§ 2338. Appeal from rate service organization action. (a) This section shall apply only to kinds of insurance the rates for which are subject to prior approval pursuant to subsection (b) of section two thousand three hundred five of this article.

(b) Any member of or subscriber to a rate service organization may appeal to the superintendent from the action or decision of the rate service organization in approving or rejecting any proposed change in or addition to its filings. The superintendent, within thirty days after the filing of such appeal, shall hold a hearing upon not less than ten days' written notice to the appellant and to the rate service organization. After the hearing the superintendent shall issue an order approving the action or decision of the rate service organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rate service organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rate service organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

(c) If the appeal is based upon the failure of the rate service organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subsection (d) of section two thousand three hundred four of this article, from the system of expense provisions included in a filing made by the rate service organization, the superintendent shall, if he grants the appeal, order the rate service organization to make the requested filing for use by the appellant. In deciding the appeal the superintendent shall apply the standards set forth in section two thousand three hundred three of this article.