



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
LANSING

ANITA G. FOX
DIRECTOR

Memorandum

DATE: July 20, 2021

TO: Interested Persons

FROM: Anita Fox, Director *awf*

SUBJECT: Rescission of DIFS Order No. 19-048-M: Requirement to File Forms and Rates Prior to Implementing Public Acts 21 and 22

The Department of Insurance and Financial Services (DIFS) has recently reviewed DIFS Order No. 19-048-M (Order) and, for the reasons set forth herein, determined that it should be rescinded.

As background: On September 20, 2019, DIFS issued the Order instructing automobile insurers to submit revised rates and forms for DIFS approval that reflect the amended provisions of Public Acts 21 and 22 of 2019, before shifting priority under MCL 500.3114 and MCL 500.3115 to the Michigan Automobile Insurance Placement Facility (MAIPF).

On September 28, 2020, in *Thomas v Upshaw, et al.*, Case No. 20-006497, and on October 21, 2020, in *Walker v Auto Club Insurance Association and USAA Casualty Insurance Company*, Case No. 19-008892-NF (Wayne County Circuit Court cases), the Wayne County Circuit Court ruled in favor of the parties challenging the Order as applied to the accidents at issue in the Wayne County Circuit Court cases. On October 13, 2020, Court of Claims Judge Michael J. Kelly upheld DIFS Order No. 19-049-M concerning the effective date of the cap on PIP benefits provided under the Michigan Assigned Claims Plan (Court of Claims ruling). This decision was under review by the Court of Appeals in *Michigan Automobile Insurance Placement Facility in its capacity as the administrator of the Michigan Assigned Claims Plan v Department of Insurance and Financial Services and Anita G. Fox in her official capacity as the Director of the Department of Insurance and Financial Services* (Appeal).

Recently, the MAIPF has dismissed its Appeal and agreed not to apply the \$250,000 cap set forth in MCL 500.3172(7)(a) to any claims where the date of loss is June 11, 2019, at or after 3:22 p.m. to July 2, 2020, even if the automobile insurers failed to submit revised rates and forms to DIFS for review and approval, and will instead provide unlimited PIP coverage to such claims consistent with the Court of Claims ruling.

In recognition of the Wayne County Circuit Court cases and the MAIPF's dismissal of its Appeal, DIFS hereby rescinds Order No. 19-048-M.

Any questions regarding this memorandum should be directed to:

Department of Insurance and Financial Services
Office of General Counsel
530 W. Allegan Street – 7th Floor
P.O. Box 30220
Lansing, Michigan 48909-7720
Toll Free: (877) 999-6442