

WES MOORE
Governor

ARUNA MILLER
Lt. Governor



MARIE GRANT
Acting Commissioner

JOY Y. HATCHETTE
Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

BULLETIN 24-26

DATE: December 23, 2024

TO: Private Passenger Motor Vehicle Liability Insurance Carriers

RE: Notice Requirements for Premium Increases Based on Factors Measured through a Telematics Program

The Maryland Insurance Administration (“the Administration”) is issuing this Bulletin to clarify that a private passenger motor vehicle liability insurance carrier (“insurer”) must comply with the notice requirements under § 27-614 of the Insurance Article¹ when increasing the premium for a policy based on factors measured through a telematics program.

The Administration is aware that many insurers offer insureds the option to participate in a telematics program. An insured who opts into a telematics program permits and enables the insurer to measure the insured’s driving behaviors through a smartphone application, GPS tracker, or other device. Examples of driving behaviors (i.e., “factors”) that telematics programs measure include: distance driven,² time of day driven, maximum speed, speed while turning, frequency of hard braking, cell phone use while driving, and activation of electronic warning or automatic braking system. Oftentimes, an insured receives a premium discount upon enrolling in a telematics program and/or is offered a future premium discount contingent upon factors measured through the program demonstrating that they are a low risk driver.

Based on information about an insured’s driving behaviors gathered through a telematics program, an insurer might reclassify the insured into a higher risk category, remove or reduce a premium discount, or impose a surcharge. An insurer might also take action if an insured does not provide enough data through the telematics program to meet the threshold for participation, or when

¹ Statutes referenced in this Bulletin are within the Insurance Article of the Annotated Code of Maryland.

² The premium due under a “pay-per-mile policy” is calculated by multiplying the number of miles driven by a per-mile rate (and perhaps adding a daily base rate charge). An increase in premium due for a “pay-per-mile” policy from one month to the next that is solely due to an increase in the number of miles driven (and not an increase in the per-mile rate or base rate) is not subject to the notice requirements under § 27-614.

transitioning from a participation discount factor to a score based factor. Section 27-614(a) and Code of Maryland Regulations 31.08.03.06(A)(2)(k)(v) make clear that an increase to the total premium for a policy due to any of the aforementioned actions is subject to the notice requirements described in that section.

Section 27-614(c)(1) and (2) require that an insurer provide written notice to an insured at least 45 days before increasing the total premium for a policy, including via the reduction or removal of a discount,³ unless the premium increase is part of a general increase in premiums. This requirement applies to telematics-based increases. Therefore, an insurer may not effectuate a premium increase based on factors measured through a telematics program or the reduction or removal of a telematics program discount without providing 45 days written notice of the increase.

Section 27-614(c)(5)(iii)(4) requires that a notice of premium increase due, wholly or in part, to a program that measures the operation of an insured vehicle during the current policy period: (A) include a specific description of the factor or factors in the program resulting in the premium increase; and (B) state the amount of the premium increase that is attributable to the program. This requirement that a notice of premium increase provide a clear and specific description of the basis of the increase, and the applicability of this requirement to telematics-based premium increases and discount removals, are set by statute. The Administration does not have the discretionary authority to waive or ignore these requirements. To comply with these requirements, a notice of premium increase based on information about an insured's driving behaviors collected through a telematics program:

- Must state the percentage of the premium increase that is attributable to the telematics program;
- Must identify each driving behavior that was measured through the program and included in the calculation of the premium increase;
- May not include factors other than driving behaviors measured through the program;
- If the premium increased because the insured produced insufficient driving data or dropped out of the program, must specifically state this as the reason for the increase; and
- May not use phrases such as “may have included,” “based on factors such as,” or “increased due to some or all of the following.”⁴

The notice is not required to specify which percentage of the increase is attributable to each specific factor that was measured by the telematics program. A notice that provides a list of all factors that were actually measured, and states that the overall result of the measurement was an increase in premium, complies with the law. However, an insurer may be required to produce information concerning specific factors to the Commissioner or her designee upon request, including during a protest hearing. In the event of a complaint or protest of the increase, the insurer must be able to provide all relevant data about the insured that was measured through the telematics program. The

³ Please note that the removal of a “low miles driven” discount based on an odometer reading constitutes a premium increase subject to the notice requirements under § 27-614.

⁴ The insurer must warrant that each factor listed in a notice of premium increase due to a telematics program was measured by the program and included in the calculation of the premium increase. For example, if “high speed” is a listed factor, the insurer warrants that its telematics program measured the insured's driving speed and factored the measured speed into its calculation of the premium increase.

insurer remains responsible for justifying the rate increase during an investigation by the Administration, even if a third party collected the data.

The Administration has received communications from insurers concerned that the law will obligate insurers to publicize confidential or proprietary rating information. The Administration hereby reiterates that any information that an insurer is required to produce that meets the definition of “proprietary rate-related information” under § 11-307(c)(1) and is identified as such will be afforded the protections described in that section. Carriers may identify any confidential information in accordance with the procedures of COMAR 31.16.10.06H through J.

An insurer who contracts with a third party vendor to administer its telematics program must have access to any data that is collected or processed through the program and considered in setting the premium rate for a policy. The fact that a third party vendor administers the telematics program does not relieve the insurer from its obligations under § 27-614 or any other section of the Insurance Article.

Questions about this Bulletin may be directed to:

Joy Y. Hatchette
Deputy Commissioner
joy.hatchette@maryland.gov

Marie Grant
Acting Insurance Commissioner

By: **Signature on Original**
Joy Y. Hatchette
Deputy Commissioner