



FAIR Association of Victims for Accident Insurance Reform  
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By email to FSRA feedback comment box

FAIR submission to: Consultation on proposed guidance: Administrative Monetary Penalties ID 2023-004

FAIR is a grassroots not-for-profit organization of MVA (Motor Vehicle Accident) victims who have been injured in motor vehicle collisions and their supporters. We speak from the perspective of those who have struggled with the current auto insurance system in Ontario.

Our comments are directed toward auto insurance only.

We find the current Administrative Monetary Penalties AMP out of touch with the reality of the harm caused by auto insurers and their associates who behave badly in the course of a claim. A car crash injury is, in and of itself, a life-changing event if someone is seriously injured. Claimants should not ever be subjected to punishment for making a claim by the very business they paid to protect them in a time of need.

The current Administrative Monetary Penalty associated with auto insurers is at such a low and ineffective amount it cannot be said to contribute to FSRA's mandate of "protecting the rights and interests of consumers, promoting high standards of business conduct, and contributing to public confidence".

Under section 1, the degree to which the contravention or failure was intentional, reckless, or negligent should have special significance to how the Regulator views the complaints of auto insurance claimants who are vulnerable Ontario patients and for whom insurer behavior can have life-long consequences. Insurers who behave badly and who fail to properly address injuries are often compounding problems when they create obstacles to access to rehabilitation benefits and since many treatments and rehabilitation are time-sensitive, this is a cruel and painful experience that can potentially see some catastrophically injured people punished both physically and financially for the remainder of their lives.

As FSRA takes into consideration the degree and extent of the harm caused by a contravention or failure to comply with legislation so too should the fact that very few people will make a complaint to the Regulator during a claim process so each complaint is likely a tip of an iceberg of bad behavior that

should be calculated. Insurers who are deriving, directly or indirectly, any economic benefit as a result of contravening or failing to comply with statutory requirements should not be offered safe harbor in any circumstances by the Regulator. In order to promote confidence by the Regulator, any AMP must be meaningful and not a small slap on the wrist such as currently exists with a maximum of a mere \$200,000.00 penalty for an insurer who makes billions of dollars selling what is a false promise of care when you need it.

Why should Mortgage Brokers, Credit Unions and Caisses Populaires be subjected to a much higher AMP than insurers whose potential harm to consumers is all that much greater? This is not to say those entities' AMPs are too high but it does beg the question – why are insurer AMPs so low as to be insignificant?

Respectfully, FSRA Administrative Monetary **Penalties** should be exactly that, a penalty and not glossed over with an eye toward protecting insurer profits with “amount determination is to ensure that the AMP is **not punitive in nature**”. You cannot have insurer compliance failures followed by an AMP and say that it isn't punitive in nature.

Since it appears the level of the AMPs is set by Ontario legislators we would hope that the Regulator would pursue an increase through the Minister of Finance office. To properly reflect the gravity of non-compliance when citizens' health is undermined and the significant potential harm, physically, mentally and financially, is caused by unacceptable insurer behavior, we suggest the AMP increase should be significantly more than the other sectors overseen by FSRA.

We would take this opportunity to point out that if FSRA is to reach a high level of consumer confidence it is going to be through transparency and the current policy of not publishing complaints about auto insurers is undermining that effort. The lack of transparency is an obstacle to treating consumers fairly and it stands in the way of the ability to make fully informed decisions about what insurers are up to and who to best purchase from, or in other words, provide the ability to choose good coverage from a reputable insurance company.

Thank you for the opportunity to have our voice heard.

***FAIR Association of Victims for Accident Insurance Reform***