Article - Insurance

[Previous][Next]

§27–613.

(a) (1) This section applies only to private passenger motor vehicle liability insurance.

(2) This section does not apply to the Maryland Automobile Insurance Fund.

(3) This section does not apply to the cancellation of a policy or binder of private passenger motor vehicle liability insurance by an insurer during the 45–day underwriting period in accordance with § 12–106 of this article.

(b) (1) In accordance with this section, with respect to a policy of private passenger motor vehicle liability insurance or a binder of private passenger motor vehicle liability insurance, if the binder has been in effect for at least 45 days, issued in the State to any resident of the household of the named insured, an insurer may:

(i) cancel or fail to renew the policy or binder; or

(ii) reduce coverage under the policy.

(2) Notwithstanding paragraph (1) of this subsection, the requirements of this section do not apply if:

(i) the reduction in coverage described in paragraph (1)(ii) of this subsection is part of a general reduction in coverage approved by the Commissioner or satisfies the requirements of Title 19, Subtitle 5 of this article; or

(ii) the failure to renew the policy takes place under a plan of withdrawal that:

1. is approved by the Commissioner under § 27–606 of this subtitle; and

2. provides that each insured affected by the plan of withdrawal shall be sent by a first–class mail tracking method at least 45 days before the nonrenewal of the policy a written notice that states the date that the policy will be nonrenewed and that the nonrenewal is the result of the withdrawal of the insurer from the market.

(3) Notwithstanding paragraph (1) of this subsection, an insurer may not cancel a policy midterm except:

(i) when there exists:

1. a material misrepresentation or fraud in connection with the application, policy, or presentation of a claim;

2. a matter or issue related to the risk that constitutes a threat to public safety; or

3. a change in the condition of the risk that results in an increase in the hazard insured against;

(ii) for nonpayment of premium; or

(iii) due to the revocation or suspension of the driver's license or motor vehicle registration:

1. of the named insured or covered driver under the policy; and

2. for reasons related to the driving record of the named insured or covered driver.

(c) (1) At least 45 days before the proposed effective date of the action, an insurer that intends to take an action subject to this section shall send written notice of its proposed action to the insured at the last known address of the insured:

(i) for notice of cancellation or nonrenewal, by certified mail; and

(ii) for all other notices of actions subject to this section, by a first–class mail tracking method.

(2) The notice must be on a form approved by the Commissioner.

(3) The notice must state in clear and specific terms:

(i) the proposed action to be taken, including for a reduction in coverage, the type of coverage reduced and the extent of the reduction;

(ii) the proposed effective date of the action;

(iii) subject to paragraph (4) of this subsection, the actual reason of the insurer for proposing to take the action;

(iv) if there is coupled with the notice an offer to continue or renew the policy in accordance with § 27–609 of this subtitle:

1. the name of the individual or individuals to be excluded from coverage; and

2. the premium amount if the policy is continued or renewed with the named individual or individuals excluded from coverage;

(v) the right of the insured to replace the insurance through the Maryland Automobile Insurance Fund and the current address and telephone number of the Fund;

(vi) the right of the insured to protest the proposed action of the insurer and request a hearing before the Commissioner on the proposed action by:

1. signing a copy of the notice and sending it to the Commissioner within 30 days after the mailing date of the notice; or

2. filing the protest electronically through the consumer complaint portal on the Administration's website within 30 days after the mailing date on the notice;

(vii) that if a protest is filed by the insured, the insurer must maintain the current insurance in effect until a final determination is made by the Commissioner, subject to the payment of any authorized premium due or becoming due before the determination; and

(viii) that the Commissioner shall order the insurer to pay reasonable attorney's fees incurred by the insured for representation at the hearing if the Commissioner finds that:

1. the actual reason for the proposed action is not stated in the notice or the proposed action is not in accordance with § 27–501 of this title, the insurer's filed rating plan, its underwriting standards, or the lawful terms and conditions of the policy related to a cancellation, nonrenewal, or reduction in coverage; and

2. the insurer's conduct in maintaining or defending the proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide dispute.

(4) (i) The insurer's statement of actual reason for proposing to take an action subject to this section must be clear and specific and include a brief statement of the basis for the action, including, at a minimum:

1. if the action of the insurer is due wholly or partly to an accident:

A. the name of the driver;

B. the date of the accident; and

C. if fault is a material factor for the insurer's action, a statement that the driver was at fault;

2. if the action of the insurer is due wholly or partly to a violation of the Maryland Vehicle Law or the vehicle laws of another state or territory of the United States:

A. the name of the driver;

B. the date of the violation; and

C. a description of the violation;

3. if the action of the insurer is due wholly or partly to the claims history of an insured, a description of each claim;

4. whether the insurer's action is based on a violation of law, policy terms or conditions, or the insurer's underwriting standards;

5. whether the insurer's action is based on a material misrepresentation; and

6. any other information that is the basis for the insurer's action.

(ii) The use of generalized terms such as "personal habits", "living conditions", "poor morals", or "violation or accident record" does not meet the requirements of this paragraph.

(iii) The Commissioner may not disallow a proposed action of an insurer because the statement of actual reason contains:

1. grammatical errors, typographical errors, or other errors provided that the errors are nonmaterial and not misleading;

2. surplus information, provided that the surplus information is nonmaterial and not misleading; or

3. erroneous information, provided that in absence of the erroneous information, there remains a sufficient basis to support the action.

(d) At least 10 days before the date an insurer proposes to cancel a policy for nonpayment of premium, the insurer shall send to the insured, by a first–class mail tracking method, a written notice of intention to cancel for nonpayment of premium.

(e) A statement of actual reason contained in the notice given under subsection (c) of this section is privileged and does not constitute grounds for an action against the insurer, its representatives, or another person that in good faith provides to the insurer information on which the statement is based.

(f) (1) This subsection does not apply to an action of an insurer taken under subsection (d) of this section.

(2) An insured may protest a proposed action of the insurer under this section by:

(i) signing a copy of the notice and sending it to the Commissioner within 30 days after the mailing date of the notice; or

(ii) filing the protest electronically through the consumer complaint portal on the Administration's website within 30 days after the mailing date on the notice.

(3) On receipt of a protest, the Commissioner shall notify the insurer of the filing of the protest.

(4) A protest filed with the Commissioner stays the proposed action of the insurer pending a final determination by the Commissioner.

(5) The insurer shall maintain in effect the same coverage and premium that were in effect on the day the notice of proposed action was sent to the insured until a final determination is made, subject to the payment of any authorized premium due or becoming due before the determination.

(g) (1) Based on the information contained in the notice, the Commissioner shall:

(i) determine whether the protest by the insured has merit; and

(ii) dismiss the protest or disallow the proposed action of the insurer.

(2) The Commissioner shall notify the insurer and the insured of the action of the Commissioner promptly in writing.

(3) Subject to paragraph (4) of this subsection, within 30 days after the mailing date of the Commissioner's notice of action, the aggrieved party may request a hearing.

(4) The Commissioner shall:

(i) Hold a hearing within a reasonable time after the request for a hearing; and

(ii) give written notice of the time and place of the hearing at least 10 days before the hearing.

(5) A hearing held under this subsection shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(6) At the hearing the insurer has the burden of proving its proposed action to be in accordance with the insurer's filed rating plan, its underwriting standards, or the lawful terms and conditions of the policy related to a cancellation, nonrenewal, or reduction in coverage, as applicable, and not in violation of § 27–501 of this title and, in doing so, may rely only on the reasons set forth in its notice to the insured.

(h) (1) The Commissioner shall issue an order within 30 days after the conclusion of the hearing.

(2) If the Commissioner finds the proposed action of the insurer to be in accordance with the insurer's filed rating plan, its underwriting standards, or the lawful terms and conditions of the policy related to a cancellation, nonrenewal, or reduction in coverage, as applicable, and not in violation of § 27–501 of this title, the Commissioner shall:

(i) dismiss the protest; and

(ii) allow the proposed action to be taken on the later of:

1. its proposed effective date; and

2. 30 days after the date of the determination.

(3) If the Commissioner finds that the actual reason for the proposed action is not stated in the notice or the proposed action is not in accordance with § 27–501 of this title, the insurer's filed rating plan, its underwriting standards, or the lawful terms and conditions of the policy related to a cancellation, nonrenewal, or reduction in coverage, the Commissioner shall:

(i) disallow the action; and

(ii) order the insurer to pay reasonable attorney's fees incurred by the insured for representation at the hearing if the Commissioner finds that the insurer's conduct in maintaining or defending the proceeding was in bad faith or the insurer acted willfully in the absence of a bona fide dispute.

(i) The Commissioner may delegate the powers and duties of the Commissioner under this section to one or more employees or hearing examiners.

(j) A party to a proceeding under this section may appeal the decision of the Commissioner in accordance with § 2–215 of this article.

[Previous][Next]