Insurance Alert

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California Insurance Commissioner Orders Premium Returns Due to COVID-19

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Key Points:

- California Insurance Commissioner Ricardo Lara issued Bulletin 2020-3 requiring insurers to refund premiums to policyholders of several lines of insurance, including automobile insurance, workers compensation and property and casualty insurance.
- The refunds are intended to compensate for reduced loss exposure resulting from curtailed activity as a result of COVID-19 and the related shelter-in-place orders.
- Refunds are to be issued for the months of March and April, and must be made by August 11, 2020. Additionally, insurers affected by the Bulletin are required to submit a report to the Department of Insurance with specific information related to compliance with the Bulletin.

On April 13, California Insurance Commissioner Ricardo Lara issued a sweeping Bulletin addressed to all Property and Casualty and Workers Compensation Insurers, requiring them to refund premiums for the months of March and April within 120 days.

According to the Bulletin, the COVID-19 pandemic has "severely curtailed activities of policyholders in both personal and commercial lines" which in turn has reduced loss exposure and caused projections of loss exposure to be overstated or misclassified. The Bulletin notes that while this reduced exposure has impacted automobile insurance most directly, "these reductions in risk extend beyond the automobile line of insurance."

Accordingly, Commissioner Lara has ordered insurers to provide a premium credit, reduction, return of premium, or other appropriate measure for the months of March and April on the following lines of insurance:

- Private passenger automobile insurance
- Commercial automobile insurance
- Workers' compensation insurance
- Commercial multiple peril insurance
- Commercial liability insurance

- Medical malpractice insurance
- Any other line of coverage where the measures of risk have become substantially overstated as a result of the pandemic.

Initial refunds are to be made no later than August 11, 2020, and insurers are allowed flexibility in determining how best to accomplish the refunds. Further, the refund does not require prior approval by the California Department of Insurance so long as the refund applies uniformly to all policyholders in an individual line of insurance. Such across-the-board premiums may be an average percentage of the change in risk or reduction in exposure. Alternatively, insurers may also provide refunds without prior approval by "reassessing the classification and exposure bases" of risk on a case-by-case basis, and returning premiums where the prior risk classification resulted in an overcharge.

Along with the refund, insurers are to provide notification to insureds that includes the amount of the refund, an explanation of the basis for the adjustment and a description of any changes to the classification of exposure. Insurers are also to allow insureds to provide actual or estimated experience, such as updated mileage estimates in automobile policies.

Finally, the Bulletin requires all insurers affected by its mandate to file a report with the Department of Insurance by June 12, 2020, that describes the actions insurers intend to take to comply with the premium refund requirements, including an explanation and justification for the amount and duration of the refund, and how those measures reflect actual or expected reduction of exposure to loss. Additionally, the report must include a range of data including, among other things, the percentage of refund applied, the average premium before and after refund and the number of policyholders receiving a refund..

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