

**STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
45 Fremont Street, 21st Floor
San Francisco, California 94105**

REG-2009-00018

September 11, 2009

INITIAL STATEMENT OF REASONS

INTRODUCTION

California Insurance Commissioner Steve Poizner will hold a public hearing to consider changes to the Plan of Operations Manual for the California Low Cost Automobile (“CLCA”) Insurance program. The date, time and location for the public hearing as well as applicable contact information are set forth in the Notice of Proposed Action for this rulemaking matter.

California Insurance Code section 11629.7(d) provides that the Commissioner shall approve a reasonable plan for the equitable apportionment of Low Cost Automobile business and that such plan shall be established within the California Automobile Assigned Risk Plan (“CAARP”), as set forth in section 11620. By this proposed rulemaking action, the Commissioner hereby proposes amendments to the CLCA program Plan of Operations. As is explained below, each of the proposed changes are necessary to make the Plan consistent with existing law and policy. The Commissioner invites public comment on these proposed changes.

STATEMENT OF SPECIFIC PURPOSE AND NECESSITY FOR REGULATIONS

California Insurance Code sections 11629.7 through 11629.85 require, within the CAARP established under section 11620, a statewide low cost automobile insurance program. Because the program is established and administered through CAARP, CAARP procedures are applied where appropriate and consistent with the low cost automobile insurance statutes.

Insurance Code sections 11620, 11624 and 11629.7 provide that, after a public hearing, the Commissioner shall approve or issue a reasonable plan for the equitable apportionment, among insurers, of eligible consumers. This plan, approved by the Commissioner, is referenced in Title 10, section 2498.6 of the California Code of Regulations. The proposed amendments to the plan are reasonably necessary to implement, interpret and make specific Insurance Code sections 1734, 11620, 11623, 11624 and 11629.7, which authorize the establishment of a Plan of Operations for the implementation of the California Low Cost Automobile Insurance Program. These proposed amendments, by establishing a Plan of Operations for Low Cost Automobile Insurance in each county, fulfill the statutory requirements set forth in section 11629.7, et seq.

In accordance with these standards, the Commissioner is holding a public hearing to consider proposed revisions to the California Low Cost Automobile Plan of Operations.

The specific purpose of each amendment and an explanation of the reasons why each amendment is required to carry out the purpose of the Low Cost Automobile Program are described directly below.

Introduction and Section 1. Definitions

The introduction to the Plan of Operations which describes the applications, forms and manuals for the Low Cost Automobile program and Section 1 of the Plan of Operations are proposed for three revisions. While the revisions are primarily nonsubstantive in nature, each of the revisions is described below so that the public may be given a full and fair opportunity to consider them and provide comments.

The first revision proposes to change the phrase “when applying to the California Automobile Assigned Risk Plan” to “applying to the California Low Cost Automobile Insurance Program”. This proposed revision is reasonably necessary to preserve the clarity of the Plan of Operations Manual. While the Low Cost Automobile Insurance Program is part of the California Automobile Assigned Risk Plan, it is a special program within the CAARP. This proposed revision will make clear to persons reviewing the Manual that the application forms referenced in the Manual concern the Low Cost Automobile Insurance Program.

The second and third proposed revisions provide an updated reference to the newest versions of the Low Cost Automobile Application and the Policy Change Request – Certification Form. The newest versions of these forms were publicly noticed and adopted as regulations earlier this year as part of OAL file number Z-2009-0107-01S. The references contained in the introduction to the Manual, and to the Definitions in Section 1 of the Manual therefore, are currently out of date and the proposed revisions will ensure that the references are to the most recent, adopted versions of the forms.

Section 28 D. Plan Submission to the Designated Insurer

Section 28 D. of the Plan of Operations Manual is proposed for revision in order to clarify a requirement relating to insurers assigned to write a Low Cost Automobile policy. Specifically, this subsection of the Plan of Operations Manual will be revised to clarify that both the Low Cost Automobile insurance application and the premium deposit must be returned to the producer at the same time when an insurer determines that an application is ineligible for coverage.

Additionally, the language of the Plan of Operations is revised to clarify that, when the applicant is found ineligible within 20 calendar days following the CAARP assignment date for the policy, the insurer must return the premium deposit and application to the producer within the same 20 calendar day period.

The proposed revision will also clarify and specify that the procedures set forth in Section 26.F.2 of the Manual will apply to instances where an outstanding premium balance is owed on a prior Low Cost Automobile Insurance Policy.

Some companies have misinterpreted the current Plan of Operations Manual to permit an insurer to return an ineligible application without the deposit premium. Insurers who have misinterpreted the Manual in this way often return the deposit premium many days after the return of the application, thereby delaying the ability of the applicant to use that money to purchase a different automobile policy. This revision is reasonably necessary to ensure that insurance companies return premium deposits and ineligible applications at the same time and within 20 calendar days of the Plan assignment date, as intended. These revisions are also reasonably necessary to clearly inform insurers of the separate and distinct procedure required when an applicant owes an outstanding premium balance on a prior Low Cost Automobile Insurance Policy.

SPECIFIC ACTIONS, PROCEDURES, TECHNOLOGIES OR EQUIPMENT

Adoption of the proposed regulations would not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES

The Commissioner has identified no reasonable alternatives to the presently proposed regulations. The Commissioner has determined that no reasonable alternatives exist to carry out the purpose for which the regulations are proposed. Performance standards were considered but were rejected as an unreasonable and impracticable alternative. Nevertheless, the Commissioner invites public comments on the proposed changes and reasonable alternatives which would be as effective to carry out the proposed changes.

ECONOMIC IMPACT ON BUSINESS

The Commissioner has initially determined that the proposed regulations will not have a significant adverse economic impact on businesses because the changes to the Plan of Operations Manual represent minor alterations. The Commissioner invites interested parties to comment on whether the proposed regulations will have a significant adverse economic impact on business.

ECONOMIC IMPACT ON SMALL BUSINESS

The Commissioner has not identified any alternatives that would lessen any adverse impact on small businesses. Nor have any such alternatives otherwise been identified and brought to the attention of the Commissioner that would lessen any impact on small business. Nevertheless, the Commissioner invites public comments on the proposed changes and reasonable alternatives which would be as effective to carry out the proposed changes. To the extent that the proposed regulations affect insurance companies, the proposed regulations do not affect small business. (See Gov. Code § 11342.610.)