 4.9.

- (a) “Administrative Hearing Bureau” means that office within the office of the Commissioner at 1901 Harrison Street, 3rd Floor Mailroom, Oakland, CA 94612 and, except where otherwise specified in this subchapter, designated for receipt of all pleadings filed pursuant to this subchapter.
- (b) “Applicant” means the insurer presenting, on the form prescribed by the Commissioner and specified in section 2648.4, an application to change any rate pursuant to California Insurance Code section 1861.05(b).
- (c) “Application” means the form prescribed by the Commissioner and specified in section 2648.4, together with all supporting information included with that form, which every insurer seeking to change any rate pursuant to California Insurance Code section 1861.05(b) must provide.
- (d) “Day”, unless otherwise specified in these regulations, means a calendar day. “Business days” include all days except Saturdays, Sundays, and any holiday set forth in California Government Code section 6700. The time within which any pleading may be filed or served shall exclude the first day and include the last day; however, when the last day falls on a Saturday, Sunday or holiday the time computation shall exclude that day and include the next business day.
- (e) “Filing” means the act of delivery of a paper pleading to the Administrative Hearing Bureau. An original and one (1) copy of each pleading shall be filed with the Administrative Hearing Bureau. A specific pleading may be filed by facsimile or electronic transmission only when authorized by the administrative law judge.
- (f) “Party” means the insurer whose rates are the subject of the proceeding, any person whose petition to intervene in the proceeding has been granted pursuant to section 2661.3(g), and the Department.
- (g) “Pleading” means any petition, notice of hearing, notice of defense, answer, motion, request, response, brief, or other formal document filed with the Administrative Hearing Bureau pursuant to this subchapter. The original of each pleading shall be signed by each party or the party’s attorney or representative.
- (h) Except for purposes of Articles 13 and 14 of this Subchapter 4.9, commencing at Section 2661.1, “~~P~~roceeding” means any action conducted pursuant to Article 10 of

Chapter 9 of Part 2 of Division 1 of the California Insurance Code, entitled “Reduction and Control of Insurance Rates,” including a rate proceeding established upon the submission of a petition for hearing pursuant to California Insurance Code section 1861.05 and section 2653.1 of this subchapter. Subdivision (c) of Section 2654.1 notwithstanding, “proceeding” does not include:

- (1) the procedure that is commenced by submitting a petition for hearing pursuant to Section 2653.1 and concluded by the issuance of the determination to grant or deny a hearing pursuant to Section 2653.5,
  - (2) the procedure for intervention in a rate or class plan proceeding specified in Section 2661.3,
  - (3) the procedure for participation in a proceeding other than a rate hearing specified in Section 2661.4,
  - (4) the procedure specified in Section 2662.2 that is commenced by providing the request for finding of eligibility to seek compensation and concluded by the issuance of a ruling on a request for finding of eligibility to seek compensation, or
  - (5) the procedure that is commenced by submitting a request for an award of compensation pursuant to Section 2662.3 and concluded by the issuance of the decision awarding compensation pursuant to Section 2662.6.
- (i) “Service” means to provide a copy of a pleading to every other party in the proceeding in conformity with California Code of Civil Procedure sections 1011 and 1013. When a party files a pleading, the party shall concurrently serve that pleading on all other parties in the proceeding. All filed pleadings shall be accompanied by an original declaration of service in conformity with California Code of Civil Procedure sections 1011 and 1013. All served pleadings shall be accompanied by a copy of the declaration of service. An employee of a party may sign a declaration of service.

A specific pleading may be served by facsimile or electronic transmission when authorized by the receiving party.

A sample declaration of service form can be found in ~~§~~Section 2623.9.

- (j) “Settlement” means an agreement among some or all of the parties to a proceeding on a mutually acceptable outcome to the proceeding.
- (k) “Stipulation” means an agreement among some or all of the parties to a proceeding on the resolution of any issue of fact or the applicability of any provision of law material to the proceeding.
- ~~(l) “Submit” means the act of delivery of a pleading to the Rate Enforcement Bureau.~~

NOTE: Authority cited: Sections 1861.05 and 1861.055, Insurance Code; *Cal-Farm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).  
Reference: Sections 1861.05(c), 1861.055 and 1861.08, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 4. Procedural Requirements

Amend: Section 2652.8. Public Notice of Rate Applications.

A list of all rate change applications proposed within the previous thirty-six (36) months shall be available for public inspection at the Department's public internet website~~viewing rooms in Oakland and Los Angeles~~. A copy of this Public Notice of Insurance Company Rate Application list ("List") shall be mailed weekly without charge to any person who makes a written request therefor with the Rate Filing Bureau, 1901 Harrison Street, 3rd Floor Mailroom, Oakland, CA 94612. The Commissioner shall annually notify those receiving the list that, in order to continue to receive the list, they must provide written confirmation to the Rate Filing Bureau, within thirty (30) days of the date of the notice, that they wish to continue to receive the list.

Note: Authority cited: Section 1861.06, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.05(c), 1861.055, 1861.06, 1861.07 and 12973.7, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Amend Section 2652.9. Public Inspection.

Once a notice of hearing has been issued, in addition to the information set forth in California Insurance Code section 1861.07, the Administrative Hearing Bureau shall cause all nonconfidential pleadings filed, orders issued, and other nonconfidential case documents filed or issued in proceedings conducted pursuant to this subchapter shall to be available for public inspection at the Department's public ~~viewing rooms in Los Angeles and Oakland~~internet website no later than five (5) business days after the date of service.

NOTE: Authority cited: Section 1861.07, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.055 and 1861.07, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 5. Petition for Hearing

Amend: Section 2653.1. Petition for Hearing.

- (a) Any person, whether as an individual, representative of an organization, or on behalf of the general public, may request a hearing by submitting to the Rate Enforcement Bureau and the Public Advisor a petition for hearing (“petition”), which is a pleading containing:
  - (1) An objection to the granting, in whole or in part, of the rate requested in an application, or other request to initiate a proceeding and the basis therefor; and
  - (2) A request for a public hearing; and
  - (3) An offer of the evidence which the person requesting the hearing would present or elicit at the public hearing.
- (b) A petition for hearing shall state, in plain language, the facts constituting grounds for the request for hearing, and the relief sought. A petition submitted in response to an application shall list the line(s) of insurance for which the rate change is sought, the percentage rate change for each line, and the Department’s Rate Filing Bureau application number(s).
- (c) When a petition for hearing is submitted, the petitioner shall serve a copy on each insurer named in the petition.
- (d) All petitions for hearing shall be available for public inspection at the Department’s public internet website~~viewing rooms in Los Angeles and Oakland.~~
- (e) A sample petition for hearing form can be found in sSection 2660.2.

Note: Authority cited: Sections 1861.05(c) and 1861.055, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).  
Reference: Sections 1858, 1861.05(c), 1861.055 and 1861.10, Insurance Code; *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989); and *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Amend: Section 2653.4. Answer to Petition.

- (a) An insurer served with a petition for hearing may submit to the Rate Enforcement Bureau and the Public Advisor, and serve, an answer to the petition. If the insurer chooses to answer the petition, it must do so within five (5) business days of the date of service of the petition.

- (b) The answer shall admit or deny each material allegation in the petition and raise any defenses or justifications. It shall also set forth any defects in the petition which require amendment or clarification. Answers shall comply with the requirements of Sections 2652.1-2652.3 of this subchapter.
- (c) Answers shall not be filed with the Administrative Hearing Bureau.
- (d) A sample answer form can be found in Section 2660.3.

Note: Authority cited: Section 1861.055, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.055 and 1861.08, Insurance Code, Section 11506, Government Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Amend: Section 2653.5. Granting of Hearing.

The Commissioner shall determine whether to grant or deny a hearing under Insurance Code section 1861.05(c)(1) based upon the content of the petition, the application, and any officially noticeable information.

The petition for hearing, any response, any answer, ~~and~~ the Commissioner's determination whether to grant or deny a hearing, ~~and any notice of hearing~~ shall be part of the record in the proceeding and, if the Commissioner issues a notice of grants a hearing, shall be filed by the Rate Enforcement Bureau with the Administrative Hearing Bureau.

The Commissioner shall have jurisdiction over any complete rate application. Neither the Administrative Hearing Bureau nor any administrative law judge shall have any jurisdiction over any complete rate applications filed with the Department pursuant to Insurance Code section 1861.05, including without limitation jurisdiction to review and/or adopt any settlements of a rate proceeding, unless and until the Commissioner commences a rate hearing by issuing a notice of hearing on the application or otherwise expressly delegates the matter to the Administrative Hearing Bureau.

NOTE: Authority cited: Section 1861.055, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.055 and 1861.08, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
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Article 6. Administrative Law Judges

Adopt: Section 2654.3. Status of Proceeding.

For proceedings conducted pursuant to this subchapter that are pending before the Administrative Hearing Bureau, each presiding administrative law judge shall provide periodic updates, not less frequently than every thirty days, to each of the parties on each matter pending before the Administrative Hearing Bureau. The update shall be made available for public inspection in the manner provided by Section 2652.9.

Authority cited: Section 1861.055 and 1861.07, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.055 and 1861.08, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 8. Stipulations and Settlements

Amend: Section 2656.1. Proposal of Stipulations or Settlements.

- (a) Parties may stipulate to the resolution of an issue of fact or the applicability of a provision of law material to a proceeding, or may agree to settlement on a mutually acceptable outcome to a proceeding, with or without resolving material issues.
- (b) Notice of the stipulation and a copy of the stipulation shall be served on any intervenor at the time of filing. However, no party to a proceeding pending before the Commissioner shall compensate or agree to compensate an intervenor, and no intervenor shall receive or agree to receive compensation from any party in connection with a proceeding pending before the Commissioner, other than a compensation award approved by the Commissioner in accordance with Article 14 of Subchapter 4.9. No agreement concerning the merits of any matter pending before the Commissioner may be conditioned upon the payment of compensation to an intervenor.
- (c) Stipulations and settlements over which the Administrative Hearing Bureau has jurisdiction shall be filed with the administrative law judge for proposed acceptance pursuant to Section 2656.3 or rejection pursuant to Section 2656.2. When a stipulation or settlement is filed with the administrative law judge, it shall also be served on all parties. If a stipulation dispositive of the case or a settlement is proposed prior to the taking of any testimony, the parties supporting the stipulation or settlement shall file and serve supporting declarations indicating the reasons that the settlement or stipulation is fundamentally fair, adequate, reasonable and in the interests of justice. In considering whether a stipulation or settlement is fundamentally fair, adequate, reasonable, and in the interests of justice, the administrative law judge shall consider each of the following factors: (1) the relative strength of each party's positions, (2) the risk, expense, complexity, likely duration of future litigation, and impact of delaying implementation of a rate, (3) the fairness of the terms of the settlement, (4) the sufficiency of information received and discovery undertaken, (5) the current state of the proceedings, (6) the experience and views of counsel and/or the parties' managers or experts, (7) the extent of involvement of Department staff or another governmental entity, and (8) the reaction to the proposed settlement of intervenors purporting to represent the interests of consumers in the matter at hand. The administrative law judge shall reject any stipulation or settlement which includes an agreement regarding intervenor fees.
- (d) Stipulations shall be limited to the issues in the proceeding and shall have no precedential value for future proceedings.
- (e) A settlement or stipulation involving an agreed-upon rate change shall list, for each applicable subline and overall, the California written premium for the prior calendar year, the rate change proposed in the rate application, and the agreed-upon rate change.

- (f) Any party may discuss stipulations or settlement with any other party without involving all parties.
- (g) Any party objecting to a proposed settlement or stipulation over which the Administrative Hearing Bureau has jurisdiction may, within five (5) days of service of the proposed settlement or stipulation, file a written objection and may request a hearing before the administrative law judge on the proposed settlement or stipulation. When a hearing is requested, the administrative law judge shall hold a hearing on the objections within ten (10) business days of the filing of the request. The administrative law judge shall issue a proposed decision that accepts or rejects a proposed settlement or stipulation no later than thirty (30) days after the filing of the proposed settlement or stipulation with the administrative law judge.

NOTE: Authority cited: Section 1861.055, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference: Sections 1861.055 and 1861.08, Insurance Code, Section 11511.5, Government Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Amend: Section 2656.2. Rejection of Stipulation or Settlement.

- (a) — The administrative law judge shall issue a proposed decision rejecting a proposed stipulation or settlement whenever, in the administrative law judge’s judgment, the stipulation or settlement is not in the public interest and is not, taken as a whole, fundamentally fair, adequate, and reasonable. Upon rejection, the administrative law judge may propose acceptable alternative terms to the parties and allow the parties reasonable time to consider those terms. Any party may, in writing and within three (3) days of the administrative law judge’s ~~rejection~~ issuance of a proposed decision rejecting a proposed stipulation or settlement, request the Commissioner’s review of that rejection. A copy of any request shall be filed with the Administrative Hearing Bureau. If no party submits a timely request for the Commissioner to review a proposed decision rejecting a proposed stipulation or settlement, the proposed decision shall become effective four (4) days after the administrative law judge issues the proposed decision. If any party submits a timely request for the Commissioner to review a proposed decision rejecting a proposed stipulation or settlement, the Commissioner may issue a determination concerning the proposed stipulation or settlement no later than sixty (60) days after the filing of the proposed settlement or stipulation with the administrative law judge. If the Commissioner does not issue a determination concerning the proposed stipulation or settlement, the proposed decision shall become effective sixty-one (61) days after issuance of the proposed decision by the administrative law judge.

NOTE: Authority cited: Section 1861.055, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994). Reference:

Sections 1861.055 and 1861.08, Insurance Code, *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal.Rptr.2d 807, 847 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 13. Intervention

Amend: Section 2661.1. Definitions.

The following definitions shall apply to Articles 13 and 14 of this subchapter.

- (a) “Advocacy Fees” means costs, incurred or billed, by a party for the services of an advocate in the proceeding. An advocate need not be an attorney. Advocacy fees shall not exceed market rates as defined in this section.
- (b) “Compensation” means payment for all or part of advocacy fees, witness fees, and other expenses of participation and intervention in any rate hearing or proceeding other than a rate hearing.
- (c) “Market Rate” means, with respect to advocacy and witness fees, the prevailing rate for comparable services in the private sector in the Los Angeles and San Francisco Bay Areas at the time of the Commissioner’s decision awarding compensation for attorney advocates, non-attorney advocates, or experts with similar experience, skill and ability. Billing rates shall not exceed the market rate.
- (d) “Other Expenses” means reasonable, actual out-of-pocket costs of an intervenor or petitioner. Out-of-pocket costs include but are not limited to expenses such as travel costs, transcript charges, postage charges, overnight delivery charges, telephone charges and copying expenses. ~~Out-of-pocket costs also includes the costs incurred in preparing a request or amended request for award, defined in sections 2662.3 and 2662.4.~~ The intervenor or petitioner has the burden of substantiating any costs incurred, including providing supporting documentation as requested by the Public Advisor.
- (e) “Proceeding” includes those proceedings set forth in Insurance Code Section 1861.10(a). Subdivision (c) of Section 2654.1 notwithstanding, “proceeding” does not include the procedures described in Subdivisions (h)(1) through (h)(5) of Section 2651.1.
- (f) “Proceeding Other Than a Rate Proceeding” means any proceeding, including those described in subdivision (e) above, conducted pursuant to Chapter 9 of Part 2 of Division 1 of the Insurance Code which is not a rate proceeding as defined in this section.
- (g) “Public Advisor” means that official of the Department of Insurance who ~~monitors and assists participation by~~ oversees the process by which members of the public participate in the Department of Insurance’s proceedings. The Public Advisor may provide procedural assistance to members of the public regarding the procedures for engaging in the Department of Insurance’s proceedings, but shall not represent any member of the public and shall not advocate any substantive position on behalf of the public on any issues before the Commissioner.

- (h) “Rate Proceeding” means any proceeding conducted pursuant to Insurance Code Sections 1861.01 and 1861.05. For purposes of section 1861.05, a “rate proceeding” is established upon the submission of a petition for hearing in accordance with ~~§~~Section 2653.1 of this subchapter, or if no petition for hearing is filed, upon notice of hearing.
- (i) “Rate Hearing” means a hearing noticed by the Commissioner on the Commissioner’s own motion or in response to a petition for hearing pursuant to Insurance Code section 1861.05, which is conducted pursuant to the applicable procedural requirements of Insurance Code section 1861.08, and subchapters 4.8. and 4.9 of this chapter.
- (j) “Represents the Interests of Consumers” means that the intervenor represents the interests of individual insurance consumer[s], or the intervenor is a group organized for the purpose of consumer protection as demonstrated by, but is not limited to, a history of representing consumers in administrative, legislative or judicial proceedings.

A party which represents, in whole or in part, any entity regulated by the Commissioner shall not be eligible for compensation. However, nothing in this subsection shall be construed to prohibit any person from intervening or participating if that person is not seeking compensation.

- (k) “Substantial Contribution” means that the intervenor substantially contributed, as a whole, to a decision, order, regulation, or other action of the Commissioner by presenting relevant issues, evidence, or arguments which were separate and distinct from those emphasized by the Department of Insurance staff or any other party, such that the intervenor’s participation resulted in more relevant, credible, and non-frivolous information being available for the Commissioner to make the Commissioner’s decision than would have been available to a Commissioner had the intervenor not participated. A substantial contribution may be demonstrated without regard to whether a petition for hearing is granted or denied.
- (l) “Witness Fees” means recorded or billed costs for a witness, together with associated expenses. Costs and expenses for a witness shall not exceed market rate as defined in this section.

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994), *State Farm General Insurance Company v. Ricardo Lara* 71 Cal. App. 5th 197 (2021).

Amend: Section 2661.3. Procedure for Intervention in a Rate or Class Plan Proceeding.

- (a) A person desiring to intervene and become a party to a rate or class plan proceeding shall file a petition to intervene which shall be drafted in compliance with ~~s~~Sections 2652.1-2652.4 of this subchapter. A person who petitions for a hearing may combine a petition to intervene with a petition for hearing in one pleading.
- (b) The Petition shall cite the law authorizing the proposed intervention and shall contain the petitioner's interest in the proceeding, the specific issues to be raised and the positions to be taken on each issue to the extent then known, and the name, address, and telephone number of the petitioner. The verified petition shall include a statement that the intervenor or advocate will be able to attend and participate in the proceeding without delaying the proceeding or any other proceedings before the Commissioner.
- (c) The Petition shall also state whether the petitioner intends to seek compensation in the proceeding, and, if so, contain an itemized estimated budget for the participation in the proceeding, which shall set forth the following:
  - (1) separate listings of the rates for each attorney advocate or non-attorney advocate, including:
    - (A) the names of each attorney advocate or non-attorney advocate,
    - (B) the rates to be claimed for each attorney advocate or non-attorney advocate,
    - (C) a description of the work to be performed by each attorney advocate or non-attorney advocate, an estimate of the time to be spent to perform that work and the rates, fees and costs associated with that work; and,
  - (2) separate listings of the rates for each witness, including:
    - (A) the names of each witness and their areas of expertise,
    - (B) the rates to be claimed for each witness,
    - (C) a description of the work to be performed by each witness, an estimate of the time to be spent to perform that work and the rates, fees and costs associated with that work;

Rates contained in the estimated budget shall not exceed market rates. Submission of the budget shall not guarantee the payment of the dollar amounts set forth in the budget. The lack of objection to any item in the budget shall not imply approval of the budget.

- (d) A petitioner may seek leave to amend a Petition to Intervene at any time. The petitioner shall submit a request for leave to amend a Petition to Intervene and the proposed

amendments to the Petition to Intervene. The request for leave to amend a Petition to Intervene shall be granted, provided that amending the Petition to Intervene will not cause undue delay in the proceeding.

- (~~d~~e) An amended budget shall be submitted as soon as possible when the intervenor learns that the total estimated budget amount will be exceeded by 5% increases by \$10,000 or more. A request for leave to amend a Petition to Intervene is not required when submitting an amended budget.
- (~~e~~f) A Petition to Intervene in a rate or class plan proceeding, a petition for hearing submitted pursuant to sSection 2653.1 of this subchapter, an amended Petition to Intervene, any response to the Petition to Intervene, and any reply to the response to the Petition to Intervene shall may be submitted to the Rate Enforcement Bureau and shall be served on the Public Advisor and all of the parties to the proceeding, concurrently with a petition for hearing submitted pursuant to section 2653.1 of this subchapter or After a proceeding is noticed for hearing by the Commissioner, any document described in this subdivision (f) shall also be filed with the Administrative Hearing Bureau after a hearing is granted, and shall be considered an “additional pleading” within the meaning of Government Code Section 11507.6. A copy of the Petition to Intervene shall be served on the Public Advisor and all of the parties to the proceeding.
- (~~g~~f) Within five (5) days after filing of the Petition to Intervene, any other party may file a response to the Petition to Intervene. Any party claiming that the petitioner does not represent the interests of consumers shall so state in the response, which shall include any supporting documentation. The petitioner may reply to any allegation in the response and may reply to the allegation that it does not represent the interests of consumers no later than three (3) days of filing of the response.
- (~~h~~g) If a person who files a petition for a hearing and a Petition to Intervene meets the requirements of this section, represents the interests of consumers pursuant to Insurance Code section 1861.10(b) and is otherwise eligible to seek compensation in proceedings before the Department pursuant to sSection 2662.2 of this subchapter, that person’s Petition to Intervene shall be granted within fifteen (15) days of its submission. ~~If a petition for a hearing has already been granted~~ After a proceeding is noticed for hearing before the Administrative Hearing Bureau, the administrative law judge shall rule on any Petition to Intervene subsequently filed by any person within twenty (20) days of its filing with the Administrative Hearing Bureau.
- (~~i~~h) No person whose petition has been granted shall be permitted, without a showing of good cause, (1) to reopen matters decided before the petition is granted, or (2) to present advocacy on issues not raised in the Petition ~~without a showing of good cause.~~

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v.*

*George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2661.4. Procedure for Participation in a Proceeding Other than a Rate Hearing.

- (a) A person desiring to participate in a proceeding other than a rate hearing shall file a petition to participate which shall be drafted in compliance with ~~s~~Sections 2652.1-2652.4 and 2661.3(b) through (~~f~~e) of this subchapter. A Petition to Participate shall be submitted to the contact person for the proceeding, and served on the Public Advisor.
- (b) A ruling on a Petition to Participate shall be made within 15 days of its submission to the contact person for the proceeding or its service on the Public Advisor, whichever occurs later.
- (c) No person whose petition has been granted shall be permitted to reopen matters decided before the petition is granted without a showing of good cause.
- (d) Nothing in this section shall be construed to prohibit any person from providing relevant comments in a proceeding other than a rate hearing if that person is not seeking compensation.

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Adopt: Section 2661.5. Reporting on Intervenor Statistics.

The Public Advisor shall:

- (a) Maintain a webpage on the Department's public internet website that includes the following information:
  - (1) An overview of Proposition 103, the intervenor process, and the role of the Public Advisor.
  - (2) Unless the Administrative Hearing Bureau shall post the pleading or order pursuant to Section 2652.9, any nonconfidential decision, finding, pleading, formal written correspondence on organizational letterhead signed by the authorizing party, or other written submission of comparable formality and attribution ("written material") that supports, opposes, or otherwise concerns the disposition of a predicate pleading. For purposes of this Section 2661.5, a "predicate pleading" is (1) any Request for Finding of Eligibility to Seek

Compensation submitted pursuant to Section 2662.2, (2) any Request for Award submitted pursuant to Section 2662.3, (3) any Request for Award submitted pursuant to Section 2648.5, (4) any Petition to Intervene submitted pursuant to Section 2661.3, (5) any Petition to Participate submitted pursuant to Section 2661.4, and (6) any Petition for Hearing submitted pursuant to Section 2653.1. Any such written material shall be available for public inspection on the Department's public internet website no later than five (5) business days after the date of receipt by the Public Advisor, and shall remain on the Department's public internet website until such time as fifteen (15) calendar years have passed since the calendar year as of which the predicate pleading is dated, at which time the predicate pleading and associated written materials may be removed from the Department's public internet website. For purposes of this section, a calendar year begins on January 1 and ends on December 31.

- (b) On or before March 1 of each calendar year, publish a report that describes intervenor activity over the course of the prior calendar year. The report shall be published in electronic form (1) by emailing the report to the offices of the Governor, the Senate President pro Tempore, the Senate minority leader, the Speaker of the Assembly, the Assembly minority leader, and the chair and vice chair of any legislative committee with jurisdiction over property-casualty insurance, appropriations, and budget, and (2) by making the report available on the Department's public internet website. The report shall include:
- (1) Intervenor or participant compensation requested and compensation awarded. The report shall state, for the prior calendar year, (A) each person that intervened or participated in a matter pending before the Department, (B) each matter in which an intervenor or participant sought compensation, (C) the amount of compensation an intervenor or participant sought in each matter, the amount of compensation awarded in each matter, and the basis for, and amount of, any difference between the amount of compensation sought and the amount awarded, (D) how the compensation sought and awarded to the intervenor or participant during the calendar year immediately prior compares to compensation sought and awarded to that intervenor or participant during the fourteen (14) calendar years immediately preceding that prior calendar year, and (E) for each attorney, expert witness, and other person for whose services compensation was sought, the total hours worked, hourly rate, and a summary of material tasks performed by each person in each matter.
- (2) A description of actual or potential conflicts of interests that may have compromised the intervenor's or participant's ability to represent the interests of consumers independently and without conflicting obligations or incentives.

- (3) Rate and application information regarding intervened applications that have been approved. For each insurer application that was subject to intervention and that was pending during any portion of the prior calendar year (A) if the application involved a proposed rate adjustment, whether the insurer's proposed rate adjustment exceeded 7% of the then applicable rate for personal lines or 15% for commercial lines, (B) the total number of days between public notice of the application and the Department's approval of the application, unless the total number of days is less than or equal to 90 days in which case the report may state the total number of days did not exceed 90 days, and (C) if the total number of days did exceed 90 days, the substantive reason(s) why the application could not be approved during the 90-day period.

NOTE: Authority cited: Section 1861.10 and Section 12922, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Title 10. Investment  
Chapter 5. Insurance Commissioner  
Subchapter 4.9. Rules of Practice and Procedure for Rate Proceedings  
Article 14. Intervenor's and Participant's Fees and Expenses

Amend: Section 2662.1. Purpose

The purpose of this Article is to establish procedures for awarding reasonable advocacy fees, witness fees and other expenses to petitioners, intervenors and participants in proceedings, including proceedings other than rate proceedings, before the Insurance Commissioner in accordance with Section 1861.10(b) of the Insurance Code. The definitions set forth in sSection 2661.1 apply to Article 14 of this subchapter.

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2662.2. Request for Finding of Eligibility; Time; Contents; Effective for Two Years.

- (a) A person or group representing the interests of consumers may provide to the Public Advisor a request for finding of eligibility to seek compensation. The request shall be verified and may be verified by the intervenor's or participant's attorney and shall be submitted, at any time, in conjunction with an ongoing proceeding in which the individual or organization seeks to intervene. The request shall comply with sSections 2652.1-2652.4 of this subchapter and shall include:
- (1) a showing by the intervenor or participant that it represents the interests of consumers, including a description of the previous work of the intervenor or participant; and,
  - (2) in the case of groups representing the interests of consumers, the request shall include the following as exhibits:
    - (A) a copy of the group's articles of incorporation, by-laws, or (for groups not organized as corporations) other organizational documents,
    - (B) if the group has members, the approximate number of current members,
    - (C) composition of the group's current Board of Directors -- including the name and business address of each director and/or the name and business address of the principals of the group if it is not a corporation,

- (D) newsletter circulation, if any, along with a representative sample of newsletters and/or any other publications issued by the intervenor in California during the previous twelve (12) months,
- (E) any annual or year-end report for the prior year,
- (F) a statement as to whether or not the group has been granted non-profit status under Internal Revenue Code Section 501(c) and, for any group that files an annual return pursuant to Internal Revenue Code section 6033, a copy of the most recent filing provided to the Internal Revenue Service that contains the information required by Internal Revenue Code section 6033, and
- (G) In order to allow a determination whether the group actually does represent the interests of consumers, a listing, by general category, of the group's funding sources for the prior twenty-four (24) months and the approximate total percentage of the group's annual budget from each funding category. Each foundation, corporate, business, or government grant shall be separately listed by name of foundation, corporation, business, or government agency and amount of grant. For each individual who contributed at least five percent of the group's annual budget, the name of the individual and the total amount of the annual contribution shall be separately listed.
- (H) A statement describing all actual or potential conflicts of interest arising during the prior twenty-four (24) months that may compromise the intervenor's or participant's ability to represent the interests of consumers independently and without conflicting obligations or incentives, including without limitation: financial support conditioned upon participation in Department proceedings; representation of private clients that could impact the intervenor's or participant's conduct in Department proceedings; and political contributions or lobbying that might affect the ability to represent the interest of consumers, and
- (I) A statement:
  - 1. Describing how the intervenor or participant identifies and solicits consumer views or interests, and
  - 2. Containing reference to evidence in support of the description required by subdivision (a)(2)(I)1., above.

(b) ~~The Public Adviser~~ Insurance Commissioner may require additional information regarding the request at any time, but not more than twice during any one calendar year from a given intervenor or participant.

~~(c)~~(b) No later than 15 days after the Public Advisor's receipt of a request, any person may submit a response to the request. The person submitting the response shall serve the response on the Public Advisor and shall also provide a copy of the response to the intervenor of participant. The intervenor or participant may reply to any such response no later than 10 days after service of the response. The intervenor or participant shall serve the reply on the Public Advisor and shall also provide a copy of the reply to the person that submitted the response to which the intervenor or participant is replying.

~~(d)~~(b) Within ~~35~~40 days of receipt of a request for finding of eligibility to seek compensation, the Public Advisor shall review the request for completeness. If the request includes all of the information required by subdivision (a) above, the Public Advisor shall make a preliminary determination that it is complete. If the Public Advisor's ~~determines~~ preliminary determination is that the request is not complete because it does not include all of the information required by subdivision (a), notice stating the grounds for incompleteness will be given to the person or group who submitted the request within the ~~35~~40 day period and the request will be rejected.

~~(e)~~(e) The Commissioner shall rule on the request for a finding of eligibility to seek compensation, including without limitation making a final determination regarding the completeness of the request, in writing not later than ~~15~~50 days ~~from the receipt of~~ following the Public Advisor's preliminary determination that a request is complete request.

~~(f)~~(d) A Finding of Eligibility to Seek Compensation shall be valid in any proceeding in which the intervenor's participation commences within two years of the Finding of Eligibility so long as the intervenor\_(-or participant) still meets the requirements of subdivision (a). A Finding of Eligibility to Seek Compensation in no way ensures compensation.

~~(g)~~(e) Nothing in the Finding of Eligibility shall prohibit or limit any person or group from making any presentation or advocating any position which is otherwise admissible.

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; Sections 446 and 2015, Code of Civil Procedure; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2662.3. Request for Award.

(a) A petitioner, intervenor or participant whose Petition to Intervene or Participate has been granted and who has been found eligible to seek compensation may submit to the Public Advisor, within 30 days after the service of the order, decision, regulation or other action of the Commissioner in the proceeding for which intervention was sought, or at the requesting petitioner's, intervenor's or participant's option, within 30 days after the

conclusion of the entire proceeding, a request for an award of compensation. A petitioner, intervenor or participant requesting that any award ordered be made payable to a specific person or entity, other than the petitioner, intervenor or participant, that represented or advocated on behalf of the intervenor or participant during the proceeding shall include verified authorization to that effect in the request.

(b) The request shall demonstrate, by a preponderance of the evidence, that the petitioner, intervenor or participant:

(1) represents the interests of consumers;

(2) made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner; and

(3) has requested advocacy and witness fees and expenses that are reasonable.

(c)(b) The request shall be verified and shall be in compliance with sSections 2652.1-2652.4 of this subchapter and shall include, at a minimum:

(1) a detailed description of services and expenditures;

(2) legible time and/or billing records, created as soon as possible after the work was performed, which show the date and the exact amount of time spent on each specific task; the phrase “exact amount of time spent” as used in this subdivision refers either to five (5) minute or tenth (10th) of an hour increments; and

(3) a description of the petitioner’s, intervenor’s or participant’s substantial contribution citing to the record, including, but not limited to, documents such as: declarations by advocates and/or witnesses, written or oral comments of the petitioner or intervenor or its witnesses regarding a rate application provided to the Department, correspondence with the parties, stipulations or settlement agreements regarding the outcome or material issues in the proceeding, and decision or order by the Department or Commissioner concerning a petition for hearing or rate or class plan application issued without a formal hearing, transcripts, proposed decisions of the Administrative Law Judge and orders demonstrating that a substantial contribution was made for the purpose of complying with sSection 2661.1(j). Notwithstanding sSection 2656.4, any confidential correspondence, documents, or declarations referencing confidential information, including but not limited to confidential settlement communications, may be submitted to the Public Advisor with a request for an award of compensation. Any such confidential material submitted to the Public Advisor will retain its confidential status. Nothing in this subsection shall require disclosure of privileged information; and

(4) a description of the steps taken by the petitioner, intervenor or participant to ensure its advocacy and witness fees and expenses are reasonable.

~~The phrase “exact amount of time spent” as used in this subdivision refers either to five (5) minute or tenth (10th) of an hour increments.~~

~~(d)~~(e) Parties may stipulate to a person’s status as an intervenor. Parties shall not enter into a stipulation regarding whether a person has made a substantial contribution for the purpose of complying with ~~s~~Section 2661 of this subchapter.

~~(e)~~(d) The phrase “each specific task,” as used in this subdivision refers to activities including, but is not limited to: (A) telephone calls or meetings/conferences, identifying the parties participating in the telephone call, meeting or conference and the subject matter discussed; (B) legal pleadings or research, identifying the pleading or research and the subject matter; (C) letters, correspondence or memoranda, identifying the parties and the subject matter; and, (D) attendance at hearings, specifying when the hearing occurred, the subject matter of the hearing and the names of witnesses who appeared at the hearing, if any.

~~(f)~~(e) Within 15 days after service of the request, any other party may submit a response to the request. The response shall be submitted to the Public Advisor and a copy shall also be provided to all parties to the proceeding. The intervenor or participant may reply to any such response within 15 days after service of the response. The reply shall be submitted to the Public Advisor and a copy shall also be provided to all parties to the proceeding.

~~(g)~~(f) The ~~Public Advisor~~Insurance Commissioner shall require an audit and/or may inspect the books and records of the intervenor or participant to the extent necessary to verify the basis for the award. The ~~Public Advisor~~Insurance Commissioner shall maintain the confidentiality of the intervenor’s books and records to the extent allowed by law.

~~(g) — Any party questioning the market rate or reasonableness of any amount set forth in the request shall, at the time of questioning the market rate or reasonableness of that amount, provide a statement setting forth the fees, rates, and costs it expects to expend in the proceeding.~~

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Repeal: Section 2662.4. Amended Request for Award.

~~An intervenor or participant may submit amended requests for an award whenever it incurs additional fees or costs subsequent to the submission of a previous request for award. Any amended request shall meet the requirements of Section 2662.3 of this subchapter. Responses to an amended request, if any, shall meet the requirements of section 2662.3.~~

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2662.5. Requirements for Awards.

- (a) ~~Subject to subdivision (b) herein,~~ Advocacy fees, witness fees, and other expenses of participation in a proceeding shall be awarded to any petitioner, intervenor or participant who complies with ~~§~~Section 2662.3 and satisfies both of the following requirements:
- (1) The petitioner, intervenor or participant's presentation makes a substantial contribution as evidenced by specific citations to the petitioner's, intervenor's or participant's direct testimony, cross-examination, legal arguments, briefs, motions, discovery, declarations by advocates and/or witnesses, written or oral comments of the intervenor or its witnesses regarding a rate application provided to the Department, correspondence with the parties, stipulations or settlement agreements, and decision or order by the Department or the Commissioner on a petition for hearing or rate or class plan application issued without a formal hearing, or any other appropriate evidence; and,
  - (2) The petitioner, intervenor or participant represents the interests of consumers.
- (b) The amount of advocacy fees, witness fees and other expenses the Commissioner awards shall be reasonable. If requested advocacy fees, witness fees and other expenses are unreasonable, the Commissioner shall reduce the amount awarded to a reasonable amount. Advocacy fees, witness fees and other expenses are reasonable when all of the services and related charges for which fees and expenses are sought were, at the time such services were performed or such related charges were incurred, reasonably necessary to a fair resolution of the matter in which the order, regulation, or decision was issued. For purposes of subdivisions (c) and (d) of this Section 2662.5:
- (1) Services and related charges for which fees and expenses are sought are included within the meaning of the term "services," and
  - (2) The performing of "services" includes the incurring of such related charges.
- (c) Participation in hearings, participation in status conferences, and other services that are reasonably necessary to the party's ability to fully participate in a matter may be deemed reasonably necessary to the fair resolution of a matter, any contrary provision of this section notwithstanding.

(d) Services shall be deemed not reasonably necessary to the fair resolution of a matter where, at the time the services are performed, they are:

(1) Duplicative. Services are duplicative when they fail to provide analytical value beyond that provided in documents already published by the Department or another party. For purposes of this subdivision (d)(1):

(A) Services provide independent analytical value when they corroborate, validate, detect errors in, or materially refine analysis or evidence in a document that has already been published by the Department or another party.

(B) Services fail to provide independent analytical value when they merely repeat, restate, or paraphrase analysis or evidence in a document that has already been published by the Department or another party. Services shall not, by operation of the immediately preceding sentence, be deemed to fail to provide independent analytical value if the intervenor or participant could not reasonably have known at the time of performance that the services would, in hindsight, appear to be duplicative.

(2) Cumulative.

(A) Services are cumulative when an argument of the fee requestor has been expressly rejected on the merits in a decision or order of the Commissioner, and the work product resulting from services performed after that decision or order:

1. Does not directly address the reasoning set forth in that prior rejection; and

2. Merely repeats, restates, or paraphrases any arguments that the fee requestor previously made and that the decision or order rejected.

(B) Subdivision (d)(2)(A) of this section notwithstanding, services shall not be deemed cumulative if:

1. The decision or order in which the argument of the fee requestor was expressly rejected on the merits was not designated as precedential pursuant to Section 11425.60 of the Government Code; and

2. The services are performed in connection with a matter before the Commissioner that has been noticed for hearing.

- (3) Wasteful. Services are wasteful when the services cannot reasonably be expected to address, narrow, or resolve disputed issues material to the determination before the Commissioner. Wasteful services shall include, without limitation, services that:
- (A) Address issues that do not bear on the propriety, sufficiency, or lawfulness of the rate application under review; or
- (B) Extend beyond the scope of issues properly noticed or designated for resolution in the matter at hand.
- (4) Excessive. Services are excessive when the amount of time spent on a task, or the level of staffing employed for a task, was not reasonably proportionate to the scope and complexity of the task.
- (5) Nonsubstantive. Services are nonsubstantive when they are peripheral, promotional, or otherwise unrelated to the substantive resolution of the issues material to the determination before the Commissioner. Such services include, without limitation, time spent on media engagement, public relations efforts, general networking, advocacy that does not bear on the specific issues under consideration, and time related to preparation of a request for an award.
- (6) Not reasonably necessary to the fair resolution of the matter for any other reason.

~~To the extent the substantial contribution claimed by a petitioner, intervenor or participant duplicates the substantial contribution of another party to the proceeding and was not authorized in the ruling on the Petition to Intervene or Participate, the petitioner's, intervenor's or participant's compensation may be reduced. Participation by the Department of Insurance staff does not preclude an award of compensation, so long as the petitioner's, intervenor's, or participant's substantial contribution to the proceeding does not merely duplicate the participation by the Department of Insurance's staff. In assessing whether there was duplication, the Commissioner will consider whether or not the petitioner, intervenor or participant presented relevant issues, evidence, or arguments which were separate and distinct from those presented by any party or the Department of Insurance staff.~~

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2662.6. Decision Awarding Compensation; Allowance of Award.

- (a) In a written decision, the Commissioner shall determine whether or not the intervenor or participant has made a substantial contribution. The decision shall be issued within 90 days of receipt of all information required by Section 2662.3.
- ~~(b)~~ The Commissioner shall determine whether the intervenor or participant has made a substantial contribution to the adoption of any order, regulation or decision by the Commissioner based solely upon the evidence before the Commissioner at the time the order, regulation, or decision is adopted. Subsequent invalidation by a court of such an order, regulation or decision shall not, in and of itself, call into question the validity of any decision awarding compensation, including the determination by the Commissioner as to whether the intervenor or participant made a substantial contribution to the adoption of such underlying order, regulation or decision. The immediately preceding sentence notwithstanding, nothing in this subdivision (b) shall limit judicial review of any order, regulation, or decision of the Commissioner, including without limitation any decision awarding compensation.
- ~~(c)~~~~(b)~~ If the Commissioner determines that the intervenor or participant has made a substantial contribution, the Commissioner shall set forth this substantial contribution and shall set forth the amount of compensation to be paid. The compensation awarded shall equal the market rate of the reasonable services provided.
- ~~(d)~~~~(e)~~ The Commissioner's decision shall be served on all parties to the proceeding.
- ~~(e)~~~~(d)~~ Any award paid by an applicant pursuant to this Article shall be allowed by the Insurance Commissioner as an expense for the purpose of establishing rates of the applicant as a dollar-for-dollar adjustment to rates approved by the Insurance Commissioner, except that compensation awarded by a decision awarding compensation for fees and expenses incurred by an intervenor or participant in a proceeding described in subdivision (e)(1) or (e)(2), below, shall not be allowed as an expense for the purpose of establishing rates of the applicant:
- (1) A proceeding that is commenced by a notice of noncompliance issued pursuant to Article 7 of Chapter 9 of Part 2 of Division 1 of the Insurance Code, commencing with section 1858 ("Article 7" hereinafter).
- (2) A proceeding arising out of a written complaint submitted pursuant to Article 7.
- ~~(f)~~ The applicant shall submit for the Commissioner's approval an application stating the expense described in subdivision (e) of this Section 2662.6 no later than 180 days after immediately on the determination of the amount of the award, so that the amount of the award shall be fully recovered within two years from the date of the award. The insurer shall recover the full amount of the award no later than 730 days after the date of the Commissioner's approval of an application stating the expense. The expense shall be disclosed on a policyholder's premium bill using a descriptive title such as "Intervenor Advocacy Cost Recoupment" and shall be disclosed as a separate item on the premium bill during each policy period the expense is charged to policyholders.

(g) This section shall not be construed as requiring an applicant to recoup the amount of the award.

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).

Amend: Section 2662.7. Time for Payment.

Payment in full of any award payable by an applicant shall be due no later than 30 days after the date of the Commissioner's decision awarding compensation or, if the Commissioner orders reconsideration, no later than 30 days after the date of the post-reconsideration decision awarding compensation. If the applicant does not timely pay the award in full in compliance with this Section 2662.7, interest on any unpaid amount shall begin to accrue 31 days after the date of the Commissioner's decision awarding compensation and shall continue to accrue through the date the award is paid in full. Interest shall accrue at the rate specified in subdivision (a) of Code of Civil Procedure section 685.010. The filing of any writ or any other appeal shall not toll the accrual of interest.

~~(a) Any award payable by an applicant shall be paid within 30 days of the decision awarding compensation. If an insurance company fails to pay an award within 30 days, the insurance company shall also pay interest on the amount awarded, at the legal rate, until the date on which the award is paid.~~

~~(b) For the purpose of this section, the phrase "within 30 days" shall mean within 30 days after the Insurance Commissioner issues a decision awarding compensation, unless the insurance company submits a timely petition for reconsideration or judicial challenge of the decision or any part for which compensation is sought by the intervenor, in which case no payment shall be required until 30 days after a decision on reconsideration or judicial challenge.~~

NOTE: Authority cited: Section 1861.10, Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805, 824 (1989), *20th Century Insurance Company v. John Garamendi*, 8 Cal.4th 216, 281, 32 Cal. Rptr. 2d 807, 847 (1994). Reference: Sections 1861.10(a) and 1861.10(b), Insurance Code; and *CalFarm Insurance Company, et al. v. George Deukmejian, et al.*, 48 Cal.3d 805 (1989), *20th Century Insurance Company et al. v. John Garamendi* 8 Cal. 4th 216, 32 Cal. Rptr. 2d 807 (1994).