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Fees Associated with Premium Payment Transactions

Some insurers require their customers to pay the fees associated with premium payment transactions, such as automated clearing house (ACH) "convenience fees" for electronic payments, or otherwise vary the amount charged depending on the customer's choice of premium payment mechanism. The purpose of this Bulletin is to clarify that any such charges imposed by insurers and insurance producers are considered part of the premium and must be included in insurers' rate and rule filings.

The Maine Insurance Code defines premium as "the consideration for insurance, by whatever name called," and with limited exceptions that are not relevant here, prohibits charging or collecting additional fees for insurance coverage beyond the insurer's filed rates (or the rates stated in the policy, for types of insurance where rate filings are not required).[1]

Furthermore, the Insurance Code explicitly provides that an insurer's premium rates are the mechanism by which it recovers its expenses, and defines "expense" as "that portion of a rate attributable to acquisition, field supervision and collection expenses; general expenses; and taxes, licenses and fees."[2] These expenses include all charges that an insurer imposes in connection with payment of premium, such as installment fees, late fees, reinstatement fees, and non-sufficient funds (NSF) fees. Convenience fees come within this category, even if the insurer is simply passing through the cost of a fee charged by a third-party vendor. Likewise, fees such as credit card merchant fees may not be passed through by producers to their customers, except as part of the premium, because these fees are also part of the administrative expenses associated with the collection of premium.

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[1] *See* 24-A M.R.S.A. §§ 2174 and 2403. The exceptions specified in Section 2174 are taxes and service charges for surplus lines policies and the costs of medical examinations in connection with life insurance applications.

[2] 24-A M.R.S.A. §§ 2303(1)(C)(5) and 2302-A(3). Although they appear in a chapter dealing with property, casualty, surety, and title insurance rates, these particular provisions codify general ratemaking principles that apply equally to life and health insurance rates.

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Bureau staff will routinely approve charges related to billing such as those listed above, as long as they are not excessive or unfairly discriminatory. However, for lines of insurance where rate filing is required, insurers and advisory organizations that file on behalf of insurers must file those fees with the Superintendent as part of their rating plans.

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Superintendent of Insurance

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