Usage-Based Automobile Insurance Pricing in Ontario

Bulletin

No. A-16/16
Property & Casualty – Auto

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

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These bulletins may include forms that are no longer up-to-date or accurate. Readers should visit the forms section of the FSCO website, to ensure they are using the most recent version of a FSCO form.

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 with information, material and evidence as specified by the Superintendent. Automobile insurance forms are also subject to the Superintendent's approval.

This Usage-Based Insurance Pricing (UBIP) Bulletin is to be used in conjunction with FSCO's Filing Guidelines as applicable.

FSCO's Bulletin No. A-05/13, issued in October 2013, communicated to insurers the Superintendent's initial considerations and requirements for auto insurance filings containing a UBIP component. The purpose of this Bulletin is to provide updated considerations and filing requirements which reflect FSCO's experience with UBIP programs since October 2013.

Updates from Bulletin No. A-05/13 include:

- Reflecting amendments brought by Canada's Digital Privacy Act to the Personal Information Protection and Electronic Documents Act (PIPEDA) relating to the collection, use and disclosure of a consumer's personal information.
- Identifying a pre-existing mechanism in the Insurance Act to allow for mid-term UBIP discount adjustments.

- Allowing the use of a “matching discount” in certain circumstances to promote a consumer’s ability to seek the lowest UBIP rate available.
- Updating limitations on the collection and use of UBIP data for auto insurance purposes:
  - Insurers may use UBIP data to review rating criteria currently used (for example, where a vehicle is principally garaged, distance driven).
  - Insurers may use UBIP data to detect and prevent fraud and to manage claims, as permitted by law and in accordance with the Unfair or Deceptive Acts or Practices Regulation (O. Reg. 7/00).

- Alerting insurers to technological attestation and consumer disclosure requirements for smartphone-based UBIP programs.
- Reminding insurers of reporting requirements specific to UBIP programs.

Insurers are encouraged to meet with FSCO to review the filing requirements and their proposed UBIP models prior to submitting filings. Insurers should recognize that UBIP filings are more complex and may require a longer review time.

General

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

PIPEDA defines “personal information” as “information about an identifiable individual.”

UBIP technologies collect detailed telematics information about where, how and when vehicles are driven. Although not all telematics technologies 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 telematics technology may reasonably be assumed to be about that individual, with the result that the data is personal information as defined in PIPEDA.

FSCO therefore takes the position that telematics data should be treated as personal information even if it is not necessarily 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 that UBIP programs respect the privacy of consumers and comply with all applicable legislation.

Insurers are responsible for ensuring that all aspects of their UBIP program – including consent documentation and associated collection, use or disclosure of personal information by the insurer or third parties – meet all of the requirements of relevant privacy laws and regulations that include but are not limited to PIPEDA. Insurers should seek legal advice to understand relevant privacy requirements.

The Superintendent will require satisfactory documentation from the insurer's Chief Executive Officer, Chief Information Officer or other senior representative attesting that the proposed UBIP program will respect the personal privacy of drivers and comply with relevant legislation.

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.

2. Personal Telematics Data: Insurer Transparency and Consumer Consent

UBIP programs must be voluntary and enrolment 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 telematics technology, the insurer's proposed UBIP program and the potential involvement of third-party providers. Prior to enrolment, insurers must inform consumers about:

- what personal information would be collected
- who would use or have access to the information
- how the information would be used
- under what circumstances the information would or could be disclosed to other parties, and
- what their rights would be 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, is not to be disclosed to any other party except as expressly consented to by the person or as otherwise permitted or required by law.

Non-UBIP goods or services

Drivers should be able to enrol in a UBIP program without being required to share their personal information for non-UBIP purposes (for example, 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 can 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, by providing the consumer with access to their UBIP data or feedback and scoring reports.

Consent form considerations

A consumer's enrolment 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 telematics technology, and the insurer's promise to use the information collected by the telematics technology for specific purposes (for example, calculation of discount) and not for others (see "**8. Collection, Use and Disclosure of UBIP Data for Auto Insurance**

Purposes" for more details). All other benefits, conditions or exclusions must also be clearly articulated in the enrolment and terms and conditions documentation.

In Ontario the mechanism for amending (whether by changing or deleting existing terms, or adding new terms) the standard form of auto policy is by using an endorsement form. Under the Insurance Act, no auto insurer may use an endorsement form unless it has first been approved by the Superintendent. 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 and the applicable Guidelines for these filings.

Due to the complexity of the issues covered in any UBIP endorsement form, it is expected that the form be carefully reviewed by the insurer's legal counsel prior to filing with FSCO for review.

Promotional materials

Insurers may also be requested to provide the Superintendent with any advertising or promotional material proposed for use in relation to their UBIP programs.

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 telematics technologies. Insurers must outline in their initial UBIP proposals appropriate mechanisms, inquiry management, and resolution systems to respond to customer questions, concerns and disputes – including any that might arise from the use of UBIP data for discount setting, review of rating criteria, fraud detection and prevention as well as claims management purposes. Insurers will also be required to periodically report on consumer complaints, resolution activities and outcomes to FSCO in the interim reports identified below.

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 improve their driving behaviour. Insurers are encouraged to develop UBIP programs that actively and periodically provide meaningful feedback and educational opportunities to contribute to safer driving behaviours and an overall reduction of hazards for all drivers.

To encourage safer 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 enrolment 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 discounts are calculated, the period being measured to calculate the discount, the maximum or minimum of the 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.

Currently, not all telematics technologies are capable of detecting specific drivers. Policyholders may therefore see their rates impacted by other vehicle operators. These potential impacts must be fully disclosed to consumers in advance of enrolment.

5. Changes in Rating at Renewal

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. Mid-term Changes in UBIP Discounts

As FSCO supports UBIP as a way to advance the goals of safer driving, innovation in the auto insurance marketplace and lower premiums, the Superintendent will consider mid-term adjustments to premiums based on UBIP discounts as permitted by s. 127 of the Insurance Act.

Under s.127, an auto insurance policy may stipulate a method for determining the amount of premium rather than specifying a fixed premium amount. Under such a policy, mid-term adjustments to a premium based on a UBIP discount are to be calculated and applied based on the method set out in the UBIP endorsement approved by the Superintendent. As part of the consumer enrolment and consent process for UBIP programs, insurers that intend to vary the UBIP discount mid-term must clearly articulate that the maximum premium that will be charged is the undiscounted rate (the rate without a UBIP discount) shown on the Certificate of Automobile Insurance, as well as the method for determining the amount of the UBIP discount.

7. Transferability of UBIP Data and Matching UBIP Discounts

Insurers should facilitate, where possible and upon the insured's request, the transfer of a driver's UBIP data to other insurers for use in calculating a rate and/or discount. Transferability of UBIP data supports a consumer's ability to seek the lowest possible UBIP rate available.

The transfer of UBIP data may not be feasible due to differences in UBIP programs and telematics technologies. In lieu of the ability to transfer UBIP data, an insurer may propose to offer a newly enrolled driver an initial discount matching the discount most recently earned from his/her previous UBIP policy, subject to certain conditions:

- A matching UBIP discount may only be offered by insurers with an approved, operating UBIP program.
- Insurers should obtain documentation or proof of the most recent discount earned by the driver from their previous insurer.
- A matching discount may only be offered to newly-enrolled UBIP drivers during the initial data collection period as defined in the receiving insurer's UBIP program. At maximum, the matching discount cannot be offered for a period that is longer than one policy term. After the initial data collection period has passed or the policy term has expired – whichever comes first – the driver should be rated according to the data obtained under the insurer's UBIP program.
- The matching discount may be offered in lieu of – not in addition to – any UBIP enrolment discount offered by an insurer. Additionally, an insurer cannot offer a matching discount that exceeds the maximum discount (e.g., percentage) available under its own UBIP program.
- The applicability of matching discounts must be clearly articulated in an insurer's risk classification system.

8. Collection, Use and Disclosure of UBIP Data for Auto Insurance Purposes

While FSCO has approved rates and risk classification systems with UBIP in Ontario, these programs are still relatively new in Ontario and there continues to be uncertainty around the statistical accuracy and reliability of data. Any UBIP data must be used for appropriate purposes.

UBIP data may not be used to:

- decline risks
- cancel risks
- refuse to renew risks, or
- surcharge.

UBIP data may be used to:

- set discounts in accordance with an approved risk classification system
- review rating criteria currently used (for example, where a vehicle is principally garaged, distance driven), and
- detect and prevent fraud and to manage claims, as permitted by law and in accordance with the Unfair or Deceptive Acts or Practices Regulation (O. Reg. 7/00). For example, the use of UBIP data should not result in the unreasonable delay in, or resistance to, the fair adjustment and settlement of claims. Additionally, it is expected that UBIP data will supplement – rather than replace – standard claims management practices.

Consumer enrolment and consent documents for UBIP programs must clearly articulate how UBIP data could be used to set discounts, review rating criteria, detect and prevent fraud and manage claims.

Insurers may only use UBIP data for any or all of these purposes **after** a consumer has provided express, informed consent. As a reminder, insurers must file their new or amended UBIP endorsement forms with the Superintendent for approval.

9. General Filing Information

Rates and risk classification systems based on UBIP must be filed with 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 from other jurisdictions.

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

Some UBIP programs adopt devices and technologies that have not previously been used to collect information for rate and risk classification purposes (for example, smartphone applications that collect and transmit telematics data). The Superintendent will require insurers to provide satisfactory assurances that UBIP devices and technologies will operate as presented in a filing.

As more insurers launch UBIP programs, there may be an increasing number of existing rating variables that are impacted (for example, distance driven and vehicle use). Insurers are reminded of their ongoing data reporting obligations through the General Insurance Statistical Agency (GISA) after approval of a UBIP program.

10. UBIP Program Costs and the Impact on Insurer Expenses

To encourage drivers to participate, insurers should cover the costs of enrolling in a UBIP program. Where UBIP program participation requires a telematics device to be installed in a vehicle, the insurer should also cover the cost of device installation and any ongoing costs of operation or maintenance.

For UBIP programs using smartphone application technologies, insurers should disclose, in the enrolment documents and/or terms and conditions, any potential cellular network data requirements associated with the use of the smartphone application. To minimize potential additional costs to consumers, insurers should, if warranted by the data demands of the application and if feasible, provide a choice between sending collected UBIP data through Wi-Fi networks or cellular networks.

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 technology, data transfer and analysis, marketing and any third-party-provider contracts.

The insurer must include this information in a filing regardless of whether or not 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 borne only by those enrolled in the UBIP program.

11. Reasonability of UBIP Assumptions and the Provision of Adequate Support

Proposed UBIP models may first be reviewed by FSCO for comment, following which an insurer would make a formal filing for the 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 are 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 (for example, acceleration or deceleration rates, speed, distance travelled)
- how this data is measured (for example, frequency, occurrence, relevant thresholds)
- how this data is normalized and categorized for rating purposes (for example, total occurrences, averaged), and
- all relevant claim experience (for example, claim severity, claim frequency, and loss costs) that supports the proposed UBIP program.

If an insurer determines that any of the criteria initially used to determine prospective pricing 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 reduction in premiums during the early terms, the insurer may need to consider whether the rating variables need to be recalibrated (for example, rating variables such as speed, acceleration or deceleration rates).

12. Compliance with the Unfair or Deceptive Acts or Practices (UDAP) Regulation

An insurer’s UBIP program must be available to all policyholders (for example, regardless of age, territory, etc.) so long as they meet the minimum requirements for participation (for example, vehicle and/or smartphone are compatible with the insurer’s UBIP technology and systems).

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 UBIP program 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.

13. General Data Considerations: Accuracy, Security, Storage and Termination of Participation or Policy

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 demonstrate they have processes to respond to and resolve any inquiry or dispute that a consumer may have about the accuracy of the data in a timely manner.

The insurer must also be prepared to address selective or inaccurate data reporting issues. For instance, a UBIP device or smartphone application may malfunction or lose connectivity, or a consumer could disable or tamper with the device or smartphone application at certain times or simply fail to report data as required.

Data Security

Insurers must also make sure that the data capture, transmission and analysis are all done within a secure environment. The insurer must maintain, and must make sure that any third-party provider maintains appropriate and effective security safeguards to protect consumers’ personal information.

Data Storage

Insurers must ensure that personal information and data are not kept for longer than is necessary and have 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 as when:

- a consumer opts out of a UBIP program or does not renew a policy, or
- the information otherwise becomes irrelevant for the purposes of the UBIP program.

Termination of Participation or Policy

Insurers must ensure that no further personal information 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 be able to fully delete any smartphone application and its related data. 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.

14. 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 personal information only as consented to by the consumer or as otherwise permitted or required by law.

In some cases, a 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 provider to confirm:

- their 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 (including, but not limited to, PIPEDA)
- they have the required service capability, and
- succession issues are addressed to ensure a smooth transition when ending or varying an agreement with a provider.

15. UBIP Interim and Anniversary Reporting Requirements – Private Passenger Automobile (PPA) Programs Only

As part of the conditional approval process, insurers will be notified that they are required to submit interim update reports to FSCO in the intervening two years (between approval and required resubmission). These reports will be required annually and in the format prescribed by FSCO.

The interim update reports will assist in tracking the experience with the insurer's new UBIP model, including adoption rates, average discounts, and any issues that the insurer has observed. This may include consumer feedback and complaints, issues with the selected variables or with the methodology used to calculate the discount.

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.

Brian Mills
Chief Executive Officer and
Superintendent of Financial Services
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