

STATE OF NEW MEXICO
OFFICE OF SUPERINTENDENT OF INSURANCE

SUPERINTENDENT OF INSURANCE

Russell Toal



DEPUTY SUPERINTENDENT

Robert E. Doucette, Jr.

May 6, 2020

NOTICE

NOTICE IS HEREBY GIVEN to every insurer who issued or delivered a private passenger or commercial auto insurance policy to a New Mexico person or entity, with coverage in effect on or after March 11, 2020.

In Docket No. 20-00025-COMP-PC, the superintendent of insurance ordered the subject insurers to determine if rates and premiums for auto insurance products covering risks in New Mexico should be readjusted considering the reduced automobile usage resulting from the COVID-19 public health emergency. If a subject insurer determines that the premium charged of any of its New Mexico auto insurance policies is excessive, the Order requires the insurer to return the excess premiums to the impacted policyholder(s). The Order specifies that any excess premium

shall be paid by issuing the policyholder a check or ACH deposit for the amount of the adjustment, or by issuing a credit to the policyholder against premium due for the amount of the adjustment. If the credit exceeds the premium amount that would otherwise be due from the policyholder through April 30, 2020, the balance of the adjustment shall be paid by check or ACH deposit.

The superintendent has received numerous inquiries from insurers concerning the interpretation of this language. The superintendent has also received proposals for refund alternatives other than payment by check or ACH deposit. Some insurers have asked to be allowed to apply the refund amount against future policy premiums. Other insurers have asked to be allowed to give the policyholder the option of receiving an immediate payment or credit against future premium.

The superintendent appreciates these questions and proposals, and understands that premium credits are usually an acceptable method of handling refunded premiums. Nevertheless, because of the unprecedented economic hardships presented by the COVID-19 public health crisis, the superintendent finds that it would be in the best interest of policyholders to receive premium refunds in a manner that will allow the policyholder to allocate the refund as personal circumstances require, and as quickly as possible. The superintendent previously asked insurers to exercise forbearance with those policyholders who cannot pay their premiums. Providing refunds directly to policyholders promotes the same interest of allowing policyholders discretion as to how to manage finances during this crisis.

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Pursuant to the Order, the only exception to the refund requirement is when a policyholder has a premium due and payable for coverage under an existing policy. Under those circumstances, the insurer can apply any premium refund as a credit against the premium due, but only to the extent of the premium due. Any excess balance must be paid directly to the policyholder through a check or ACH deposit. Any insurer who previously granted premium credits relating to COVID-19 adjustments prior to issuance of the Order shall not be required to reverse or refund an applied and accepted credit.

Pursuant to paragraph E of the Order, under no circumstances may an insurer confer or apply a credit if no premium is due from the policyholder on the date the refund amount is calculated. To that end, insurers are prohibited from making the premium adjustment in the form of a credit that will apply to a renewal policy, or contingent upon renewal of a policy.

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