Usage-Based Automobile Insurance Pricing in Ontario

Bulletin

No. A-05/13
Property & Casualty - Auto

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

Under Ontario law an application (filing) for approval of automobile insurance rates or a risk classification system must be in a form approved by the Superintendent and must be filed together with such information, material and evidence as the Superintendent specifies.

This Usage-Based Insurance Pricing (UBIP) Bulletin is to be used in conjunction with the Filing Guidelines applicable for private passenger automobile (PPA) filings for rates or risk classification systems.

The purpose of this UBIP Bulletin is to communicate to insurers the Superintendent's additional considerations and requirements for automobile insurance filings that contain a UBIP component and thus facilitate the process of preparing as well as reviewing these filings.

General

Usage-based auto insurance programs are relatively new to the Ontario market. However, UBIP programs are operating in a number of jurisdictions in the USA and Europe. With usage-based pricing, drivers have more control over their auto insurance costs, as their usage patterns and driving behaviour can directly influence their rates. In addition to savings for drivers, benefits from UBIP programs could include fewer accidents and less congested roads by encouraging safer and less frequent driving.

1. Personal Information and Privacy Requirements

Canada's Personal Information Protection and Electronic Documents Act (PIPEDA) defines "personal information" as "information about an identifiable individual".

UBIP technologies are capable of collecting detailed telematics information about where, how and when vehicles are driven. Although telematics devices do not currently have the capability to identify who is driving a vehicle at any particular time, in many circumstances (for example where a vehicle has only one listed driver), the data collected by the device may reasonably be assumed to be about that individual, with the result that the data is personal information as defined in PIPEDA.

Where a vehicle has a number of listed drivers (for example in a family), information is collected on all of those individuals, and can affect the rating for a policy insuring all of those individuals, even if the specific driver at any given time cannot be identified. FSCO therefore takes the position that telematics data should be treated as personal information even if it is not about the driving behaviour of any one identifiable individual, and should be handled accordingly.

A key component of a UBIP program is the collection and processing of this personal telematics information for the purposes of auto insurance rating. While FSCO does not oversee personal privacy legislation, it is important to FSCO that UBIP programs respect the privacy of consumers and comply with all applicable legislation.

Insurers are responsible for ensuring that any UBIP program, including consent documentation and associated collection, use or disclosure of personal information by the insurer or third parties, meets all requirements in relevant privacy legislation – for example, PIPEDA. Insurers are strongly encouraged to seek legal advice to understand relevant privacy requirements. Additionally, insurers are urged to consider privacy-by-design principles, as advocated by the Information and Privacy Commissioner of Ontario, when developing a UBIP program.

The Superintendent may request documentation from insurers demonstrating how a proposed UBIP program will respect the personal privacy of drivers and comply with relevant legislation.

2. Personal Telematics Data: Insurer Transparency and Consumer Consent

UBIP programs must be voluntary and enrollment must include the express, informed consent of the policyholder to the collection, use and disclosure of personal information by the insurer or third party provider.

The telematics information to be collected, and how or who will use the data, may vary depending upon the sophistication of the device, the insurer's proposed UBIP program, and the potential involvement of third party providers. Prior to enrollment, insurers need to inform consumers what personal information is being collected, who may use or have access to the information, how the information is being used, under what circumstances the information will or could be disclosed to other parties, and what their rights are with respect to the information. Consumers should also be made aware of, and given the opportunity to give or withhold consent to, any relevant changes to what or how personal information is collected, used or disclosed.

Any personal information collected through a UBIP program, or its accompanying devices or software, should not be disclosed to any other party unless expressly consented to by the person or as required by law.

Non-UBIP goods or services

Drivers should be able to enroll in a UBIP program without being required to share their personal information for non-UBIP purposes (e.g., marketing, offering of additional services such as vehicle location services or assistance in emergency situations). Therefore, insurers should not require consumers to consent to the collection, use or disclosure of information beyond that required by a UBIP program as a condition of participation. Consumers should be given the opportunity to actively opt-in, rather than opt-out, to the collection, use or disclosure of personal information for non-UBIP purposes.

Consumer ownership and transferability of UBIP data

Insurers should, where possible, facilitate drivers using their personal UBIP data for the purposes of entering into a contract with another insurer including enrolling in another insurer's UBIP program.

Consent form considerations

A consumer's enrollment in a UBIP program involves the agreement by the consumer and insurer to additional legal rights and obligations outside of those in the standard auto insurance policy. These requirements govern matters such as the consumer's responsibility to install and use the monitoring device, and the insurer's promise to use the information collected by the device for specific purposes (e.g., calculation of discount) and not for others (e.g., refusing to renew a policy – see "6. Limitations on Collection and Use of UBIP Data for Insurance Purposes" for more examples). All other benefits, conditions or exclusions must also be clearly articulated in the terms and conditions and enrollment documentation.

In Ontario the mechanism for amending (whether by changing or deleting existing terms, or adding new terms) the standard auto policy is by way of an endorsement form. Under the Insurance Act, no auto insurer may use an endorsement form unless it has first been approved by the Superintendent. As part of the Superintendent's review and approval process for a proposed UBIP program, insurers will be required to file any form by which the policyholder agrees to terms and conditions of participation in the UBIP program as an endorsement for the Superintendent's approval in accordance with section 227 of the Insurance Act.

Promotional materials

Insurers may also be required to provide the Superintendent with any advertising or promotional material proposed for use in relation to their UBIP programs. This information will help to ensure that promotion of the UBIP programs is clear, fair and not misleading, and consistent with insurance core principles.

3. Complaints, Inquiries and Customer Support

With the introduction of innovative rating methodologies, insurers must be sure to provide adequate customer service support to provide mechanisms, procedures or forums for policyholders to question, discuss or challenge any issue or disagreement with the data collected by these devices. Insurers must outline appropriate mechanisms, enquiry management, and resolution systems to respond to customer questions, concerns and disputes.

4. Driver Education and Transparency in Rating and Risk Classification Systems

One potential long-term benefit of UBIP is reduced accidents and claims costs as consumers change their driving behaviour. UBIP programs that actively provide meaningful feedback and educational opportunities have the potential to contribute to safer driving behaviours and an overall reduction of hazards for all drivers.

To encourage safe driving and ensure transparency, it is important that the rating model for a UBIP program be clearly communicated to the consumer at all times, beginning prior to enrollment and continuing through to each policy renewal. The impact that a consumer's driving data has on the premium must be clearly articulated. This would include a clear explanation of how to qualify for a discount, the period being measured to calculate the discount, the maximum or minimum of that discount, and regular feedback on driving habits to the consumer. To ensure transparency, consumers should be able to access the data on which their discount is based, and be given opportunities to correct any inaccuracies.

Telematics technology tracks the vehicle within which a telematics device is installed, and is not currently capable of detecting different drivers. Policyholders may therefore see their rates impacted by other operators of the vehicle. These potential impacts must be fully disclosed to consumers in advance of enrollment.

5. Changes in Rating

Consistent with the existing policy renewal process in Ontario, any change in rating on a policy must be done in accordance with s. 236 of the Insurance Act (i.e., at the time of renewal).

6. Limitations on Collection and Use of UBIP Data for Insurance Purposes

As noted earlier, there is little experience with UBIP programs in Ontario and therefore little certainty around reliability and accuracy of data. At this point in time, UBIP programs, including program-provided devices and applications, should collect and use UBIP data solely for discount-setting purposes, and not to decline, cancel or refuse to renew risks or to confirm rating criteria currently used (e.g., where vehicle is principally garaged, distance driven, pleasure/commute/business use). Additionally, it would be inappropriate for insurers to use UBIP data for claims-related purposes at this time.

7. General Rate-Filing Information

Any UBIP program must be filed and approved by the Superintendent. It is recognized that there may be no Ontario-specific data to provide in a filing. However, FSCO is supportive of innovation and, as with other rating factors new to the market, is willing to review data and the amount of the discount charged in other jurisdictions. Insurers should recognize that UBIP filings are more complex and may require a longer review time.

UBIP-related rates and risk classification system elements must be just and reasonable and otherwise satisfy the statutory standards applicable to all rates and risk classification systems.

Where the enrollment discount is only offered for one term, or where the impact of the actual UBIP discount is expected to differ materially from the enrollment discount, the insurer will be required to submit annual reports to the Superintendent (in addition to any other filings that are submitted) to account for the annual changes in the average UBIP discount and, as a result, the average rate level changes that flow from the discount, at each one year anniversary of the introduction of the discount.

As more insurers launch UBIP programs, there may be an increasing number of existing rating variables that are impacted (e.g., distance driven, vehicle use). Insurers will be required to demonstrate the ability to meet their ongoing data reporting obligations through the General Insurance Statistical Agency (GISA) after the approval of a UBIP program.

Insurers are encouraged to meet with FSCO to review their proposed UBIP models prior to submitting filings. FSCO can then review its filing requirements for a discount or base-rate change, as well as the endorsement form associated with the proposed UBIP program, with the insurer.

8. UBIP Program Costs and the Impact on Insurer Expenses

To encourage drivers to participate, insurers should cover all costs of enrolling in a UBIP program including the cost of any device installation and any ongoing costs of operation or maintenance.

Insurers' expenses are an important component in rate determination. Insurers must clearly demonstrate the up-front or start-up costs associated with developing and introducing a UBIP program, as well as all ongoing maintenance and other expenses associated with offering the program, including but not limited to all costs associated with the UBIP device, data transfer and analysis, marketing and any third party provider contracts.

The insurer must include this information in a filing regardless of whether the insurer has factored this cost into the rate determination assumptions. Some insurers may treat start-up costs as part of research and development and not specifically allocate them. It is expected that over time the on-going operational costs will be taken into account in determining the discount.

9. Reasonability of UBIP assumptions and the provision of adequate support

Proposed UBIP models may first be reviewed and approved by FSCO in principle, following which an insurer would make a formal filing for Superintendent's approval. Approval of the filing could be made conditional on further filings being required at scheduled intervals to provide the necessary continued support for the UBIP rating system, including a full description of any refinements that the insurer intends to make as it develops experience with the UBIP program.

Insurers may also be required to demonstrate that the underlying assumptions used in a UBIP program are reasonable and continue to be reasonable. All filings must clearly indicate:

- which consumer behaviours are being measured (e.g., acceleration or deceleration rates, speed, distance travelled),
- how this data is measured (e.g., frequency, occurrence, relevant thresholds),
- how this data is normalized and categorized for rating purposes (e.g., total occurrences, averaged), and
- all relevant claim and loss data that supports the risk rating.

If an insurer determines that any of the criteria initially used to determine prospective discounts need to be changed, the insurer may be required to re-file the UBIP model with the necessary adjustments. For example, if the majority of participating consumers see no discount in premiums during the early terms, the insurer may need to consider whether the rating variables need to be recalibrated (e.g., rating variables such as speed, acceleration or deceleration rates).

10. Compliance with the Unfair or Deceptive Acts or Practices (UDAP) regulation

An insurer's UBIP program will be required to be available in all of its territories so all policyholders are provided the opportunity to participate.

In making a consumer aware of the lowest rate available within a group of affiliated insurers, the introduction of a UBIP program to only one of the affiliated insurers may create a compliance risk with the UDAP regulation.

Insurers will need to provide information as to how they will ensure compliance with the affiliated insurer rule if they intend to introduce the program for only one insurer within a group of affiliated insurers. This may require the affiliated insurers that are not offering a UBIP program to make all policyholders aware that a discount may be available to them if they arrange coverage through the affiliated insurer that offers the UBIP program. Otherwise, the UBIP program should be provided by all of the affiliated insurers in a group.

11. General Data Considerations: accuracy, security, storage, at termination

Data Accuracy

Before any UBIP data is used for rating purposes, reasonable efforts must be made to ensure that the data is accurate. Insurers must ensure compliance with the approved UBIP discount and ensure that action is taken to fix any data that can be shown to be materially inaccurate within a timely manner. Insurers must demonstrate they have processes to respond to and resolve any inquiry or dispute that a consumer may have about the accuracy of the data used for rating.

The insurer must also be prepared to deal with selective or inaccurate data reporting. For instance, a consumer could attempt to tamper with the data by unplugging the device at certain times or by other actions that cause inaccurate data to be recorded or transmitted by the telematics device. A consumer could also simply fail to report data as required.

Data Security

Insurers must also ensure that the data capture, transmission and analysis are all done within a secure environment. The insurer is responsible for ensuring that it, and any third party provider, maintains effective security standards for personal information.

Data Storage

It is important that personal information and data is not kept for longer than is necessary and the insurer must demonstrate that it has a procedure for appropriately managing any personal information.

Insurers and third parties should delete or anonymize personal information once there is no clear business need to retain the data. Such instances include when a consumer opts out of a UBIP program or does not renew a policy, or the information becomes irrelevant for the purposes of setting a UBIP discount.

Termination of Participation or Policy

Insurers must ensure that no further data is received or accessed after a consumer terminates participation in a UBIP program or terminates the policy. Consumers should be given the option to have any UBIP device removed and the consumer should be able to fully delete any smartphone application. If it is impracticable to either have the UBIP device removed or stop the device from transmitting data, the link between the device and the database should be severed such that no additional data received is accessible to the insurer or any third party.

12. Roles and Responsibilities: Insurers and Third Party Providers

Insurers remain accountable for the collection, use or disclosure of personal information associated with a UBIP program. Insurers are also required to ensure that any third party providers who collect, use or disclose personal UBIP information provide a level of protection comparable to that expected of the insurer. Insurers must be certain of the type of information being collected by the third party provider, that it is free of manipulation, and that the provider is collecting, using and disclosing the information only as consented to by the consumer.

In some cases, the third party provider may want to collect, use or disclose personal information beyond what is required under an insurer's UBIP program. Some third party providers have proposed that personal information could be used to offer additional products or services to the consumer, such as family surveillance, automatic notification when the vehicle leaves a defined territorial area, or assistance in emergency situations. As noted earlier, consumers must be given the choice of opting-in and expressly consenting to any collection, use and disclosure of personal information for non-UBIP purposes and insurers cannot require this consent as a condition of participation in a UBIP program.

Third party providers must clearly understand their responsibilities to protect a consumer's personal information. Where there are multiple third party providers, the insurer must ensure that the roles and responsibilities of each party are clearly agreed to and understood by all parties.

FSCO expects that insurers will have written contracts with each third party provider to confirm:

- the provider's ability and commitment to ensure a level of personal information protection equal to or greater than that expected of the insurer, and to comply with all applicable laws and regulations,
- that the service provider has the required service capability, and
- that succession issues are addressed to ensure a smooth transition when ending or varying an agreement with a provider.

Contact

Should you have any inquiries regarding this bulletin, please contact your Team Lead/Analyst in the Automobile Insurance Services Branch at FSCO. Company actuaries are also encouraged to contact FSCO's actuarial staff on actuarial requirements.

Please note that this Bulletin is posted on FSCO's website at **www.fsco.gov.on.ca**.

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Superintendent of Financial Services

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