

FAIR Association of Victims for Accident Insurance Reform

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March 29, 2021

FAIR submission to: Amendments to regulations under the Insurance Act and the Compulsory Automobile Insurance Act regarding the delivery of automobile insurance notices and other automobile insurance documents. Regulation Number(s): 777/93, 34/10, 676 and 95

FAIR (Fair Association of Victims for Accident Insurance Reform) is a grassroots not-for-profit organization of Ontario's MVA (Motor Vehicle Accident) survivors who have struggled with access to recovery resources under the current auto insurance system.

Thank you for the opportunity to speak to the draft amendments of the regulations regarding delivery of insurance documents by Ontario's auto insurers.

We support a more modern approach to interacting with consumers but we see some new problems in doing so. The language in these changes does not appear to comply with the concept of consumer protection legislation as would be expected in auto insurance.

In the proposed legislation the onus appears to be on insurers and their ability to prove the information was 'sent' with zero attention on whether important information was actually 'received' by claimants. **We would suggest that in every instance the word 'sent' is used that the legislation be modified to read 'sent and received' in order to head off any new potential for disputes.**

Insurers and the legislation must recognize:

- There are many unserved or underserved internet areas in the province where service is spotty or unreliable and this channel of communication should not lead to any penalties or incentives for persons who may or may not agree to participate.
- Many people do not check their emails regularly and may not have an internet friendly phone or rely on an outside source for internet – ie public libraries.
- Often people who have internet do not have a printer and this will mean insurers must always follow up with a hard copy of any documents.
- There is always a risk that insurer communications can end up in junk mail and may not be seen by the MVA claimant so there must always be follow-up for confirmation.
- People often share internet access and even mailboxes so insurers must always be responsible to confirm receipt of any documents.
- Regulated healthcare professionals must always ensure that the privacy of the claimant is respected and protected when sharing confidential medical documents.
- There should be a 'read and/or delivery receipt' or confirmation that the document has actually reached the claimant.
- There should always be a follow-up especially in respect to a termination of contract in order to protect the consumer and not create further disputes.

- Ontario is a multi-cultural province and insurers must be responsible to ensure their customers understand the nature and importance of the legal documents they send. Communicating in plain and understandable language would mean something entirely different if English is not a first language and insurers should consider which translation apps or websites would work best to translate their messages.

Responses to specific questions

- How would automobile insurers propose to implement the delivery of a notice of termination of an automobile insurance contract to an insured by electronic means?

- Insurers must ensure that no matter the age or geographic locations that the consumer receives the contract by the means they have easy access to and that there is always an acknowledgement of receipt.

- Would the proposed regulation amendments with respect to the delivery by an automobile insurer of a notice of termination of an automobile insurance contract to an insured by electronic means, if approved, increase the risk of disputes regarding whether an automobile insurance contract has been properly terminated?

- YES. There needs to always be confirmation the contract is received and read and understood by the insured. More disputes will follow if the insured's policy is terminated without their knowledge and if not given in plain, understandable language. This would be especially true for those whose first language is not English.

- Should the requirements for automobile insurers with respect to the delivery of a notice of termination of an automobile insurance contract to an insured by electronic means be more prescriptive?

- Specific, prescriptive direction from insurers will decrease the risk of possibility of more disputes. Claimants, and others, often face cognitive challenges and will better understand what is expected of them with clear concise language. Insurers should be obligated to always ensure the information is received and should be obligated to notify a person not at their latest address on record but to ensure it is a current address of the insured and this should include email addresses.

We understand that insurers want to improve the system through modernization and more convenient communication with their customers. What appears to be lacking here is ensuring the person has received the communication because it is not enough to put something in plain and understandable language if it is not received or understood. There appears to be no consideration of the potential harm of inadequate privacy protection for these often vulnerable and injured consumers. We would suggest the government consult with the Information and Privacy Commissioner of Ontario to explore improvements to protect consumers within the language of this legislation.

Thank you for your consideration of our views.

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