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BULLETIN 09-31

Date: December 15, 2009

To: All Insurers, Nonprofit Health Service Plans, Health Maintenance Organizations, Fraternal Benefit Societies, Dental Plan Organizations, MAIF, JIA, and Insurance Producers

Re: Acceptance by Insurers and Insurance Producers of Credit Cards or Debit Cards for Payment of Insurance Premiums

This Bulletin replaces Bulletin # 98-15, dated December 14, 1998.

The Maryland Insurance Administration ("the Administration") has received inquiries from insurers asking whether State law permits premiums to be paid by credit card or debit card. The purpose of this Bulletin is to explain the Administration's position on this issue, and provide insurers and producers with clear guidance. Bulletin # 98-15 only addressed payment of premium by credit card, while this bulletin also addresses payment by debit card. In preparing this Bulletin, consideration was given to Insurance Article, §§ 4-203, 11-205, 11-302, 27-102, 27-208, 27-209, 27-211, 27-212, 27-216, and 27-503 and to Health-General Article, § 19-706(bbb), Annotated Code of Maryland.

Under certain circumstance, the acceptance by insurers or licensed insurance producers of credit cards or debit cards to pay insurance premiums may violate the anti-rebating and anti-discrimination provisions of the Insurance Article. It is the position of the Maryland Insurance Administration that, while the payment of a fee by an insurer to a credit card company or a bank for the use of its credit card or debit card would not, by itself, violate the Insurance Article, any advantage or disadvantage passed on or imposed upon an applicant or insured related to the use of a credit card or debit card to pay insurance premiums would violate the Insurance Article and is prohibited. The acceptance of credit cards or debit cards for the payment of insurance premiums will be lawful when accepted as payment of premium in compliance with the requirements of this Bulletin.

Definitions Used in This Bulletin

As used in this Bulletin, the following terms have the meanings indicated.

- The term *credit cards* includes those cards issued by or through banks and other financial institutions (e.g., VISA and MasterCard) and by nonfinancial entities (e.g., Carte Blanche, American Express and Diner's Club) which permit the holder to pay for goods and services on credit.
- The term *credit card company* refers to such entities that enter into contractual arrangements with merchants, including providers of services whereby the merchant agrees to accept for payment of goods purchased or services rendered a credit card issued by the entity to the recipient of such goods or services.
- The term *debit card* includes those cards issued by or through a financial institution, such as a bank, credit union or brokerage firm, which permit a consumer to pay for goods and services by drawing directly on an account with the financial institution, rather than on credit.
- The term *insurer* has the meaning defined in §1-101 of the Insurance Article. It includes insurance companies, reciprocal or interinsurance exchanges, nonprofit health service plans, fraternal benefit societies, dental plan organizations, MAIF, and JIA. For the purposes of this Bulletin, the term *insurer* shall also include health maintenance organizations.
- The term *licensed insurance producer* has the meaning defined in §1-101 of the Insurance Article. It includes those persons or entities described in Insurance Article, §§ 10-103, 10-118, 10-119, 10-120, 10-121, 10-122, 10-123, 10-124, 10-125 and 10-130, Annotated Code of Maryland.
- The term *electronic medium* includes both the sale of insurance through telemarketers and the sale of insurance over the internet.

Rules for Use of Credit Cards and Debit Cards

Insurers and licensed insurance producers may accept credit cards or debit cards as payment for insurance premiums if all of the following requirements are satisfied:

1. The insurer or licensed insurance producer who enters into a contract with a credit card company or an issuer of a debit card to accept credit cards or debit cards for the payment of premiums:
 - a. Is required to make that manner of payment available to all existing and prospective insureds;
 - b. May not limit the acceptance of credit cards or debit cards as a means of payment to only certain individuals; and
 - c. May not direct the credit card company or debit card issuer to charge the insured's account prior to the premium due date;

2. Notwithstanding Paragraph 1 of this Bulletin, an insurer or licensed insurance producer may accept credit cards or debit cards for the payment of an insurance product sold or renewed through an electronic medium without offering that payment option to its existing and prospective insureds who purchased or will purchase insurance through a non-electronic medium;
3. On renewal of insurance originally purchased electronically, but renewed non-electronically, the insurer is required to comply with Paragraph 1 of this Bulletin;
4. The insurer may not, for rate making purposes, deem insureds who elect to utilize credit cards or debit cards for payment of premiums to be a different class of insureds from those who elect to pay premiums by other methods;
5. Insureds who elect not to utilize credit cards or debit cards may not be given a discount, or any other special benefit; thus, they may not be charged a lesser premium than those who elect to use credit cards or debit cards;
6. An insurer or licensed insurance producer may not charge an insured a separate fee or service charge based solely on the fact that the applicant or insured has elected to use a credit card or debit card as a means to pay the premium, except:
 - a. An insurer may add a charge to recoup the actual expense charged to the insurer for the use of the credit card or debit card; and
 - b. A licensed insurance producer may add a charge to recoup the actual expense charged to the licensed insurance producer for the use of the credit card or debit card; and
7. The insurer or licensed insurance producer who accepts payments of premium by credit cards or debit cards may not request or receive any collateral, including but not limited to unearned premiums, as security of payment, unless the party requesting security is registered pursuant to Title 23 of the Insurance Article (premium finance agreements).

Questions regarding this Bulletin should be directed to the Property/Casualty Section at 410-468-2320 or the Life/Health Section at 410-468-2170.

Signature on File with Original

Ralph S. Tyler 
Insurance Commissioner