



Alerts

California Orders Premium Refunds on Policies Exposed to Reduced Risk of Loss Due to COVID-19 Pandemic and Calls for Coverage Extension for Uninsured Delivery Drivers for California Essential Businesses

April 13, 2020

Insights for Insurers

We review two significant actions recently taken by the California Department of Insurance (the "Department") in response to the COVID-19 pandemic.

Premium Refund Order

On April 13, 2020, the Department ordered insurance carriers to provide initial premium refunds for the months of March and April for 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.

The order is premised upon the Department's determination that projected losses on these lines of insurance are now overstated due to the severe curtailment in the activities of policyholders under these lines (e.g., less miles driven, less business revenue, drop in payroll) and that refunds should be provided to policyholders to reflect this decreased risk of loss.

Carriers are to comply within 120 days of the April 13, 2020 bulletin.

Notably, prior to this order, many auto insurance carriers, such as Farmers, Liberty Mutual, CSAA, Progressive and American Family (and many others), had already announced plans to provide refunds and/or credits due to this perceived reduced risk of loss. The order requires refunds for all auto carriers, as well as the other lines of insurance specified above.

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Further details on the April 13, 2020 order, including ways carriers may comply without prior approval of the Department, are set forth in the [full text of the order](#).

Notice Requesting Coverage for Uninsured Essential Business Delivery Drivers

The April 13, 2020 order comes on the heels of the [Department's April 9, 2020 Notice](#) requesting insurers to not deny claims under a personal auto insurance policy solely because the insured was engaged in providing delivery service on behalf of a California essential business impacted by the COVID-19 related closures, so long as the delivery driver was operating within the course and scope of his/her duties on behalf of such essential business.

Per the Department, essential California businesses that do not normally offer delivery service may begin to do so due to Governor Newsom's March 19, 2020 Stay at Home order. Workers who typically do not deliver food and medications, among other essential goods, may be requested to provide delivery services temporarily using their own insured personal vehicles, which may be uninsured. For instance, personal automobile policies do not typically provide coverage for vehicles used for commercial purposes, like commercial delivery service. Further, drivers may not be covered under the commercial automobile policy issued to a California essential business. The Notice purports to address this concern.

In the Notice, the Department additionally requests that:

- Insurers add delivery coverage to personal auto policies for drivers engaged in delivery service on behalf of a California essential business impacted by the mandated changes relating to the pending health emergency in the operations of such business and not enforce any exclusions for commercial delivery activity under personal automobile policies.
- Insurers allow California essential businesses to add retroactively additional drivers not previously named under such businesses' commercial automobile policy if a driver is operating a vehicle covered by the policy within the scope of their duties for the specific essential business.
- Insurers allow delivery coverage for drivers who utilize a personal motorcycle motor scooter, and/or bicycle to engage in delivery services on behalf of California essential businesses under their personal auto policies if such policies already include motorcycle coverage for the insured driver.
- Insurers that provide commercial general liability coverage to California essential businesses notify their insureds that commercial automobile coverage is available if requested. If the insured California essential business requests commercial automobile coverage, the Department requests that the insurer, either through a rider or stand-alone policy, provide this coverage to any insured California essential business impacted by Governor Newsom's March 19, 2020 Executive Order N-33-20 to close all non-essential businesses.

The Department requests insurers to provide the above-described coverages as soon as possible and to continue these coverages until at least thirty (30) days after California essential businesses are no longer subject to restrictions pursuant to Governor Newsom's March 19, 2020 Order.