

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Bulletin 2019-20-INS

In the matter of:

Assistance Animal Exclusions and Underwriting Rules

**Issued and entered
This 31st day of October 2019
by Anita G. Fox
Director**

This bulletin supersedes Bulletin 2019-13-INS, which is hereby rescinded.

Bulletin 2019-13-INS explained the circumstances under which property and casualty insurers may utilize rating and underwriting rules related to service dogs. This bulletin clarifies that animals other than service dogs may qualify as “assistance animals” under the Fair Housing Act, 42 U.S.C. 3601 *et seq.* (FHA).

Rating

Although Michigan law does not prohibit the imposition of surcharges based on dog breeds if the surcharge is actuarially supported, the FHA prohibits the imposition of a surcharge for assistance animals. The U.S. Department of Housing and Urban Development’s Office of Fair Housing and Equal Opportunity has provided guidance with regard to the definition of an assistance animal for the purpose of providing reasonable accommodations under the FHA. An assistance animal includes a certified service animal, an emotional support animal, or any other animal that “works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person’s disability.” See HUD FHEO-2013-01 at 2, “Service Animals and Assistance Animals for People with Disabilities in Housing and HUD-Funded Programs” (Apr. 25, 2013).

Accordingly, rating programs that include a surcharge for specific dog breeds or specific animals must include an exception from this surcharge for an animal that qualifies as an “assistance animal” pursuant to the above definition. In addition, any surcharges related to animals that are not assistance animals must be actuarially supported.

Underwriting

The Essential Insurance Act, specifically MCL 500.2103(2), permits insurers to deny, cancel, or non-renew coverage to a “person who insures or seeks to insure a dwelling that has physical conditions that clearly present an extreme likelihood of a significant loss under a home insurance policy.” See MCL 500.2103(2). Pet ownership, by itself, does not cause an otherwise eligible person to become ineligible for homeowners insurance because a pet does not “clearly present an extreme likelihood of significant loss.” *Id.* The Essential Insurance Act does not allow companies to deny, cancel or non-renew coverage based on the insured’s possession of a particular animal.

The Essential Insurance Act, specifically MCL 500.2117(2)(c)(i) and (ii), does permit a non-group policy to

be non-renewed based on the claim experience of the person insured or to be insured, if, during the three-year period immediately preceding renewal of the policy, the claim experience arose from the insured's negligence or if the insured, after written notice, failed to correct a condition directly related to a paid claim or that presented a clear risk of significant loss. Therefore, a non-group policy could be non-renewed based on an insured's claim experience involving the insured's animal. However, insurers are not permitted to non-renew group policies using the criteria of MCL 500.2117(2)(c)(i) and (ii) because MCL 500.2105(2) specifies that Essential Insurance Act does not apply to members of a group, franchise plan, or blanket coverage who are eligible persons.

Companies are strongly encouraged to review their rating and underwriting programs to ensure they comply with the requirements of this bulletin.

Any questions regarding this bulletin should be directed to:

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/s/

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