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## PROPOSED DRAFT BULLETIN

DATE: July 8, 2024

TO: Property and Casualty Insurers

RE: Permissible Application of Underwriting Standards When Deciding Whether to Cancel, or Refuse to Underwrite or Renew a Risk

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The Maryland Insurance Administration (“Administration”) is issuing this Bulletin to reiterate and clarify the Administration’s view as to the permissible application of underwriting standards by property and casualty insurers in deciding whether to cancel, non-renew, or refuse to underwrite a risk. The Administration’s position on this question was previously explained in Bulletin 03-16. This Bulletin is supplemental to Bulletin 03-16; it does not replace or rescind Bulletin 03-16.

Section 27-501 of the Insurance Article circumscribes an insurer’s ability to decline certain risks or categories of risk, and specifically limits an insurer’s ability to cancel, non-renew, or refuse to issue a policy in certain circumstances. As Bulletin 03-16 stated, “a critical inquiry under § 27-501 is whether the underwriting standard relied upon by an insurer in deciding whether to cancel, refuse to underwrite or renew a risk is reasonably related to the insurer’s economic and business purpose. That is a determination that must be made with reference to the insurer’s filed rating plan.” This statement remains true.

The Administration’s longstanding position is that an insurer may not refuse to underwrite a risk for which it has a filed rate. If an insurer’s rating rule provides a rate for a specific type of risk factor, then the insurer may not reject that risk. In such a case, the insurer may not apply underwriting guidelines, whether directly or through its agents, that would result in declination or nonrenewal of the risk. If a rating rule does not include a rate for that risk factor, then underwriting guidelines may be the basis for declination or nonrenewal.

The Administration has learned that there is some confusion about when a rating rule covers a risk. If the rating rule lists categories for a rating factor, and the risk falls within

one of the categories, then the risk is covered by the rating rule. Risks that are not covered by the rating rules do not have to be accepted.

The following examples illustrate this position:

- A homeowners insurer writes policies in Maryland, and has rating factors based on home size, type of construction, ZIP code, and distance to the nearest fire hydrant. The factor for distance to the fire hydrant has categories less than 300 feet, 300 to 900 feet, and over 900 feet. The insurer may not use an underwriting guideline to deny a homeowners policy to an applicant whose house is 1,000 feet from a fire hydrant. The house falls within a category in the filed rating plan. The insurer would need to amend the rating rule to cap the distance in order to use that underwriting guideline.
- A homeowners insurer writes policies in Maryland, and has rating factors based on home size, type of construction, and ZIP code. There is no rating rule based on distance to a fire hydrant. The insurer may apply underwriting guidelines to deny a homeowners policy to an applicant whose house is 1,000 feet from a fire hydrant.

Insurers are required to file actuarially sound, adequate rates. If a risk falls within a category included in a filed rating plan, then the rate should be adequate to cover the risk. If a rate is not adequate to cover a risk, then the risk should not be included in the rating rules. The Administration does not require a list of risks that are excluded, although there may be situations in which that is the clearest way to delineate the risks included in the rate. The Administration further notes that, pursuant to Section 27-501(g), an insurer will bear the burden of persuasion to show that a cancellation, non-renewal, or refusal to underwrite a policy is justified at any hearing to determine whether Section 27-501 has been violated.

Rates and underwriting rules must comply with other requirements of the Insurance Article as well as complying with the requirements described in this Bulletin.

JOY Y. HATCHETTE  
Acting Commissioner

By: **Signature on Original**

Mary M. Kwei  
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