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BULLETIN 2010-11

TO: Insurance Companies and Insurance Company Groups that Issue Private Passenger Motor Vehicle Insurance Policies in Massachusetts and Insureds Who Seek Premium Adjustments in Connection with Reversals of At-Fault Determinations

FROM: Joseph G. Murphy, Commissioner of Insurance

RE: Reporting and Rating Requirements Under M.G.L. c. 175E, Section 7A

DATE: November 16, 2010

The purpose of this Bulletin is to identify necessary steps an insurance company issuing private passenger motor vehicle insurance policies in Massachusetts ("insurer") must take in the event that the Massachusetts Board of Appeals ("BOA"), or a court of competent jurisdiction, reverses the insurer's at-fault determination under the standards of fault in 211 CMR 74.00, *et seq.* Specifically, the applicable law, M.G.L. c. 175E, Section 7A, requires that in the event of a reversal, an insurer must:

1. Adjust any premiums associated with the at-fault determination; and
2. Report a reversal to the Merit Rating Board and any data collection agency to which the insurer reported the at-fault determination.

Premium Adjustments Associated with Reversals of At-Fault Determinations

If a reversal is issued and the operator is not a policyholder, or no longer a policyholder, of the insurer that made the at-fault determination, the operator bears the responsibility of informing his current insurer of such reversal if the operator seeks a premium adjustment. The BOA will inform the operator of this obligation in the notice of reversal it sends to the operator. The operator must send this notice of reversal to the insurer within 45 days of its issuance. An operator is not entitled to a premium adjustment if the insurer did not factor the at-fault determination into its premium calculation.

An insurer shall adjust the premium associated with an at-fault determination within 30 days after receiving notice of a reversal of that determination. The premium shall be calculated in accordance with the insurer's rates and rules in effect when the at-fault determination was made. If the operator is a policyholder of the insurer at the time of the reversal and at the time of the request for an adjustment, the insurer shall refund or credit any difference in premium associated with the at-fault determination to the operator. Any premium owed to an operator that is no longer insured by the insurer when it receives such reversal notification shall be sent to the address identified by the operator in connection with his request for a premium adjustment.

Reporting of the Reversal of an At-Fault Determination

An Insurer shall notify the Merit Rating Board and all data collection agencies that the insurer originally notified of an operator's at-fault determination of a reversal of such determination within 15 days of when the insurer receives notification of reversal from the BOA or from a court of competent jurisdiction.

Failure to comply with the premium adjustment and reporting requirements of M.G.L. c. 175E, Section 7A and the provisions of this Bulletin may constitute an unfair trade practice under M.G.L. c. 176D.