CR ConsumerReports

April 28, 2021

Ricardo Lara, Commissioner
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

Dear Commissioner Lara:

I am writing to urge the California Department of Insurance to finalize its revised draft regulations (REG-2019-00015) relating to group discount programs for auto insurance, to ensure such programs do not unfairly discriminate against lower-income and less-educated drivers.[1] The proposed regulations will help ensure that any discount programs that are offered will be fair and equitable for all Californians and extend discounts to previously underrepresented drivers.

As you pointed out in December 2019 when you announced the results of CDOI's investigation into this issue, insurers currently appear to be using group discounts to "cherry pick" members, providing some consumers in higher-income occupations lower rates, while people of color and lower income motorists pay significantly more.[2] These unfair surcharges are driving up the cost of essential auto insurance coverage for lower-income workers with safe driving records, who can least afford the additional costs. This situation violates the letter and the spirit of Proposition 103, which aimed squarely at eliminating discriminatory practices in the pricing and availability of auto insurance. Consistent with the provisions of Proposition 103, group discounts may be offered, but only if the group definitions and rules of the programs are justified and non-discriminatory. The groups need to be offered equally to persons regardless of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, sexual orientation, primary language, immigration status, occupation, educational attainment, or income level.

Based on the results of the investigation which the Department carried out in 2019, drivers with lower-incomes and less education have not equally benefited from the existing group discounts based on occupation, education, and other factors. Notably, that is because many carriers' discounts are based not on membership in a particular group, but on policyholders' occupation. The investigation found that approximately one-quarter of Californians receive an "affinity group" premium reduction ranging from 1.5% to 25.9%, depending upon insurer and group. But access to affinity group discounts decreases with income and education level, with those living in ZIP Codes with an average income above $49,000 more than twice as likely to receive discounts as those in ZIP Codes with an average income of $22,500 or

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[1] Group Insurance Plains Under Code Section 1861.12 (Private Passenger Auto), REG-2019-00015, available at: http://www.insurance.ca.gov/0250-insurers/0500-legal-info/0300-workshop-insurers/upload/Second-Workshop-Draft-Text-of-Regulation-Group-Insurance-Plans-Under-Insurance-Code-Section-1861-12-Private-Passenger-Auto.pdf

[2] California Department of Insurance, *Department of Insurance Proposes Major Course Correction on Auto Insurance Group Discounts*, 12/23/2019, available at: http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release101-19.cfm

below. In some areas of Los Angeles, San Diego and the Bay Area, participation in group discount programs in high-income ZIP Codes was three to four times higher.[3]

Other key findings from the Department's investigation:

- Motorists in affinity groups were more likely to reside in ZIP Codes with a predominantly non-Hispanic white population.
- Three-quarters of motorists residing in underserved communities were not in an affinity group, compared to 57% for the rest of the state.
- Motorists in affinity groups are more likely to reside in ZIP Codes with a higher average educational attainment. Only 28% of those living in areas with the lowest number of college degrees receive discounts, compared to 56% for those where half or more have college degrees.[4]

We strongly share the concerns of other California consumer and community organizations[5] that the affinity group programs created by several insurers are grossly unfair to drivers with lower-paying jobs and less education. Regardless of the companies' names for their programs, lower-income drivers and drivers of color are being surcharged for coverage, based on their occupations and/or education levels, in violation of Prop 103.

As an example, GEICO, one of California's largest auto insurers, currently uses drivers' job titles to discriminate against frontline workers, blue-collar Californians, and unemployed residents. Through a simple premium quote test at Geico.com, Consumer Federation of California and Consumer Federation of America found that a standard auto insurance policy sold to a driver with a perfect driving record will cost about 20% more -- $276 more per year in one Los Angeles area test – if the driver is a firefighter, licensed vocational nurse, factory worker, or unemployed, than if their occupation is "investment banker" or "hospital administrator," even if everything else about the drivers is exactly the same.[6]

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[3] See also: California Department of Insurance, *Commissioner Lara Sees "Disturbing" Disparities in Auto Insurance Discounts for Millions of Drivers*, 12/24/2019, available at: http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release071-19.cfm

[4] Ibid.

[5] Organizations calling for elimination of unfair surcharges based on education level and occupational title include: United Policyholders; Public Advocates; Presente.org; Neighborhood Assistance Corporation of America; La Casa de la Raza; KIWA (Korean Immigrant Workers Alliance); Courage campaign; Consumer Watchdog; Consumers for Auto Reliability and Safety; Consumer Federation of America; and Consumer Action. Groups Petition CA Insurance Commissioner Ricardo Lara to Ban Use of Education and Occupation to Price Auto Insurance, 4/19/2021, available at: https://uphelp.org/groups-petition-ca-insurance-commissioner-ricardo-lara-to-ban-use-of-occupation-and-education-to-price-auto-insurance/

[6] Consumer Federation of California and Consumer Federation of America, *Proposed Group Auto Insurance Reform to End Discrimination Against Lower-Wage Californians; Consumer Groups Urge Quick Adoption*, 3/23/21, available at: https://consumerfed.org/press_release/proposed-auto-insurance-reform-will-end-discrimination-against-lower-wage-californians-groups-urge-quick-adoption/

On January 28, Consumer Reports released a new investigative report, "Why Your Education and Job Could Mean You're Paying Too Much for Car Insurance"[7] and white paper[8] that raise concerns about the unfair and discriminatory practice of using education level and occupational title for insurance pricing, which could result in many low- and moderate-income drivers and drivers of color paying more for their auto insurance than risk would indicate.

As part of our investigation to understand how insurers are using education and occupation to set premiums, Consumer Reports requested 869 unique online auto insurance quotes from nine different insurers. CR studied 21 ZIP codes in six states (Illinois, Louisiana, Minnesota, New Jersey, Oregon and Washington) plus Washington, D.C. CR sought quotes for a hypothetical 30-year-old woman who owns her 2016 Toyota Camry LE and has a clean driving record, shopping for her states' minimum required coverage. The only details that varied between quote requests were her education level and job title.

CR found that:

- Three companies provided preliminary quotes that were more expensive on average for consumers with less education: Liberty Mutual ($62 more annually), Geico ($115 more annually), and Progressive ($101 more annually).

- Two companies provided preliminary quotes that were more expensive on average for an applicant who was a cashier compared to an executive: Geico ($97 more annually), and Progressive ($31 more annually).

- Some quotes collected by CR were much higher. Because people with more education are likelier to work professional jobs, this kind of pricing can hit low-income consumers doubly hard. In Hoboken, NJ, for example, Geico quoted a hypothetical cashier without a high school degree an annual premium that was $455 higher than an identical driver with an executive job title and advanced degree.[9]

As you know, in virtually every state across this country, drivers are required to carry auto insurance. Insurance should be priced fairly, based on the risk posed by the driver, not on socioeconomic factors that have nothing to do with their driving record. We urge states to adopt insurance pricing systems that base premiums primarily on driving-related factors that reflect the risk of insurance losses that consumers pose when driving (i.e. an individual's driving record, miles driven, and years of driving experience). <u>California has led the way in establishing fairer auto insurance pricing based on driving-related factors, and by addressing insurers' abuse of group rating, you can close a glaring loophole that is allowing unfair pricing to creep back in</u>.

The findings of CR's investigative report underscore the fundamental unfairness of basing auto insurance pricing decisions on rating factors that are unrelated to driving records and habits, and over

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[7] Consumer Reports, available at: , "Why Your Education and Job Could Mean You're Paying Too Much for Car Insurance," 1/28/21, (available online at https://www.consumerreports.org/car-insurance/why-your-education-and-job-could-mean-youre-paying-too-much-for-car-insurance/

[8] Consumer Reports Digital Lab, *Effects of Varying Education Level and Job Status on Online Auto Insurance Price Quotes, 1/28/21*, available at: https://advocacy.consumerreports.org/research/report-effects-of-varying-education-level-and-job-status-on-online-auto-insurance-price-quotes/

[9] Ibid.

which consumers have little control. Pricing auto insurance based on non-driving factors like education and occupation is unacceptable because it magnifies the economic impacts of systemic racism. The ability to attain a particular level of education, and to hold a particular job title, often reflects longstanding income, wealth, racial, and gender disparities, and unequal access to education and higher-paying jobs. Auto insurance companies are generally prohibited from considering race and income when setting prices, yet in many states they are currently allowed to consider job level and education attainment, which—as noted above—closely correlate with race and income.

By finalizing the proposed regulations relating to group discounts, you can help effectively ensure that all Californians will have access to insurance group discounts in a fair, equitable and nondiscriminatory manner, as originally intended by Proposition 103. We strongly agree with your statement that: "Whether you are a doctor or a janitor with comparably safe driving records, you should have the same access to these discounts." Through the proposed regulations, insurers would be required to reduce barriers for creation of groups that have lower-income drivers among their members and increase public awareness of available groups. Further, you will close the loophole that insurers have created to improperly raise rates on good driver based solely on their occupation of level of education. In addition, the regulations would add an incentive system for creating new groups in underserved communities.[10]

Thank you very much for your consideration of this matter, and for the Department's ongoing work to investigate industry pricing practices and potential discrimination. We greatly appreciate your efforts to make sure that insurance is priced fairly and in a non-discriminatory way for all California consumers.

Sincerely,

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[10] California Department of Insurance, *Commissioner Lara Issues Revised Draft Regulations to Expand Auto Insurance Group Discounts to Lower-Income Drivers*, 2/18/21, available at: http://www.insurance.ca.gov/0400-news/0100-press-releases/2021/release021-2021.cfm