CARLTON FIELDS

Maryland Insurance Administration Prohibits Use of Price Optimization to Rate Property & Casualty Insurance Policies

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On October 31, the Maryland Insurance Administration (MIA) issued Bulletin 14-23 (the "Bulletin") to property and casualty insurers. It prohibits the use of price optimization in setting rates for policies issued in Maryland. The term "price optimization" is defined as the practice of varying rates based on factors other than risk of loss, including but not limited to:

- the likelihood that a policyholder will engage in activities that result in policy turnover; and
- the willingness of a policyholder to pay a higher premium compared to other policyholders.

The Bulletin defines the phrase "engage in activities that result in policy turnover" to mean activities including, but not limited to:

- shopping with other carriers for a lower premiums;
- cancelling a policy before the policy term's expiration; and
- failing to renew a policy at the renewal of the policy term.

According to the Bulletin, insurers are analyzing policyholder behavior patterns to predict whether a policyholder is likely to switch insurers if the insurer increases premiums. Based on that analysis, the insurer charges a lower premium to retain the policyholder who is likely to switch (as compared to the policyholder who is considered unlikely to switch). As a result, using price optimization to set rates could mean insureds with like risk characteristics are charged different premiums, which constitutes unfair discrimination in violation of § 27-212(e)(1) of the Maryland Code. The Bulletin requires every insurer in Maryland that currently uses price optimization to set rates to file a detailed corrective action plan no later than January 1, 2015. This action by the MIA reflects the insurance industry's growing use of big data, and the care that must be taken if that data is being used to differentiate among insureds in a way that is not based on traditional insurance concepts.

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