STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of Insurance and Financial Services

In the matter of:

Order No. 2020-10-M

Auto Insurance Refund Filings
_____/

Issued and entered
this 28th day of May 2020
by Anita G. Fox
Director

ORDER REQUIRING AUTOMOBILE INSURANCE REFUND FILINGS

On March 10, 2020, Governor Whitmer issued Executive Order 2020-04, which declared a state of emergency across the State of Michigan due to the COVID-19 pandemic. Since then, the virus has spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. On April 1, 2020, in response to the widespread and severe health, economic, and social harms posed by the COVID19 pandemic, Governor Whitmer issued Executive Order 2020-33 which expanded Executive Order 2020-4 and declared both a state of emergency and a state of disaster across the state of Michigan under section 1 of article 5 of the Michigan Constitution of 1963, the Emergency Management Act, and the Emergency Powers of the Governor Act of 1945. On May 22, 2020, finding that COVID-19 continues to create emergency and disaster conditions across the State of Michigan, Governor Whitmer issued Executive Order 2020-99 and Executive Order 2020-100 to continue the emergency declaration under the Emergency Powers of the Governor Act and to issue new emergency and disaster declarations under the Emergency Management Act through June 19, 2020 at 11:59 p.m.

The COVID-19 pandemic has resulted in significant impacts to Michigan residents, and has resulted in extreme reductions in driving activity. Many automobile insurers, recognizing that their loss

exposures have been greatly reduced, have already filed their plans to issue refunds or premium waivers to their customers as a result of the COVID-19 pandemic.

This order requires all insurers authorized to write automobile insurance in Michigan who have not already submitted a filing under Bulletin 2020-18-INS, and who have not yet implemented a premium waiver or refund, to submit one of the following filings no later than June 10, 2020: 1) a plan to issue refunds or premium waivers to their customers; or 2) an explanation of why a refund or premium waiver is not warranted at this time. Both types of filings must be accompanied by detailed actuarial support. Insurers who have already advertised, implemented, or otherwise advised their policyholders or the public that they are issuing a premium waiver or refund without first having made a filing to DIFS must submit the required filing no later than June 3, 2020.

The Director has authority under MCL 500.249 to initiate proceedings to ascertain compliance with the provision of the insurance laws of this state. These filings are required to ascertain compliance with the following sections of the Insurance Code: MCL 500.2109, MCL 500.2110, MCL 500.2236, MCL 500.2403, and MCL 500.2408.

Insurers are reminded that Section 2236 of the Insurance Code, MCL 500.2236, requires that filings must be submitted 30 days prior to the effective date. However, Section 2408 of the Insurance Code, MCL 500.2408, allows insurers to include a written request in the filing memorandum for an effective date prior to the expiration of the 30-day period. DIFS will expedite its review of these filings. Upon approval, DIFS will advise insurers of the earliest possible effective date.

THEREFORE, IT IS ORDERED that all insurers authorized to write automobile insurance in Michigan who have not already submitted a filing under Bulletin 2020-18-INS, and who have not yet implemented a premium waiver or refund, must submit a filing in SERFF to obtain approval of their plan to issue premium waivers or refunds; or, alternatively, to explain why they are not issuing premium waivers or

refunds. Both types of filings must be submitted under the type "COVID-19 Refund/Premium Waiver" in SERFF, no later than June 10, 2020.

FURTHER, IT IS ORDERED that any insurer that has already advertised, implemented, or otherwise advised its policyholders or the public that it is issuing a premium waiver or refund without first having made a filing to DIFS must submit the required filing no later than June 3, 2020. The filing must also include an explanation as to why a filing was not submitted to DIFS prior to implementation of the premium waiver or refund.

FURTHER, IT IS ORDERED that insurers issuing premium waivers or refunds must attach a filing memorandum that includes the following:

- The amount of the refund or premium waiver by policyholder.
- The summary of the method for determining the amount of refund or premium waiver.
- Parameters on which policyholders will receive the refund or premium waiver.
- Timeframe during which the refund or premium waiver applies.
- How payments will be issued (e.g., checks, direct deposit, policy credits, etc.).
- A communication plan for customers.
- A communication plan for customers with long term changes in driving habits (e.g., layoff or telecommuting that extends beyond the proposed timeframe).
- A communication plan for customers to have the option to change the vehicle usage on their policy immediately.

FURTHER, IT IS ORDERED that all insurers, whether or not they plan to issue premium waivers or refunds, must attach the actuarial support that they relied on to determine the amount of the refund or premium waiver; or, alternatively, to determine that a refund or premium waiver is not warranted.

FURTHER, IT IS ORDERED that insurers issuing premium waivers or refunds must attach copies of any notices that will to be sent to policyholders, whether in hard copy or electronically.

FURTHER, IT IS ORDERED that insurers issuing premium waivers or refunds must attach a policy form that advises the customer, at a minimum, of the following:

- Whether the amount of premium owed has been modified by the refund or premium waiver.
- That all other terms and conditions of the policy apply.

LASTLY, IT IS ORDERED that nothing in this order shall be interpreted to absolve insurers of their obligation to review requests from individual policyholders for rate reductions necessitated by changed circumstances such as decreased driving habits, change in vehicle use, or other alterations in risk.

Any violation of this order will result in appropriate administrative action.

/s/
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Anita G. Fox
Director