

Bulletin 00 – 24

To: All Licensed Property and Casualty Insurance Agents and Brokers

Re: MAIF Eligibility Requirements

Date: December 7, 2000

The Maryland Insurance Administration (“MIA”) convened a hearing on January 19, 2000 to review a number of issues relating to the Maryland Automobile Insurance Fund (“MAIF”). One of the issues addressed at the hearing was whether the provisions of the Maryland Insurance Article §20-502(a)(3), which relate to eligibility of an applicant for insurance coverage with MAIF, have been properly enforced by MAIF and the MIA.

Section 20-502 (a)(3) of the Insurance Article provides that MAIF is authorized to issue and deliver policies of insurance to a person who:

“ (i) has attempted in good faith to obtain a policy that provides the security required under §17-103 of the Transportation Article from at least two Association members and has been rejected or refused a policy by two Association members for any reason other than nonpayment of premiums; or (ii) has had a policy that provides a security required under §17-103 of the Transportation Article cancelled or nonrenewed by an Association member for any reason other than nonpayment of premiums....”

Applicants for coverage with MAIF are required to certify their eligibility under the above referenced statute at a time and in a manner approved by MAIF pursuant to §20-502(d) of the Insurance Article. MAIF has promulgated regulations under COMAR Section 14.07.02.02. which define the manner in which an applicant and the applicant’s producer are to certify eligibility for issuance of a motor vehicle insurance policy by MAIF. This regulation requires that eligibility be certified on all new business applications and for rewrites which are eligible for MAIF’s three year clean discount.

It is the position of the MIA that the producer of record on an application for motor vehicle liability or physical damage insurance coverage with MAIF is obligated to explain the MAIF eligibility requirements to the applicant. The producer is also required to review the applicant’s certification of eligibility for accuracy. If the producer has personal knowledge of that information, the producer must ensure that the application is accurate. Producers are advised that failure to properly explain MAIF eligibility requirements to applicants or failure to assist the MAIF applicant in reviewing the certification for accuracy may result in enforcement activity by the MIA.

Producers are reminded that the eligibility provisions under §20-502(a)(3) require an applicant to certify either (1) that the applicant has been rejected or refused a policy of insurance by two insurance companies licensed to transact motor vehicle liability insurance in Maryland (the “Two Turndown Rule”) or (2) that the applicant’s motor vehicle liability coverage has been cancelled or nonrenewed for any reason other than nonpayment of premium. Therefore, producers are required to specifically indicate on the application for coverage with MAIF whether the basis for the applicant’s eligibility for coverage is cancellation/nonrenewal or the Two Turndown Rule. Applications submitted to MAIF electronically currently require that the producer specifically indicate which of these two eligibility criteria has been satisfied by the applicant. MAIF has also amended its written application effective December 1, 2000 to require a specific indication of whether the applicant qualifies on the basis of cancellation/nonrenewal or the Two Turndown Rule.

MAIF producers are also reminded that Section 20-502(3) requires that an applicant must have been cancelled, nonrenewed or refused insurance by “Association members” in order to qualify for coverage with MAIF. An “Association member” is defined as an insurance company that is licensed to transact motor vehicle liability or physical damage insurance in Maryland. Therefore, it is unlawful for producers or applicants to list the name of an insurer “group” as the company that has cancelled, nonrenewed or refused to insure the particular applicant. Producers are instead required to ascertain the name of the particular legal entity or entities that have cancelled, nonrenewed, or refused to insure the particular applicant, and to list those names on the application thereby providing a lawful basis for the applicant’s eligibility with MAIF.

If you have any questions about this Bulletin, contact Dave Diehl, Chief Administrator, by telephone at (410) 468-2320 or by E-mail at ddiehl@mia.state.md.us

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