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BULLETIN NO. 20-22

TO: **ALL LICENSED, ADMITTED AND SURPLUS LINES INSURERS TRANSACTING PROPERTY AND CASUALTY INSURANCE IN NEW JERSEY, NJCAIP, NJPAIP AND OTHER INTERESTED PARTIES**

FROM: **MARLENE CARIDE, COMMISSIONER**

RE: **PREMIUM REFUNDS, CREDITS AND REDUCTIONS IN RESPONSE TO COVID-19 PANDEMIC**

On March 9, 2020, Governor Phil Murphy issued Executive Order No. 103, declaring a state of emergency and public health emergency to contain the spread of the Coronavirus ("COVID-19") pandemic. Exec. Order No. 103 (March 9, 2020), 52 N.J.R. 549(a) (April 6, 2020), ("EO 103"). Governor Murphy later directed New Jersey residents to remain in their homes unless leaving was essential through the issuance of Executive Order No. 107. Exec. Order No. 107 (March 21, 2020), 52 N.J.R. 554(a) (April 6, 2020), ("EO 107"). The New Jersey Department of Banking and Insurance ("Department") recognizes the unprecedented challenges to New Jersey residents and businesses caused by COVID-19.

The COVID-19 pandemic has severely curtailed activities of policyholders in both personal and commercial lines of insurance. This has caused the projected loss exposures of many insurance policies to become overstated or misclassified. This is especially true for policies where premiums are based partly on measures of risk such as number of miles driven, revenue, and payrolls, which have all been reduced significantly as a result of COVID-19.

The Department is aware that reduced driving, as a result of COVID-19, and the New Jersey Government's response thereto, including EO 103 and EO 107, has led to fewer accidents, injuries, and fatalities on public highways and roads. Therefore, the overall risk of loss for private passenger automobile insurance has been reduced in recent months. The Department also recognizes that reductions in risk extend beyond automobile lines of insurance. Moreover, insurance rates shall not be excessive, inadequate, or unfairly discriminatory. Accordingly, this Bulletin requires premium reductions for the private passenger automobile insurance line as well as for other lines of insurance.

To protect consumers and to provide consistent direction to the insurance industry regarding misclassifications of risk resulting from the COVID-19 pandemic, the Department

hereby orders insurers to make an initial premium refund or other adjustment to all adversely-impacted New Jersey policyholders, and for each month that the public health emergency is in effect, in the following lines of insurance, as quickly as practicable, but in any event no later than June 15, 2020:

- Private passenger automobile insurance;
- Commercial automobile insurance;
- Workers' compensation insurance;
- Commercial multiple-peril insurance;
- Commercial liability insurance;
- Medical malpractice insurance; and
- Any other line of coverage where the measures of risk have become substantially overstated as a result of the COVID-19 pandemic.

Insurers may comply with the mandated premium refund to policyholders by providing a premium credit, reduction, return of premium, dividend or other appropriate premium adjustment, based on:

- Reclassification of exposures to comport with current exposure, or
- Reduction of the exposure base (miles driven, payroll, receipts, etc.) to reflect actual or anticipated exposure.

Insurers may begin refunding premiums without prior approval by the Department if they apply a uniform premium reduction for all policyholders in an individual line of insurance, for recent, current, and upcoming policy periods or any portion thereof. The amount of the across-the-board premium refund may be an average percentage based on estimated change in risk and/or reduction of exposure bases. Licensed and admitted insurers must submit all components of their refund program, including but not limited to, a rate, rule, and/or form filing via the System for Electronic Rates and Forms Filing ("SERFF") at their earliest convenience documenting the refund program, but not more than 15 days after implementing the refund program. The Department will review the submission of the insurer refund program by the insurer and may require changes to the insurer's refund program if the refund program does not adhere to the guidance in this bulletin, if the refund program inappropriately benefits the insurer over the policyholder, if the insurance rates are excessive, inadequate, or unfairly discriminatory, if the refund is not actuarially justified to ensure appropriate refund to the policyholder, or if the rates are otherwise not in compliance with applicable law.

Insurers may also provide premium relief to individual policyholders without prior approval by the Department by reassessing the classification and exposure bases of affected risks on a case-by-case basis for recent, current, and upcoming policy periods or any portion thereof, in accordance with existing rating plans. Where there are risk misclassifications resulting in premium overcharges, insurers should immediately reclassify risks and adjust premium. Some examples include:

- Reclassifying a personal automobile exposure from "commute use" to "pleasure use";
- Reclassifying a physician practice to part-time status; or
- Excluding payroll for employees who are being paid, but not actively working.

Whether choosing one of the above-described approaches, or an alternative approach, insurers shall, no later than June 15, 2020, provide each affected policyholder with a notification of the amount of the refund or adjustment; premiums can be returned to policyholders via check, premium credit, reduction, return of premium, or other appropriate premium adjustment. In addition, insurers shall provide an explanation of the basis for the adjustment, including a description of the policy period that was the basis of the premium refund and any changes to the classification or exposure basis of the affected policyholder. The insurer shall further offer each insured the opportunity to provide their individual actual or estimated experience.

In connection with the directives of this Bulletin, the Department is simultaneously issuing Order A20-03, which orders insurer groups writing any of the above-referenced lines of insurance in New Jersey to provide claim and premium activity reports to the Department, and also reports summarizing all actions taken, and contemplated future actions, to refund or adjust premium in response to or consistent with this Bulletin.

For any insurer that can demonstrate its rates are not excessive, inadequate, or unfairly discriminatory, or otherwise contends it should not be subject to the terms of this Bulletin, it shall submit its basis for such contention and supporting documentation by June 1, 2020.

The Department will continue to monitor the situation and may issue a subsequent Bulletin or other guidance to insurers to provide additional instructions, as deemed appropriate.

May 12, 2020
Date

Marlene Caride
Commissioner

JR COVID-19 Premium Refund Bulletin/COVID-19