Insurance Agents & Brokers

January 2, 2025

<u>Via Email: mary.kwei@maryland.gov</u>
Mary Kwei, Associate Commissioner
Maryland Insurance Administration
200 St. Paul Place, Suite 2700
Baltimore, MD 21202

Dear Mary:

RE: **IA&B COMMENTS – PROPOSED BULLETIN ON ACCEPTANCE BY INSURERS, PRODUCERS, AND SURPLUS LINES BROKERS OF CREDIT CARDS TO PAY INSURANCE PREMIUMS AND THE COLLECTION OF CREDIT CARD FEES**

On behalf of the Insurance Agents & Brokers of Pennsylvania (IA&B), thank you for the opportunity to review this proposed bulletin concerning the acceptance of credit cards to pay insurance premiums. IA&B is a professional trade association for independent insurance agents in Maryland, representing nearly 200 member agencies and their 1,800-plus employees.

It is important to recognize that insurers and producers are separate entities that may not have the same capabilities and internal policies in terms of credit card (CC) payments. An insurer's choice to accept CC payments should not extend to nor obligate an independent insurance producer to also accept CC payments for similar policies issued by that insurer.

The draft bulletin states: "*In order to determine if insurance products are separate products, the Administration will consider factors such as whether the products have different policy forms or different rate filings with corresponding different underwriting guidelines, and any other relevant factors.*" For independent agencies, who do not establish rate filings or underwriting guidelines themselves, there may still be confusion as to whether two policies would be considered different insurance products, particularly if the products use similar or near-identical policy forms (e.g. ISO forms).

Independent agencies may choose not to accept CC payments for several reasons, including not wishing staff to have access to CC information, not having the ability to attain PCI compliance, etc. Those independent agencies who do bill CCs typically do so in one of two ways:

<u>Direct-Billed Policies</u>

In this scenario, the insurer bills the policyholder directly, and may use a portal that charges the CC directly under a direct-bill program. The agency may be involved when the payment is processed and agency staff may assist the customer in entering CC information into the insurer's portal themselves, but the billing is "direct" to the insurer.

<u>Agency</u>**<u>-Billed Policies</u>**

In this scenario, the agency is charged with billing its customers and is responsible for payment. In that case, any CC payment processed by the agency would be handled entirely by the agency, and any CC fees would be borne by the agency as well.

- When agencies take CC payments under this scenario, they often do so for down payments only. When a CC merchandiser fee is charged to the vendor, this can be 3-6% of the total amount charged. For a carrier, that is 3-6% of the total premium. For the independent agency, that is taken out of their commission, which is typically set at around 12%. This would represent a drop in revenue of 25-50% if they were to take the entire premium amount with a CC.

  The bulletin should clarify that an insurance producer's choice to accept CC payments for the down payment on an insurance product does not create an obligation for the producer to accept CC payments on the total premium from that consumer, or any other consumer. While carriers can file higher rates to account for the lost revenue, independent agencies cannot. If they are agency-billed and carry the payment of the entire premium on their shoulders, taking CC payments would make them bear the burden of the merchandiser fee, representing a signification portion of the commission, unless they do so for down payments only, use an outside payment vendor, or charge the merchandiser fee back with proper disclosure per Bulletin 17-10.

- Agency-billing is typically not billed differently based on a specific *product*, but based on the specific characteristics of the *account*: total premium owed across all policies, the complexity of the account, and/or whether the policies are in the non-admitted (surplus lines) market. Consider the following common scenario for an independent agency, in which policyholder A has a commercial general liability (CGL) policy, while policyholder B has a near-identical CGL policy, but also has several other insurance policies, all billed together by the same independent agency. If Policyholder A's CGL policy were to be billed by CC, it would be difficult for the independent agency to also accept CC for Policyholder B's CGL policy, but not accept CC for the other insurance policies on the same account.

<u>Recommendations</u>

In conclusion, IA&B would request that the MIA amend the proposed bulletin to clarify the following:

- "In order to determine if insurance products are separate products, the Administration will consider factors such as whether the products have different policy forms or different rate filings with corresponding different underwriting guidelines, <u>the insurer issuing the policy, the entity responsible for billing the consumer, whether products are in the admitted or non-admitted market, the size and complexity of the policyholder's account</u>, and any other relevant factors.

- That an insurer's choice to accept CC payments does not create an obligation for an independent insurance producer to also accept CC payments for similar policies issued by that insurer.

- That an insurance producer’s choice to accept CC payments for the down payment on an insurance product does not create an obligation for the producer to accept CC payments on the total premium from that consumer, or any other consumer.

Thank you again for the opportunity to provide comments. Please do not hesitate to contact us if you have any questions on the above

Sincerely,

John Savant

Johnathan Savant
Director, Government Affairs