STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
34 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0034

Janet T. Mills
Governor

Eric A. Cioppa
Superintendent

Bulletin 448

Coronavirus Pandemic: Credit Scoring

The Superintendent directs this bulletin to the attention of insurers that use credit information in underwriting or rating personal insurance policies. The purposes of this bulletin are to encourage insurers to work with their customers whose credit has been affected by the coronavirus pandemic, known as COVID-19, and to remind insurers of their obligations under Maine's Fair Credit Reporting Act when they renew insurance policies where their customers have frozen their consumer accounts.

On March 12, 2020, Governor Mills proclaimed a state of insurance emergency in Maine because of COVID-19. The proclamation authorized the Superintendent "to make, amend, or rescind such rules and regulations governing the business of health insurance carriers as the Superintendent deems expedient in order to adopt and maintain sound methods of protecting the interests of such insurers, insureds, beneficiaries and the public" during the emergency. That day, the Superintendent issued Bulletin 442, *Emergency Measures Responding to the Coronavirus Pandemic*. Bulletin 442 pointed out that the pandemic will affect various types of insurance in addition to health coverage.

There is no question that Maine is in the grips of extraordinary events because of the spread of the coronavirus. For example, unemployment claims have surged to levels not seen since the Great Depression, and many employed workers face reduced hours.[1] Insurers writing personal lines business have responded admirably to the COVID-19 pandemic, in part by voluntarily reducing premiums for motor vehicle insurance. As stated in Bulletin 444, *Coronavirus Pandemic: Property and Casualty Premium Refunds*, the Superintendent commends insurers for taking these steps. The economic disruption will affect many consumers' ability to pay their bills timely for the indefinite future, and this will inevitably affect the information in their consumer reports. The Superintendent urges insurers that use credit information in underwriting personal lines coverage to give appropriate recognition to these extraordinary life circumstances as explained in this bulletin.

[1] Portland Press Herald, *Jobless rate spikes to 14.7%, highest since Great Depression* (April 8, 2020)

The Insurance Code has regulated the use of credit information in underwriting personal lines of insurance since 2003.[2] Section 2169-B prohibits an insurer from denying, canceling, or refusing to renew a policy of personal insurance solely on the basis of credit information without considering any other independent underwriting factor.[3] Section 2169-B also allows an insured to request the insurer to reunderwrite and rerate his or her policy once every 12 months based on an updated credit report.[4] The insurer must recalculate the insured's insurance score and rerate him or her within 30 days after receiving the request. The insurer must make the adjustments according to its underwriting and rating guidelines on the policy's anniversary date or renewal effective date. The Superintendent encourages insurers to waive the 12-month restriction for any policyholder who has previously requested rerating under Subsection 216-B(5-A) but requests rerating again because of the effects of the pandemic on his or her consumer information.

The process set out in Subsection 2169-B(5-A) might not provide timely financial relief to those consumers whose policy anniversary or renewal dates are months in the offing, or whose circumstances are not addressed by the insurer's scoring algorithm. The Superintendent therefore encourages insurers to consider whether applicants' or policyholders' insurance scores have been affected by extraordinary life circumstances they have suffered because of COVID-19. One process insurers may use is set out in a provision in a 2002 model law adopted by the National Council of Insurance Legislators (NCOIL).[5] Although Maine law does not mandate this process, it is an option insurers already have experience implementing and administering in other states that require it. The NCOIL extraordinary life circumstances provision requires an insurer that uses credit information, upon written request of an applicant or insured, to provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines if the consumer has experienced certain events and they have directly influenced the consumer's credit information. Those events include, among others, catastrophic events, as declared by the federal or state government; serious illness or injury, or serious illness or injury to an immediate family member; the death of a spouse, child, or parent; involuntary interruption of legally-owed alimony or support payments; identity theft; the temporary involuntary loss of employment for a period of 3 months or more; and other events, as determined by the insurer.

In response to a request for an exception, the insurer may require the applicant or insured, within 60 days after the date of the application or policy renewal, to provide reasonable written and independently verifiable documentation of the event and to demonstrate that the event had a direct and meaningful influence on his or her credit information. The Superintendent encourages insurers to grant exceptions even if consumers made the initial requests orally or if consumers have asked for consideration of repeated events or previously requested exemptions based on the events at issue. The insurer must inform the consumer of the results of the request within 30 days after receiving sufficient documentation of the event underlying the request.

---

[2] 24-A M.R.S. § 2169-B (PL 2003, c. 223)

[3] See Bulletin 329, *Implementation of the Act to Ensure Fairness Regarding Use of Consumer Credit Reports in Insurance Underwriting*, October 26, 2004

[4] 24-A M.R.S. § 2169-B(5-A)

[5] *Model Act Regarding Use of Credit Information in Personal Insurance* at http://ncoil.org/wp-content/uploads/2016/04/11262015PropertyCasualtyModelAct.pdf. Section 2169-B is based on this model.

The Superintendent encourages insurers to notify their policyholders and applicants of this process and how they may inquire about requesting exceptions.

The Superintendent will not consider any insurer that grants an exception to be out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception as described in this bulletin or to be in violation of the statutes governing the return of premium to policyholders, limiting the frequency of premium changes, or prohibiting improper rebates to induce the purchase or retention of insurance.

Insurers should also review the bulletin entitled *Consumer Report Security Freezes*,[6] jointly issued in May 2016 by the Superintendents of Insurance and Consumer Credit Protection. This bulletin explains how insurers, vendors, and consumer reporting agencies should handle the renewal of insurance policies where consumers have frozen their credit records. In light of the prevailing economic uncertainties, the Superintendent of Insurance takes this opportunity to remind insurers of their obligations under the Maine Fair Credit Reporting Act regarding frozen credit records.

Anyone with questions about this should contact the Bureau's Property & Casualty Division.

May 11, 2020

Eric A. Cioppa
Superintendent of Insurance

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Bureau of Insurance if additional information is needed.

[6] This is Bulletin 412, under the Bureau's numbering system.