Government of the District of Columbia
Department of Insurance, Securities and Banking

Karima Woods
Acting Commissioner

Commissioner's Order 03-2020

ORDER PROVIDING RELIEF TO POLICYHOLDERS

WHEREAS, on March 11, 2020, Mayor Muriel Bowser declared a Public Emergency and Public Health Emergency through Mayor's Orders 2020-045 and 2020-046. Since that time, the emergency has been extended and various measures to ameliorate the spread of the disease and provide relief for those hurt by the physical and economic effects of the virus have been undertaken by the Mayor, her appointed agency directors and the Council of the District of Columbia, including the enactment of the COVID-19 Response Emergency Amendment Act of 2020, effective March 17, 2020 (D.C. Act 23-0247; 67 DCR 3093) ("Act"), empowering the Commissioner of the Department of Insurance, Securities and Banking to issue emergency rulemakings, orders or bulletins to address the crisis.

WHEREAS, pursuant to D.C. Official Code §§ 7-2304(b) and 7-2304.01(d), Mayor Bowser has authorized and directed the Commissioner of the Department of Insurance, Securities and Banking ("Department") to exercise the emergency powers conferred by § 302 of the Act as are necessary to protect the interests of insurance companies, policyholders and the public for the duration of the Public Health Emergency through Mayor's Orders 2020-045 (March 11, 2020) and 2020-052 (March 23, 2020);

WHEREAS, the Commissioner finds that as a result of the financial impact of COVID-19 and Mayor Bowser's Stay at Home Order (Mayor's Order 2020-054, dated March 30, 2020) on policyholders, emergency action to provide relief is required.

THEREFORE, pursuant to § 302 of the Act, it is hereby ORDERED, that the following emergency relief measures and guidance are being implemented and will remain in effect through the duration of the Public Health Emergency, including any extensions, and shall apply to polices in effect as of the date of this order issued by all insurance companies authorized to conduct business in the District, including life, health maintenance organizations, hospital and medical service corporations, property and casualty, taxicab, fraternal benefit societies and insurance premium finance companies but not captives and risk retention groups (RRGs):

1. **Prohibition on Cancellations for Non-Payment and Waiver of Fees**

   Insurance companies and premium finance companies will be prohibited from terminating insurance contracts due to non-payment. This effort will provide relief to affected policyholders by allowing continuity of insurance coverage. The prohibition

will not eliminate the obligation to pay unpaid premiums but will be considered an extension of the grace period. To this end, insurance companies shall provide policyholders the ability to repay any unpaid premiums in installments over a period of not less than twelve (12) months beginning one month after the end of the Public Health Emergency. Insurance companies shall also waive late fees for premium payments due but not paid.

2. Reasonable Accommodations

To the extent not inconsistent with paragraph one above, the Department directs all insurance companies to make reasonable accommodations for policyholders during the Public Health Emergency. Reasonable accommodations should include:

(a) Waiving installment, late payment or reinstatement fees;
(b) Deferring cancellations, non-renewals and adverse underwriting actions;
(c) Extending billing due dates and premium grace periods;
(d) Ensure that late payments during the emergency are not considered in any future premium calculations at any time (i.e. applicable late payments should not be counted for any rating, pricing, tiering attributes, etc.).
(e) Making District policyholders aware of the accommodations available;
(f) Providing ready access for policyholders to apply for such accommodations, on line, by mail, and telephonically; and
(g) Providing an option to use electronic payment technology through a website, a software application or electronic bank transfers, when possible.

3. Premium Relief

Many property and casualty insurance policies calculate premiums based on exposure estimates made at the time the policy is issued. As a result of the financial impact of COVID-19 and Mayor's Order 2020-054, initial exposure estimates are expected to be much higher than the exposure realized. Consequently, for policies subject to audits, insurers are directed to allow policyholders to self-audit and self-report (in lieu of physical audits to the extent impracticable) changes in their exposure so that adjustments in premiums can be made.

Prospective reductions in premium or retroactive refunds of premium offered by an insurance company due to a change in risk exposure will not be considered a rate change that requires a new rate filing or action constituting a rebate or unfair discrimination to the extent they are reasonable and consistently applied. In turn, reasonable and consistently applied premium adjustments or audit accommodations will not be considered violations of District law governing returning premiums, frequency of premium changes, or the filing and approval of rating plans, rules, or policy language.

Insurers that want to offer policyholders temporary premium reductions related to changes in exposures that create new classifications or are intended to extend beyond the

duration of the Public Health Emergency should submit new rate filings to implement the change. The rate filing should disclose the amount and duration of the reduction and include the applicable policy forms with a request for expedited review.

4. Coverage for Delivery Drivers of Food, Medicine or Medical Supplies

Insurance companies shall provide a waiver or suspension of the "commercial" or "livery" use exclusion and exception in personal passenger automobile coverage to accommodate insureds while driving their own or another automobile to deliver food, medicine, or medical supplies for their employer, or for the organization for which they are volunteering, or on their own for the benefit of the person for whom the delivery is being made, and the delivery is a result of the Public Health Emergency.

This coverage is not required to be afforded to drivers who otherwise have coverage for deliveries through their personal policy or another policy. This coverage also does not apply to drivers working for a transportation network company or similar delivery company. This coverage is only afforded to delivery drivers who do not have such coverage and this coverage does not stack with any coverage that is currently afforded.

Further, it is common for businesses who employ delivery drivers who use their own cars to obtain hired and non-owned auto coverage for liability incurred by those drivers. This is often offered as a rider to a commercial general liability policy. Since many of these businesses may have begun to use delivery services without anticipating the need for this coverage, it is likely their commercial general liability policy will not include a hired and non-owned auto coverage rider. The Department believes that it would be impractical and for these businesses to shop for coverage that includes coverage for non-owned autos, and any such requirement that they obtain such coverage could delay them in providing essential services.

For these reasons, all insurance companies who provide commercial general liability coverage to a businesses of the type that are instituting delivery service as a result of the emergency shall notify those businesses that hired and non-owned auto coverage is available if requested. If the insured business requests hired and non-owned auto coverage, the insurance company shall, either through a rider or stand-alone policy, provide this coverage to any insured restaurant. This requirement shall apply to all commercial general liability policies in effect on or after March 17, 2020. The coverage afforded shall be effective upon the date it is requested. Insurance companies that offer retroactive coverage may require that the insured certify that they have not incurred any potential claims in the period of retroactive coverage.

5. Expedited Review of Form and Rate Filings

The Department will provide expedited review of form and rate filings to insurance companies that offer reasonable accommodations and premium relief to policyholders. To request expedited review, submit an email request to Howard Liebers at howard.liebers@dc.gov (form filings) or Robert Nkojo at robert.nkojo@dc.gov (rate

filings). The email request should include the SERFF tracking number and a brief description of the filing.

Date: April 27, 2020

Karima Woods
Acting Commissioner
Department of Insurance, Securities and Banking

For information and resources regarding the District's response to COVID-19, please visit: https://coronavirus.dc.gov/.