CFA Consumer Federation of America

CENTER for ECONOMIC JUSTICE | FAIR ACCESS FAIR TREATMENT

March 30, 2020

Dear Commissioner,

We urge you to take action on key P&C insurance consumer protection issues arising from COVID-19 and federal and local government responses to the pandemic, particularly the excessive premiums being charged to individuals and businesses for lines of insurance that base rates on factors such as miles driven, payroll, and receipts.

Before getting into the details of why you need to act now to give insurance buyers options for temporary relief from illegally excessive premiums during the COVID-19 crisis, we want to thank those of you who have taken action to prohibit cancellation of policies and other steps to provide critical relief for many individuals and businesses (most of which are listed in a compendium of state responses compiled by Sidley Austin LLP, found at https://www.sidley.com/en/insights/newsupdates/2020/03/compendium-of-us-state-insurance-department-responses-to-the-covid19-pandemic).

As you know, millions of consumers and businesses are affected by this extraordinary outbreak – hundreds of thousands have been and will become infected, but hundreds of millions are dramatically affected by social distancing requirements of state and local governments. Millions of workers have been laid off and thousands of businesses have been forced to close. These workers and businesses will experience a variety of financial hardships through no fault of their own with enormous consequences for their insurance coverages.

While certain lines of insurance will see an increase in claims and claim costs, other lines will see radical decreases in claims and claims costs. With that in mind, we ask your further action on the following:

1. Premium Relief Resulting from Radical Changes in Exposure
2. Imposing a Moratorium on the use of Insurance Credit Scoring
3. Monitor Credit-Related Insurance Markets Closely

1. Premium Relief Resulting from Radical Change in Exposure

On March 18, 2020, we sent you a letter (attached) urging you to take action to provide temporary premium offset payments to policyholders whose exposure to loss has been greatly reduced by the COVID-19 crisis. We particularly pointed out that miles driven have declined sharply in most of the nation by "stay at home" orders and other actions to prevent spread of the novel coronavirus. Allowing current premiums to remain in place would produce huge windfall profits to insurers and further stress policyholders, millions of whom have been laid off or are getting reduced incomes. Simply put, without your action in lines where rates are based on exposures such as miles driven, payroll, and receipts, current premium charges are illegal during the duration of the COVD-19 crisis because they are significantly excessive.

Personal auto insurance is not the only type of insurance experiencing a dramatic reduction in exposure. Businesses whose premium is based on employee count or measures of serving the public such as receipts and who have been forced to close are also experiencing radical reductions in exposure – changing the exposure basis used when the policies were originally written.

The Alaska Division of Insurance has taken an action – through Bulletin B 20 10[1], which squarely addresses this issue. In its bulletin, the Director writes:

> Many property and casualty insurance policies calculate premiums based on exposure estimates made at the time the policy is issued. Examples of common exposure bases include miles driven, sales revenue, receipts, or payroll. Due to the far-reaching effects of the COVID-19 outbreak and local, state, and federal governments' responses, for many policyholders, initial estimates are expected to be much higher than the exposure actually realized. Recognizing there are other difficult-to-quantify effects of the COVID-19 outbreak that will affect exposure to loss in the near term, insurers are encouraged to allow policyholders to self-audit and self-report changes in their exposure or risk profile and adjust premiums accordingly

We urge you to use the Alaska action as a starting point, a model for action in your state. But, as our earlier letter points out, further action by insurance regulators is needed to address rates that have become excessive and unfairly discriminatory.

1. Direct insurers in your state to contact their policyholders and offer premium relief to any policyholder who can demonstrate or attest that their exposure basis has been impacted by COVID-19 safety measures.
2. Direct insurers that such premium relief is permitted by state law and is not a rebate.
3. Direct insurers to file with your department the notices they will send to policyholders and the process and timing they will use to provide relief.
4. Direct insurers to report on a monthly basis anonymized information on each request for relief received, including
    a. Date of request,
    b. ZIP Code of policyholder,
    c. Original annual premium of policy,
    d. Whether request was granted or rejected,

[1] Found at https://www.commerce.alaska.gov/web/Portals/11/Pub/INS_B20-10.pdf

   e. If rejected the reason for rejection, and
   f. If granted the amount of premium relief.
5. Encourage drivers to contact their auto insurers for relief as part of your Department's COVID-19 consumer outreach and education.

2. Impose a Moratorium on Insurance Credit Scoring

The continued use of credit scoring by insurers will penalize consumers who are the victims of COVID-19 and the massive economic and medical costs of the virus and government response. From an actuarial standpoint, the basis for the immediate moratorium is that insurance credit scoring has become a clearly unfairly discriminatory underwriting, tier placement, and rating factor. Whatever basis insurers may have used to justify their credit-based insurance scores in times past cannot hold when declining credit scores is symptomatic of policyholders' diminished exposure (not working and not driving, for example), exactly the opposite of what credit-based insurance models predict will happen.

While some states have provisions in their insurance credit scoring models for consumers to challenge their insurance credit scores due to life events, such a provision is not found in many state statutes. Nor should it be the burden of consumers to address this, given that most likely do not even know that their credit impacts their policy in any way.

Predictive models are developed based on historical data -- the data are mined to see what factors are most predictive of a particular outcome. If the training data are biased, incorrect, incomplete – or not representative of the future experience – the model will reflect and perpetuate the bias in the data. In the case of insurance credit scoring, historical data will not reflect the current and near future credit experience of many consumers who have been laid off, whose business has closed, who have essentially stopped driving, who have major medical bills due to COVID-19 and more.

In the case of insurance credit scoring, it is profoundly unfair to penalize drivers, homeowners, or renters with higher insurance premiums, because they were the victims of COVID-19 or are contending with the various government responses thereto. Further, there is no question that insurance credit scores will suffer. Rate filings we reviewed illustrate, among other things, that insurance credit scoring, at best, can segment historical experience, but cannot be relied upon as predictive of future experience, especially in a time such as this. The filings also show that consumers will suffer because of negative factors tied to economic conditions, generally, and COVID-19 impact, specifically, including, but not limited to:

- Months since recent delinquency – consumers without a paycheck or on unemployment or with high medical bills are far more likely to have a delinquency. Almost all bankruptcies are a result of medical debt (with the majority occurring for those with insurance, job loss, and divorce)

- Months since oldest trade opened – consumers without a paycheck or on unemployment are far more likely to turn to credit to pay bills.
- Utilization of open bank revolving trades
- Number of trades opened in last 6 months
- Number of open credit card trades verified in last 12 months with utilization > 75% – this one particularly punishes lower income consumers whose trade lines have modest limits.
- Months since most recent collections
- Number of trades 30 or more day past due in last 12 months
- Number of inquiries in last 24 and last 3 months
- Number of home equity trades

The moral unfairness of credit scoring is clear, but so is the actuarial unfairness. We know insurance claims for some lines of insurance, including personal auto, will be dropping overnight as people shelter in place, stop commuting to work, stop going to public social events. So, as insurance claims are dropping generally – and for people who have stopped driving, specifically – many of these same people will see their credit scores worsen because their lost income or costs incurred as result of COVID-19. Past history will not be a predictor of future performance when conditions change significantly, as they have.

We ask that you use your authority to direct insurers to stop using insurance scores based on credit through the end of the year and require insurers to use no worse than a neutral insurance score – meaning a score than doesn't penalize a consumer for credit experience, a score that would produce the same premium as if the insurer did not utilize credit for underwriting or rating. The moratorium should last until regulators have independently gathered sufficient data – not relying upon data cherry picked by insurers – to meaningfully assess the actuarial relationship between credit and risk of loss.

3. Closely Monitor Credit-Related Insurance Markets

There are a number of credit-related insurance products for which claims or exposures may increase, including credit involuntary unemployment, credit life insurance and force-placed insurance.

We bring this to your attention because these coverages have long been a source of consumer abuse. For example, we saw massive overcharges due to insurer kickbacks to lenders and servicers during the Great Recession. For another example, credit life and credit unemployment insurance are often sold by lenders who are affiliated (through captive reinsurance arrangements) with the insurers obligated to pay the claims. Consequently, we ask that you monitor these markets closely to ensure legitimate claims are paid and that price gouging does not occur. Just as states utilize special data calls in the aftermath of a hurricane or flood to monitor claim settlement performance of insurers, we suggest similar monthly data calls of credit-related insurers to monitor the effects of a catastrophic event for these lines of business.

CFA and CEJ Are Ready to Help

Between our two organizations, we have decades of actuarial, economic and policy experience with all types of insurance and expertise in advanced analytics. Our organizations are also part of networks with hundreds of other consumer-oriented organizations, giving us the ability to tap our network to find the expertise you may need. If we can help, please let us know.

Sincerely,

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