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April 9, 2020

Superintendent Linda Lacewell
New York State Department of Financial Services
1 State St.
New York, NY 10004

Dear Superintendent Lacewell:

Big I New York represents approximately 1700 independent insurance agencies and brokerages in New York (80% of our members employ less than 10 employees.) Our members are focused on serving the individual needs of their customers during this unprecedented time. Independent insurance agents are the trusted advisors that insurance consumers turn to with specific questions and coverage needs. They are providing a high level of individual attention and service to their customers during this uncertain time.

The majority of our members are small businesses. They typically do not have complex systems in place to disseminate mass communications to all of their customers or produce mass mailing in-house. In contrast, insurers do have complex systems in place and are fully equipped to disseminate mass communications and produce mass mailings.

Section 229.5 of the emergency regulation, Premium repayment, demonstration of financial hardship, and voluntary cancellation, states:

> (a) An insurer shall permit a policyholder who did not make a timely premium payment due to financial hardship as a result of the COVID-19 pandemic, including a policyholder to whom the insurer issued a nonpayment cancellation notice prior to the effective date of the Executive Order, and who can still demonstrate financial hardship as a result of the COVID-19 pandemic, to pay such premium over a 12-month period. An insurer also shall:
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> > (1) within ten business days following the promulgation of this Part, provide notice with each insurance premium bill of the provisions of this Part and a toll-free number that the policyholder may call to discuss billing and make alternative payment arrangements; and
> >
> > (2) notify insurance producers and any third-party administrators with whom or which the insurer does business of the provisions of this Part.
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> (b) A licensed insurance producer who services an in-force life insurance policy, annuity contract, or fraternal benefit society certificate or who procured the property/casualty insurance policy for the property policyholder shall mail or deliver notice to the policyholder

of the provisions of this Part and section 405.6 of Part 405 of Title 3 within ten business days following the promulgation of this Part.

(c) Solely for the purposes of this Part, an insurer shall accept a written attestation from a policyholder as proof of financial hardship as a result of the COVID-19 pandemic.

(d) Nothing shall prohibit a policyholder from voluntarily cancelling an insurance policy or annuity contract.

We are 100% supportive of the DFS's good intention to provide premium payment relief to many New York policyholders. We applaud this effort. However, we ask the DFS to alleviate the burden placed upon producers (as specified in 229.5(b).) This requirement placed upon producers is duplicative as insurers are also required to provide notification by 229.5(a) and contradicts Governor Cuomo's 'New York State on PAUSE' Executive Order. The main reasons that we ask for this reconsideration are:

- While insurance agencies have been deemed essential businesses, most of our members have all or the majority of their staff working remotely. They do not have complex systems in place that can handle mass communications or mailings—especially from a remote setting. They will need to assemble their staff in their offices to physically prepare mailings for all policyholders for whom they lack email addresses. This is a MAJOR health concern and flies in the face of the governor's directives.
- Carriers are providing the notifications, so this is just extra and potentially confusing and uncoordinated messaging that is going to policyholders. The insurance contract is between the insurer and insured. The insurer is the party ultimately responsible for collecting premiums for the insurance contracts that they issue. The insurers (not the agents) have the authority to determine concessions on premium payments based on financial hardship caused by COVID-19.
- Our members are focused on compliance with all DFS regulations. Their attempts to comply with this new emergency regulation within only 10 business days is causing great stress to their already stressed businesses —operating in new remote settings and responding to the individual needs of their customers caused by the COVID-19 pandemic. They are needed on the front line advising and helping insurance consumers.
- Compliance with this requirement will impose significant financial costs for small agencies. These costs include paper, ink and envelopes for thousands of mailings; time that staff will spend preparing the mailings rather than servicing customers; time spent locating customers' email addresses (agencies vary in the sophistication of their computer systems); and postage. The monetary cost of compliance for many agencies will be thousands of dollars. At the same time, they realistically anticipate that their revenues from sales commissions will decrease because so many insurance premiums are calculated based on customers' payroll or gross sales, both of which are declining.

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We request that Section 229.5 (b) be struck from the emergency regulation. If it cannot be, then we request that the DFS issue additional guidance quickly that formally acknowledges that it will accept a producer's best and reasonable efforts to comply with 229.5(b), acknowledging that physical mailings do not need to be done for those policyholders who the agency is not able to electronically communicate with. The insurers are already providing notice to all of the policyholders.

Thank you for your consideration.

Be well,

Lisa K. Lounsbury

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President & CEO

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