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BULLETIN 24-XX

DATE: [Insert Date]
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 will consider comments concerning this draft bulletin that are submitted to Kathryn Callahan (Director of Policy Initiatives), at kathryn.callahan1@maryland.gov, on or before November 4, 2024.

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, 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

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

enough data through the telematics program to meet the threshold for participation, or when 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, 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. 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 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 applicable, must clearly state that the premium increased because the insured produced insufficient driving data or dropped out of the program; 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.”²

An insurer is not required to specify in the notice which share of the telematics-based increase is attributable to each factor that was measured by the telematics program, as long as each listed factor was measured. However, an insurer may be required to produce this information 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 insurer remains responsible for justifying the rate increase during an investigation by the Administration, even if a third party collected the data.

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.

² 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 that into its calculation of the premium increase.

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Acting Insurance Commissioner

By: **Signature on Original**
William Fawcett
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