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OFFICE OF SUPERINTENDENT OF INSURANCE

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OF INSURANCE

Insurance Bulletin 2019-010

June 27, 2019

This Bulletin supersedes and replaces Bulletin 2018-006.

TO: INSURANCE COMPANIES AUTHORIZED TO TRANSACT BUSINESS OF INSURANCE IN NEW MEXICO

RE: INTEREST RATE APPLICABLE TO UNPAID CLAIMS 45 DAYS AFTER REQUIRED PROOF OF LOSS HAS BEEN FURNISHED

THE FOLLOWING BULLETIN is issued pursuant to NMSA 1978, § 59A-2-8, and 13.1.2.8 NMAC, *et seq.*

The New Mexico Insurance Code, at NMSA 1978, § 59A-16-21(B), provides:

Notwithstanding any provision of the Insurance Code, any insurer issuing any policy, certificate or contract of insurance, surety, guaranty or indemnity of any kind or nature which fails for a period of forty-five days, after required proof of loss has been furnished, to pay to the person entitled the amount justly due shall be liable for the amount due and unpaid with interest on that amount at the rate of one and one-half times the prime lending rate as determined by the superintendent, for New Mexico banks per year during the period the claim is unpaid.

The New Mexico Administrative Code, at 13.10.22.12(O) NMAC, provides:

Each contract shall provide that a MHCP failing to pay a health care professional or failing to pay a covered person for out of pocket covered expenses within forty-five days after a clean claim has been received by the MHCP shall be liable for the amount due and unpaid with interest on that amount at the rate of one and one half times the rate established by a bulletin entered by the superintendent in January of each calendar year. For the purposes of this section, “clean claim” means a manually or electronically submitted claim that contains all the required data elements necessary for accurate adjudication without the need for additional information from outside of the MHCP’s system and contains no deficiency or impropriety, including lack of substantiating documentation currently required by the MHCP, or particular circumstances requiring special treatment that prevents timely payment from being made by the MHCP.

Due to the recent change in the prime lending rate, commencing July 1, 2019, the interest rate applicable to the referenced statute and rule is **8.25%**. This rate shall remain in effect until superseded by a subsequent bulletin specifying a different rate. The Superintendent intends to publish an interest rate bulletin at least once per year. The Superintendent may publish interest rate bulletins more frequently if the prime lending rate materially fluctuates, or less frequently if the prime lending rate remains stable.

An insurer who owes interest pursuant to the referenced statute or rule shall use the rate specified in the rate bulletin in effect 45 days after the insurer was furnished a proof of loss or claim.

Please direct your questions regarding this bulletin to Anna Krylova at (505) 827-4529, or via e-mail at anna.krylova@state.nm.us.

DONE AND ORDERED this June 27, 2019.



JOHN G. FRANCHINI
Superintendent of Insurance