



Maryland Department of Transportation
The Secretary's Office

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

Beverley K. Swaim-Staley
Secretary

Harold M. Bartlett
Deputy Secretary

November 5, 2010

The Honorable Edward J. Kasemeyer
Acting Chairman, Senate Budget and Taxation Committee
5205 East Drive, Suite H
Arbutus MD 21227

The Honorable Norman Conway
Chairman, House Appropriations Committee
131 Lowe House Office Building
Annapolis MD 21401-1991

Dear Chairmen:

Attached is a report concerning the *Motor Vehicle Administration's Driving Records Audit* as required in the 2010 Joint Chairmen's Report (JCR), page 58. The language directs:

"That the Motor Vehicle Administration (MVA) will conduct a random audit of driving records obtained by the Maryland Automobile Insurance Fund (MAIF) from MVA, which will determine whether driving records are handled properly by MAIF and for the intended purposes. The audit will identify those records used by MAIF to issue insurance policies. For records not associated with the issuance of MAIF insurance policies, the audit will assess MAIF's compliance with the Driver Privacy Protection Act, including measures to prohibit the re-disclosure of personal information by an authorized recipient. A report shall be submitted to the committees with the findings of the audit by December 1, 2010."

If you have any questions or concerns, please do not hesitate to contact Mr. John Kuo, MVA's Administrator at (410) 768-7274. Of course, you should always feel free to contact me directly.

Sincerely,

Beverley K. Swaim-Staley
Secretary

Attachment

cc: Members of the Budget Committees
Mr. John Kuo, Administrator, Motor Vehicle Administration

My telephone number is 410-865-1000
Toll Free Number 1-888-713-1414 TTY Users Call Via MD Relay
7201 Corporate Center Drive, Hanover, Maryland 21076

A Report to the Maryland General Assembly

Senate Budget & Taxation Committee

and the

House Appropriations Committee

Regarding

Driving Records Audit
(2010 Joint Chairmen's Report, page 58)

The Maryland Department of Transportation

December 2010

Driving Records Audit (2010 Joint Chairmen's Report, page 58)

I. Introduction

This annual report was prepared in response to language contained in the 2010 Joint Chairmen's Report, page 58. Specifically, the language directs:

“That the Motor Vehicle Administration (MVA) will conduct a random audit of driving records obtained by the Maryland Automobile Insurance Fund (MAIF) from MVA, which will determine whether driving records are handled properly by MAIF and for the intended purposes. The audit will identify those records used by MAIF to issue insurance policies. For records not associated with the issuance of MAIF insurance policies, the audit will assess MAIF’s compliance with the Driver Privacy Protection Act, including measures to prohibit the re-disclosure of personal information by an authorized recipient. A report shall be submitted to the committees with the findings of the audit by December 1, 2010.”

II. Executive Summary

The language within the contract between the MVA and the Driver Privacy Protection Act (State Government Article Section 10-616(p)) prohibits MAIF from disclosing personal information, including a driving record, to a third party. The MVA audit found no evidence that the driving records were being improperly handled by MAIF. MAIF obtains Maryland driving records through the MVA but then displays relevant information from the record as well as other sources in their internal Driver Chargeability Reports (DCRs). DCRs contain a combination of information and a determined risk assessment based on MAIF’s own formula. This proprietary formula is based on logic only known to MAIF and as a result it would be of no use to other insurance companies. As a reminder to MAIF insurance agents, MAIF added a statement to the logon screen indicating that the MAIF DCR will be used for the sole purpose of conducting MAIF business. MVA plans to continue to audit MAIF records several times a year to ensure compliance with contractual and statutory privacy protections.

III. MAIF Driver Chargeability Reports

To determine the risk an insured applicant poses, all insurance companies, including MAIF, use the driving record in combination with a proprietary formula that includes other pertinent information not on the driving record, such as accident claims, credit rating, and geographic location. Individuals writing policies on behalf of MAIF only gain access to the driving record through what is called a Driver Chargeability Report (DCR) to assign each applicant a risk rating that will be used to determine premiums. MAIF’s DCR rating is unique, and each insurer uses a different rating combination; the end result is that the MAIF DCR would not be useful to another insurance company to write a policy. The audit determined that the risk of this DCR being used for a purpose other than a MAIF risk assessment is relatively low.

Driving Records Audit (2010 Joint Chairmen's Report, page 58)

IV. Audit Process

MVA began auditing random MAIF selected records in the spring of 2010. During October 2009 through January 2010 MVA reports showed more than 120,000 Driver's License numbers accessed under the MAIF account. MVA auditors selected 58 Driver's License numbers from that 4-month period. MVA auditors then contacted MAIF to determine which numbers were associated with a MAIF policy. The sample shows that 16 (or about 28%) inquiries were related to a MAIF policy as follows:

| | <u>Driver's License</u> | |
|--|-------------------------|----------------|
| | <u>Numbers</u> | <u>Percent</u> |
| MAIF insurance policies | 13 | 22.4 |
| DL numbers related to the above policies | <u>3</u> | <u>5.2</u> |
| TOTAL: MAIF policy related | 16 | 27.6 |
| | | |
| Not MAIF policy related | <u>42</u> | <u>72.4</u> |
| | <u>58</u> | <u>100.0</u> |

Out of the sample of 58, MAIF identified 42 without a MAIF policy. MVA auditors endeavored to determine why a record would be accessed without a policy being written. From the 42, three were randomly selected for further investigation. Auditors identified the insurance agents who obtained the driver chargeability report in these three cases. MVA auditors then visited the insurance agents who accessed the three records.

To determine if agents are using DCRs outside of their official purpose to write MAIF policies, each of the three producers was asked if someone could use the DCR instead of the official driving record. The first insurer to be asked was MAIF's top producer, Katz Insurance. The insurer claimed that they did not use the DCR for non-MAIF purposes.

The other two insurers responded that chargeable offenses can vary from one insurance company to another, and these two agents use software packages (SilverPlume and EasyLink) that allow them to obtain quotes from several insurance companies. An official record is obtained through their software package.

Only one of the three producers seemed to know that there was a \$9 charge associated with an official driving record and none of the three was sure who at their company paid for the records. None of the three customers had obtained insurance (MAIF or other insurer) from the producer who accessed the DCR.

Driving Records Audit (2010 Joint Chairmen's Report, page 58)

MVA auditors attempted to determine why an agent would access a DCR and not write a policy and arrived at three possible solutions.

- a. The MVA audit revealed that inquiries do not always result in a policy. The three producers that the auditors spoke to estimated that only about 20% to 33% of calls/inquiries end up as a policy.
- b. An assumption can be made that the MAIF customer has a higher risk and a higher premium. The customer could simply be comparison shopping or inquiring to see if the customer can in fact afford the insurance required to own a vehicle. To that end, some driver's license numbers are counted more than once. Auditors found one license number where the driving record was accessed five times on the same day on the MAIF account.
- c. Insurance companies will order a driving record for all members of the household. One policy may require the insurer to access multiple driving records.

Finally, MAIF has added the following statement to the logon screen that providers must use to access the DCR:

"As a MAIF producer, I agree that MAIF Driver Chargeability Reports (DCR's) will be ordered for the sole purpose of conducting MAIF business. Information contained in MAIF Driver Chargeability Reports and other MAIF records will be disclosed to only those persons or entities directly involved in conducting MAIF business on behalf of the MAIF customer or potential customer."