

Arkansas Insurance Department

Mike Beebe
Governor



Jay Bradford
Commissioner

APRIL 05, 2012

BULLETIN NO. 04-2012

TO: ALL LIFE INSURERS AND PRODUCERS, THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, TRADE ASSOCIATIONS, AND OTHER INTERESTED PARTIES

FROM: ARKANSAS INSURANCE DEPARTMENT

RE: CLARIFICATION ON USE OF REPLACEMENT MEMORANDUM AND RULE 97 APPENDIX FORMS IF THERE IS NO REPLACEMENT

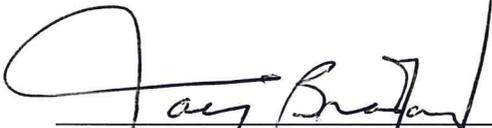
The Arkansas Insurance Department ("Department") continues to field questions from a small subset of life insurers and producers about the requirements under Rule 97 to provide or retain appendix forms and replacement memoranda under Section Four (4)(A) and (B) of Rule 97 (for producers) and Section Five (5)(C) through (E) (for insurers), if there is no "replacement" although the proposed insured has "existing insurance."

On March 8, 2010, the Department issued Bulletin 1-2010 explaining that a "Replacement Memorandum" was not required under Section Four (4)(A) and (B) of Rule 97 if no replacement exists in the transaction as defined in the Rule. Section Four (4)(A) and (B), as well as Section Five (5) (C) through (E), describe the requirements and duties placed upon producers and insurers respectively of providing, signing or retaining the Appendix A form whenever the proposed insured has "existing insurance." None of these Sections, nor individual subsections themselves, explain that if a proposed insured has "existing insurance" but there is no replacement of that insurance, these requirements do not apply. The Department however maintains that the primary context and jurisdiction of the Rule has to be met for any individual Section or subsection to apply, and that means there has to be a "replacement" transaction as set forth in Section (One) 1 of Rule 97 and Section Three (3)(J) in order for any form or any requirement of the Rule to be triggered.

The Department would once again like to make it clear that no "Replacement Memorandum" as well as no form requirement under Sections Four (4) or Five (5) of the Rule is required, whether it be on the producer or insurer, if there exists no replacement. This includes both the "Replacement Memorandum" (See Bulletin 8-2009) as well as any appendix form attached to the Rule. This is the case even if the proposed insured has "existing insurance," assuming the "existing insurance" is not being "replaced." Please be advised that if an existing life insurance policy or annuity contract however is being "replaced" as that term is defined under the Rule, the requirements of the "Replacement Memorandum" as well as the duties and form requirements under Rule 97 would need to be met.

For insurers or producers desiring to nonetheless retain or collect existing life insurance information of the customer, for an allowed purpose, the Department hereby advises such producers or insurers to not indicate to the customer that the Department is requiring this information even if the “existing insurance” is not being replaced.

Questions concerning this Bulletin should be directed to the Arkansas Insurance Department’s Legal Division at (501) 371-2820 or via e-mail to insurance.legal@arkansas.gov.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS

April 5, 2012

DATE