

May 7, 2020

Commissioner Mark Afable
Office of the Commissioner of Insurance
P.O. Box 7873
Madison, WI 53707

Dear Commissioner Afable,

As the COVID-19 global pandemic continues to disrupt our national and state economies, insurers are hard at work continuing to adapt and innovate to best serve policyholders in their time of need. Like every other business in America, our members are navigating the new challenges and demands that come from remote work arrangements, implementing business continuity plans, making best efforts to educate and communicate updates to staff, and much more. These complications notwithstanding, our members continue to remain focused on providing regular service to policyholders in addition to taking proactive steps to alleviate the financial hardships facing many consumers, including cancellation suspensions, fee waivers, and premium relief. NAMIC members remain committed to working with all policyholders to provide flexibility where possible for the duration of this crisis.

As you may be aware, in the interest of and wisdom of a uniform data call, NAIC is issuing a model nationwide format to collect specific data regarding business interruption coverage for COVID-19. NAMIC is writing to you today to encourage you to withhold this action in your state until practical revisions are made to the data points and timetable. Having said that, we do applaud the NAIC's efforts to rightfully organize a uniform and measured approach and NAMIC does not encourage any path forward apart from that vehicle.

The stated objective of the proposed two-part data call is to "assist state insurance regulators and others in understanding which insurers are writing applicable coverage, the size of the market, the extent of exclusions related to COVID-19, and claims and losses related to COVID-19." We agree that an understanding of the size of any insurance market and regulated entities' potential exposure to a variety of insured losses and the premiums collected to appropriately cover the risk of those insured losses is critical for regulators to assess potential solvency implications. We also agree that monitoring claims activity is an important exercise of consumer protection. That said, we want to take this opportunity to raise a number of potential concerns with the timing and substance of the contemplated action.



First, a maximum of two weeks is not a sufficient time period for insurers to respond to part one of the data call. As presently drafted and posted on the NAIC's website and in supporting documents, the established deadline for the first portion of the data call response is May 22, only two weeks removed from the earliest issuance of the request, which is noted to be May 8. This timeframe is unrealistic, not only because of ongoing events as carriers continue responding to the pandemic, but because of structural, staffing, technological, and logistical constraints facing insurers.

Many carriers are in the process of actively responding to individual state regulator data calls, both COVID-19 related and otherwise. Layering additional research, analysis, computational, and reporting requirements at a time when business interruption coverage issues are being actively litigated all over the country is not likely to produce meaningful and helpful data applicable to this pandemic or future pandemics. We note that responding to the new, open-ended monthly reporting requirement regarding claims will also require additional staff time and resources, to the detriment of other ongoing efforts by carriers to service policyholders.

Second, the scope of the data call and the precision and categorization of information requested presents a significant challenge. Companies do not have a ready-made process to access and compile the requested premium and coverage data. Calculating business income coverage-specific premium and policy counts for business owner (BOP) and commercial multiple peril (CMP) policies that include BI coverage may not present a herculean challenge; however, the data call requires provision of specifically quantifiable calculations from form language-specific determinations, which presents significant challenges for insurers. In particular, the policy count breakout by size of business – small, medium, and large – will be difficult or near impossible for companies to complete, as many do not collect this information except for certain cases on issued endorsements. Insurers have many forms in the marketplace and for many companies, answering this request will take sifting through layers of company systems, forms, and programs. In some instances, this may include physically sorting through and tabulating existing forms, which will prove particularly difficult with limited personnel able to go into an insurer's offices.

Third, especially as it relates to BOP policies, carriers do not generally calculate or assess premiums based upon specific coverages under policy. Therefore, it is not likely possible for carriers to break out what percentage or amount of premium was charged for just the element of business interruption coverage in a BOP or even a CMP policy. In a broader and realistic sense, it is generally understood and accepted that there is no coverage under the vast majority of policies for pandemics or viruses and therefore the accurately reported amount of premium collected for pandemic-related BI coverage would be zero in all but a handful of cases of specialized event-type insurance.



As states continue opening economies at varying paces, our members remain committed to the critical responsibility of providing financial stability for consumers struggling through this pandemic; and for the reasons we have outlined above, we do not feel now is the time to add reporting requirements that will be difficult to comply with. In light of these considerations, we respectfully request that you ask the NAIC to work with the industry and interested parties to identify a revised data call with more practicable compliance implications before issuing this data call. We look forward to working with you moving forward to develop more accurate and useful methods for evaluating business interruption provisions in insurance policies to best serve policyholders in Wisconsin.

Sincerely,

A handwritten signature in black ink, appearing to read 'Erin Collins'.

Erin Collins
Vice President - State Affairs
National Association of Mutual Insurance Companies
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