

NOTICE

TO: ALL INSURERS AND PREMIUM FINANCE COMPANIES LICENSED AND OPERATING IN THE DISTRICT OF COLUMBIA

FROM: KARIMA WOODS, COMMISSIONER

DATE: MAY XX, 2021

RE: GUIDANCE ON COMMISSIONER'S ORDER 03-2020 CONCERNING THE PROHIBITION ON CANCELLATIONS

On April 27, 2020, the Commissioner issued Order 03-2020 (“Order”), which prohibited insurers and premium finance companies from “terminating insurance contracts due to non-payment” and imposing “late fees for premium payments due but not paid.” The prohibition on cancellations did not operate to “eliminate the obligation to pay unpaid premiums.” Instead, policyholders were afforded an extension of the “grace period” and the ability to “to repay any unpaid premiums in installments over a period of not less than twelve (12) months beginning one month after the end of the Public Health Emergency.”

The purpose of this Notice is to provide guidance on how the expiration or lifting of the Public Health Emergency mandate or the rescission of the Order will affect the prohibition on cancellations covered by the Order. Insurers and premium finance companies, which intend to collect deferred premiums:

1. Shall apply the policy provisions in the Order to the payment of all deferred premiums during the effective dates of the order.
2. Shall aggregate by policy any premium amounts deferred by policyholders during the period covered by the Order, without interest or late payment penalties, and divide that amount by twelve to determine the monthly deferred premium amount.
 - a. Aggregate deferred premium amounts may include the cost of premium payment plans to the extent permitted by the insurance policy.
 - b. Aggregate deferred premiums shall reflect any partial premium payments accepted by the insurer or premium finance company.
 - c. Policyholders who so desire may pay more or all of their deferred premium at any given month without penalty
3. May include the deferred premium amount with scheduled premiums.
 - a. If included with scheduled premiums, there is no requirement to break out the deferred premium amount from the scheduled premium.
4. May require policyholders to begin making payments of deferred premiums 30-days after the end of the Public Health Emergency and monthly thereafter using the calculated monthly deferred premium amount.

- a. Insurers may delay the implementation of the repayment for more than 30 days, but in the event of delay shall provide no less than twelve months for repayment of the deferred premiums.
5. Shall not include deferred premiums as part of an automatic premium payment process without policyholder notice at least 30-days prior to the first automatic payment.
6. Shall not offset claim payments with deferred premiums unless agreed to by the policyholder, except where language in the policy allows for such an offset.
7. May process a policy cancellation for non-payment of premium, consistent with policy provisions, Federal, and District laws and regulations, if the policyholder fails to pay the total premium due for the current scheduled policy premium payment or deferred premium payment.
8. Shall base policy cancellation on the date of the missed payment and not retroactive to the period of premium deferral unless prior underwriting conditions or other risk factors were present or under consideration prior to or during the Order.
9. May, for policies with premium payments less frequently than monthly, bill for the deferred premium amount less frequently than monthly, provided the installment payment does not exceed the total premium amount for each of the calculated maximum deferred monthly premium amounts within the installment period.
 - a. For example, for quarterly payments, the first three-month deferred premium must not be billed until the third month after payment of deferred premiums resumes and cannot exceed the total of the three monthly payments.
10. Shall treat any potential cancellation or nonrenewal applicable and covered by the Order as forward looking and not based on conditions prior to or during the Order.
11. May pursue collection activities for deferred premiums against a policyholder when the policy is no longer active consistent with applicable District law.
12. May create a policy and criteria for waiving the payment of deferred premiums as long as the policy is administered fairly, consistently and equitably.

Nothing within this guidance for deferred premium shall impact the rights of insurers to cancel for non-payment of current premiums.

Any questions or concerns regarding this Notice may be directed to Philip Barlow at philip.barlow@dc.gov.