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June 21, 2004

MEMORANDUM 2004-4A

TO: All Insurers, Mutual Benefit Societies, Health Maintenance Organizations
Licensed to do Business in Hawaii, and Armed Services Organizations

FROM: J.P. Schmidt
Insurance Commissioner

RE: Treatment of Policyholders Serving in Overseas Active Military Duty

Military personnel, including the National Guard and Reserves, who live in Hawaii are currently serving our country overseas to fight terrorism and protect our homeland. Because of the extended nature of the overseas service these people are currently undertaking, the Insurance Division is requesting all insurers, mutual benefit societies, and health maintenance organizations which are licensed to do business in Hawaii to not impose additional burdens and hardships on these military personnel.

The Division is requesting, therefore, that upon inquiry from an insured called to active duty, a licensee inform the insured that the insured may designate an adult third party to receive bills and other notices related to the insured's insurance coverage. The third party's name, address, telephone number, and a statement signed and dated by the third party indicating an agreement by the third party to become a third party designee, should be submitted to the licensee.

Some licensees, where permitted under the law, consider lapses in coverage when determining whether to insure someone and in calculating premiums. The Division is requesting that these licensees waive this underwriting or rating requirement for returning military personnel who can show proof that their service overseas was the reason for their lapsed coverage. Similarly, if returning military personnel can show they were in good standing with another insurer prior to leaving for active duty, any new insurer should consider their coverages as being continuous.

Auto insurers, in particular, should also notify their insureds that there is an option of suspending coverages without incurring any penalties. The notices should warn the insureds,

however, that certain conditions for the suspension of coverages need to be complied with, such as surrender of registration and plates to the Department of Motor Vehicles of their respective counties.

With respect to claims-made professional liability policies, it is requested that during the period of active duty, the professional liability insurance policy of an affected individual should continue to permit reporting of claims arising out of incidents that took place prior to that period, but should be suspended in all other respects, including payment of further premiums, until the insured returns from military duty to professional practice. At the point of such return, coverage and premium payments for such coverage should resume, based on the claims-made step at the time of activation, with the policy's expiration date adjusted in order to reflect the duration of the individual's intervening military service.

Due to the difficulty in effecting replacement coverage, insurers should give special consideration to military personnel by refraining from nonrenewing policies while the named insured remains in overseas active duty status and all premium payments remain current.

In sum, where not prohibited by law, licensees' use of underwriting and rating standards which take into consideration whether the insurance applicant has had continuous insurance coverage is appropriate. However, in the case of Hawaii's military personnel serving overseas, those underwriting requirements may be inappropriately applied and should be waived.

Therefore, if a person in the military was a policyholder in good standing at the time of leaving for overseas active duty, and can show proof that such active service was the reason for loss of continuity in insurance coverage, the Insurance Department is requesting that licensee treat the insured as if the coverage was continuous.

Please do not hesitate to contact the Insurance Division at (808)586-2790 if there are any questions on this matter.