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Bulletin

No. A-6/97

Property & Casualty

- Auto

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Regulation on lapse in automobile insurance coverage

To the attention of all insurance companies licensed**to transact automobile insurance in Ontario**

The Ontario Insurance Commission (OIC) has received many questions about the regulation prohibiting insurers from considering lapses in automobile insurance coverage in determining rates. We are issuing this bulletin which supplements OIC Bulletin No. A-11/96 to address such matters and to provide guidance to insurers, brokers and agents as to the application of the regulation.

The Regulation

Ontario Regulation 664 was amended effective November 1, 1996 to prohibit the use of lapses in insurance coverage as a rating variable, except in those limited circumstances set out in the regulation. A copy of the regulation is attached.

This regulation prohibits an insurer from considering a lapse in insurance coverage for purposes of risk classification unless:

- the insured person was convicted of driving without insurance during the lapse in coverage;
- the lapse resulted from the termination of an automobile insurance policy because the insured person failed to pay the premiums due under the policy;
- the lapse resulted from the suspension of the insured person's driver's license as a result of a driving conviction;
- the lapse resulted from the insured person's attempt to misrepresent their driving record due to earlier accidents or convictions, in order to avoid paying higher insurance premiums.

Insurers cannot use any lapses in rating, other than those set out in the regulation. In addition, surrogate rating variables may not be used to circumvent the intent of the regulation (see examples below). The regulation will be strictly enforced by the OIC.

Application of the Regulation

In order to provide guidance to insurers, agents and brokers, we are providing both examples of criteria that insurers **cannot** consider and criteria that insurers **can** consider in determining automobile insurance rates.

The following are examples of criteria insurers **cannot** consider in assigning a driving record or in determining automobile insurance rates:

- the number of years of continuous insurance;
- the length of time a person has been insured;
- any lapse in insurance coverage that was **not** due to a reason set out in the regulation;
- the length of time a person has owned or leased a vehicle;
- whether the insurer can verify the claims history of the person.

The following are examples of criteria insurers **can** consider in determining automobile insurance rates:

- the length of time a person has held a driver's license;
- the number of at-fault accidents;

- whether a person has been a named insured or a listed driver on an automobile insurance policy.

The regulation does not prevent insurers from using claims forgiveness rules, loyalty discounts, or renewal discounts as part of their risk classification systems.

Treatment of Lapses in Insurance Coverage

While the regulation permits an insurer to consider certain lapses in its risk classification system, not all of these lapses should have the same impact on premium. For example, a lapse that resulted from a person's failure to pay the premiums due under the policy should not result in a premium increase of the same magnitude as a lapse where the person was convicted of driving without insurance. Insurance companies should ensure that the reason for the lapse, and its severity, is appropriately reflected in classifying risks and in rating.

Information for Rating

An application form should be accurately completed by any person applying for automobile insurance. If the applicant is able to provide information about their most recent automobile insurance policy (i.e. the policy number, name of insurer and the expiry date) and the rest of the information required on the application form, the insurer shouldn't require the applicant to provide further evidence of their insurance history.

However, in the case of an individual who was insured under a fleet policy, the insurer may ask the individual to provide information from either the fleet insurer or the company that was insured by the policy. In the case of an individual who has rented vehicles, the insurer may ask the individual to provide copies of rental agreements and other information.

We expect that the industry's Underwriting Information Tracking System (UITS) will assist insurers in properly underwriting risks. UITS is a centralized database that was developed to provide complete and accurate information about automobile insurance accidents and the drivers involved.

Ensuring Compliance with the Regulation

Insurers should share this bulletin with their agents and brokers. Agents and brokers are the key points of contact for consumers for information on automobile insurance. Consumers need to get accurate information the first time

they apply for insurance. Consequently, it is essential that agents and brokers are able to explain the lapse rules to consumers.

In addition, insurers should review their rating rules for determining automobile insurance rates to ensure that they are consistent with the regulation. If not, insurers should:

- ensure that all rating and classification of new and renewal business is consistent with the regulation;
- file the amended rating rules and rate manual amendments with the Rates, Classifications and Actuarial Services Branch at the OIC;
- identify situations, in consultation with their agents and brokers, where insureds should be re-classified because of the regulation;
- adjust premiums in accordance with the statutory conditions of the automobile insurance policy, where it is identified that an insured has been improperly classified.

Insurer Inquiries

Insurers should contact their rate analyst at the OIC if they have any questions about this Bulletin or the regulation.

Dina Palozzi

Commissioner

July 2, 1997

[Excerpt from Ontario Regulation 664, as amended](#)



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Excerpt from Ontario Regulation 664, as amended

Prohibited Risk Classification Elements

(Sections 410 to 417 of the Act)

16. (4.4) No element of a risk classification system shall use a lapse in automobile insurance coverage unless,
- the insured person contravened section 2 of the *Compulsory Automobile Insurance Act* during the lapse in coverage; or
 - the lapse of coverage resulted directly or indirectly from,
 - the termination of a policy of automobile insurance as a result of the insured person's failure to pay the premiums due under the policy,
 - the suspension of the insured person's driver's licence as a result of a conviction for an offence related to the use or operation of an automobile, or
 - an accident or a conviction for an offence related to the use or operation of an automobile, if the insured person did not inform the insurer of the accident or conviction and the accident or conviction would likely

have led to the insured person being charged a higher premium.

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