Mark Worman
Deputy Commissioner, Property and Casualty
Texas Department of Insurance
333 Guadalupe Street, Austin TX 78701
Sent via email: Mark.Worman@tdi.texas.gov

December 3, 2020

Dear Mr. Worman,

Thank you for visiting with us on Monday, November 23, to discuss the Texas Department of Insurance (TDI)'s response to the earlier request from our consumer organizations regarding TDI's action to ensure consumers receive the appropriate premium relief from the sharp reduction in motor vehicle claims as a result of the pandemic and related government actions.

Although not indicated in your letter dated November 5, 2020, nor mentioned in our conversation, we understand that your Government Relations office copied members of the Legislature. We do the same with this letter, because we are concerned about erroneous and misleading information included in the November 5th letter. Because the business of insurance is regulated at the state level, the Legislature deserves complete and accurate information so it can decide how best to deliver adequate rate relief to Texans who have been overcharged by hundreds of millions of dollars during the pandemic.

Incorrect and Unsupported Statements

The letter states:

> "Texas insurers reported declines in the number of auto claims in the second quarter of 2020. The decrease was partially offset by increases in severity for bodily injury and property damage liability coverages. The chart does not reflect the $1.4 billion in refunds, dividends, and credits auto insurers have provided to Texas consumers to date. This also means actual incurred loss ratios for the second quarter of 2020 are higher than shown on the chart."

During our conversation on November 23rd, it became clear that each statement in the above paragraph – with the exception of insurers reporting declines in the number of auto claims – is false.

You explained during the meeting that the $1.4 billion figure represented every insurer action regarding premium or rates – whether directed at the critical period of second quarter 2020 or future rate filings. Your letter misleadingly suggests that the second quarter 2020 data, which showed dramatically lower losses paid by insurers, were offset by $1.4 billion. In fact, based on the data shared with us in the letter, TDI could not document how much relief was directed at policyholders for the second quarter of 2020 versus future relief for lower rates. Based on our conversation, TDI has failed to clearly separate the need for premium relief for the second and third quarters of 2020 versus rate changes for the future.

On or around March 15th, 2020, auto premiums and rates became massively excessive almost overnight as roads emptied and, consequently, motor vehicle accidents and resulting insurance claims dropped. Premium relief was necessary for policyholders for their then-current policies, because the premiums they had paid were based on now-exaggerated expected claims. This second quarter 2020 premium relief is distinct from the longer-term issue of lower rates due to structural changes in society causing fewer miles driven than pre-pandemic.

The $1.4 billion figure, based on how your staff described it in our call, is, at best, a compilation of non-comparable actions by insurers – combining future rate reductions with second quarter premium rebates – and, at worst, a misleading statement to obscure TDI's lack of action to protect consumers.

The statement that, "The decrease [in claims] was partially offset by increases in severity," again is unsupported by the data you provided. Severity is the average cost of a claim. Your letter suggests that the average cost of claim increased in the second quarter of 2020. This is false. Based on the data in your letter, we calculated the average severity by quarter:

2019 Q1	$4,057.92
2019 Q2	$4,155.26
2019 Q3	$4,041.25
2019 Q4	$4,398.18
2020 Q1	$4,352.65
2020 Q2	$4,355.76

As you can see, the average claim cost has been steady from 2019 Q4 through 2020 Q2. And the increase from 2019 Q2 to 2020 Q2 (same quarter year to year) is significantly less than the increase from 2019 Q1 to 2020 Q1. In addition, there was almost no change in severity from 2020 Q1 to 2020 Q2. We pointed this out during our call and you were unable to cite any other information to support your claim about allegedly increasing severity.

The statement in the letter asserting that 2020 Q2 premiums do not reflect any premium relief was also demonstrably false. The data that you provided show that from 2018 Q1 through 2020 Q1, premiums <u>increased</u> each quarter in a range from 1.1% to 2.3%. Yet, from 2020 Q1 to 2020 Q2, premiums <u>decreased</u> by 0.3%, suggesting that some insurers reported reduced premiums due to premium relief. The $1.4 billion number in your letter, purportedly quantifying, "refunds, dividends, and credits," is wildly inconsistent with both the meager 0.3% actual premium reduction and the typical action announced by insurers (15% relief for two months).

The statement that, "actual incurred loss ratios for the second quarter of 2020 are higher than shown on the chart," was also unsupported by any data or information provided. Numerous public companies have reported significantly lower loss and combined ratios for both second and third quarters 2020 – even after consideration of premium relief. An analysis from May 2020 – which found that insurers were providing half of the justified premium relief – was accurate based on public filings by insurers for the second quarter of 2020.

Of additional concern is the apparent lack of accountability for nonstandard insurance providers in Texas, providers who often serve low-income communities and communities of color. Only one out of nine of the nonstandard providers among the top 40 Texas auto insurers offered any premium refund or rebate to customers as a result of decreased driving and claims due to the COVID-19 pandemic.

Lack of Action to Protect Consumers

In response to our communications in the early summer, inquiring about pandemic-related premium relief, you justified TDI's inaction on the basis of your statutory duty to evaluate rates based on "long-term" profitability. This was a surprising response then and remains so now. Insurance rates are not evaluated based on expected profitability over many years in the future, but are specifically related to the periods for which policyholders paying those rates will be insured. Stated differently, a rate for a policy covering the year 2020 is based on expected costs in 2020, not on periods beyond the policy coverage period.

On or around March 15, 2020 it became clear that the long-term profitability for then-current rates became massively excessive overnight as roads emptied and claims dropped. We understand that it would take some time for all the claims for April, May and June to be reported and settled, but there was no question that, by the end of March, any observer could see the long-term / ultimate claim costs for coverage in April, May and June would be far less than projected by insurers in the rates previously filed and premiums charged to consumers.

We discussed these trends in our multiple letters to the Department and in our conversation with the Department on August 26. In that conversation, it was noted that TDI needed to wait for more data to assess the situation – despite the fact that insurers themselves were able to determine by the beginning of April that their rates were excessive. Instead of ensuring that insurers' premium relief was sufficient, TDI waited for data. When public insurers announced to investors for the second quarter 2020 windfall profits for auto insurance due to huge reductions in claim costs, TDI waited for data. When public insurers announced to investors more windfall profits for the third quarter of 2020, TDI waited for data. Based on our November 23 conversation, TDI indicated a need to wait further, until January or February of 2021 for additional data.

Delays and inaction on the part of TDI to date, despite data showing reduced claims, means Texans have not received the premium relief to which they are entitled.

Public Information Request

During our November 23 call, you asked us to make a formal request for a more detailed presentation of the data you used to prepare the table in your letter. We ask for the same data elements in the table provided in the November 5th letter, including:

- reported claims,
- paid claims,
- paid losses, and incurred losses

supplemented with

- written premium,
- earned premium, and
- incurred claim count

broken out by

- calendar quarter,
- coverage, and
- reporting company.

We also ask for the documentation supporting the $1.4 billion figure cited in your letter – a list of companies providing relief and, for each company:

- the type of relief provided (dividend, credit, rebate, future rate decrease, other),
- the amount of relief (e.g., 15% for two months),
- the period for which the relief is applied (e.g. April and May 2020 or new rates starting October 1, 2020), and
- the dollar amount calculated by TDI for purposes of the $1.4B figure.

Insurers have made public their premium relief actions through press releases and notices to consumers, and so we expect that this data, too, will be public. The company-specific data are also public information as the data request is for state-wide data and mirrors the type of information found in public rate filings.

Many Texans are hurting financially and cannot afford delay or inaction. Insurers need to return the full measure of their overcharges now.

Thank you for your consideration.

Sincerely,

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