



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

NOTICE

TO: All Admitted and Non-Admitted Insurance Companies and Other Interested Parties

FROM: Insurance Commissioner Ricardo Lara

DATE: April 9, 2020

RE: Coverage for Delivery Drivers for California Essential Businesses During the COVID-19 Public Health Emergency

Insurance Commissioner Ricardo Lara and the California Department of Insurance (Department) provide the following guidance to insurers regarding insurance coverage for delivery drivers for California essential businesses during the COVID-19 public health emergency.

Background

On March 19, 2020, the U.S. Department of Homeland Security issued a “*Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response*” that includes an initial list of 16 “Essential Critical Infrastructure Workers” to help state and local officials as they work to protect their communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security. The list identifies workers who conduct a range of operations and services that are essential to continued critical infrastructure viability, including staffing operations centers, maintaining and repairing critical infrastructure, operating call centers, working construction, and performing management functions, among others. The industries they support represent, but are not necessarily limited to, medical and healthcare, telecommunications, information technology systems, defense, food and agriculture, transportation and logistics, energy, water and wastewater, law enforcement, and public works.

Similarly, on March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20 that provides in relevant part that all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. Governor Newsom’s Executive Order then provides that “Californians working in these 16 critical

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infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being."

As a result of Governor Newsom's March 19, 2020 Executive Order N-33-20, all non-essential businesses in California were ordered to close to prevent the further spread of the COVID-19 virus. Under Governor Newsom's Executive Order, certain California essential businesses are permitted to remain open only for delivery service. As such, essential California businesses that do not normally offer delivery service may begin to offer delivery service and workers who typically do not deliver food and medications, among other essential goods, may be requested to provide delivery services temporarily using their own insured personal vehicles.

Coverage for Delivery Drivers under Personal Auto Policies

Personal automobile policies do not typically provide coverage for vehicles used for commercial purposes, like commercial delivery service. Further, these drivers may not be covered under the commercial automobile policy issued to a California essential business. As a result, many of the temporary delivery drivers may be inadvertently uninsured as they carry out their job duties.

As a result, in the absence of any other action, many of the anticipated temporary delivery drivers for California essential businesses would be uninsured. The Department believes that, under the current extraordinary circumstances, it would be impractical and untimely to require these drivers to obtain temporary coverage for this limited purpose. Therefore, the Department requests insurers not to deny a claim under a personal auto policy solely because the insured was engaged in providing delivery service on behalf of a California essential business impacted by the COVID-19 related closures, and the delivery driver was operating within the course and scope of their duties on behalf of such essential business.

Additionally, the Department requests that:

- Insurers add delivery coverage to personal auto policies for drivers engaged in delivery service on behalf of a California essential business impacted by the mandated changes relating to the pending health emergency in the operations of such business and not enforce any exclusions for commercial delivery activity under personal automobile policies.
- Insurers allow California essential businesses to add retroactively additional drivers not previously named under such businesses' commercial automobile policy if a driver is operating a vehicle covered by the policy within the scope of their duties for the specific essential business.

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- Insurers allow delivery coverage for drivers who utilize a personal motorcycle motor scooter, and/or bicycle to engage in delivery services on behalf of California essential businesses under their personal auto policies if such policies already include motorcycle coverage for the insured driver.
- Insurers that provide commercial general liability coverage to California essential businesses notify their insureds that commercial automobile coverage is available if requested. If the insured California essential business requests commercial automobile coverage, the Department requests that the insurer, either through a rider or stand-alone policy, provide this coverage to any insured California essential business impacted by Governor Newsom's March 19, 2020 Executive Order N-33-20 to close all non-essential businesses.

This Notice applies only to California essential business delivery drivers who do not have such coverage under their personal auto policy. This Notice is not intended to affect the coverage for any driver who otherwise has coverage for commercial deliveries. Moreover, this Notice does not require that the expanded coverage be stacked with any coverage that is currently provided to such delivery drivers. Additionally, this Notice also does not apply to drivers while working for a transportation network company, ride share, or similar commercial product delivery company.

The Department requests insurers to provide the above-described coverages as soon as possible and to continue these coverages until at least thirty (30) days after California essential businesses are no longer subject to restrictions pursuant to Governor Newsom's March 19, 2020 Executive Order N-33-20. Insurers are also encouraged to provide the above-described coverages retroactive beginning on March 19, 2020. Any insurer intending to implement the provisions of this Notice should file any amended policy forms or endorsements with the Department and, in the absence of any material defects or deficiencies, the Department will prioritize the review and approval of filings submitted pursuant to this Notice.