

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

REG-2008-00006

August 15, 2008

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, 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 California Automobile Assigned Risk Plan (“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 Exhibit A

The introduction to the Plan of Operations, as proposed, will be revised to eliminate the wording describing the initial counties in which the CLCA was operational. Currently, the CLCA program is available to every county in California. Consequently, the verbiage which explains the manner in which the Commissioner may expand the CLCA program to additional counties is now obsolete.

This proposed revision is reasonably necessary to ensure that the introduction to the CLCA program accurately characterizes the CLCA product as one that is currently available in every California county.

Similarly, the portion of the introduction which summarizes Part V of the Plan of Operations has been revised to describe Exhibit A in terms of “statistical guidelines” rather than “residence eligibility guidelines.” Exhibit A, as proposed, is revised to add statistical reporting codes for use by the assigned insurer to report Low Cost fulfillment data when such insurer underwrites applicants that use a Post Office Box or are otherwise lacking a physical street address.

This proposed revision is reasonably necessary to reflect the fact that the location of one’s residence in California is no longer a criterion for the determination of CLCA program eligibility. This proposed revision will also ensure that assigned insurers will be able to report Low Cost fulfillment data through the use of statistical reporting codes for those insureds that do not have a street address.

Additional changes to the introduction have been proposed to reflect the deletion of the “Privacy Waiver Form,” to update the revision dates for various other forms, and to revise the AIPSO website link so that it accurately reflects the web address.

The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form. Similarly, the revisions, updates and corrections to the AIPSO web address are reasonably necessary to accurately reflect the most current information in the Plan of Operations.

Section 1

The terms “Designated city or county” and “Policy Waiver Form” are proposed for deletion. These changes are reasonably necessary because the new CLCA program Plan of Operations no longer uses these terms.

The term “Policy Change Request-Certification Form” is proposed for revision to reflect the newest version date for the form, as well as to clarify that the form may be used by an insured to request a change in the policy so long as the insured certifies that he or she is eligible for

coverage. These changes are reasonably necessary to reflect the current policies and procedures relating to Policy Change Request forms.

Sections 2 and 15

Sections 2 and 15 are proposed for revision in order to remove any reference to “counties which have been designated operational” or “areas to which this Program is applicable.” Because the CLCA program is now available in every California county, the proposed revisions will serve to make the Plan of Operations consistent with recent changes in the law.

These proposed revisions are reasonably necessary to ensure that the introduction to the CLCA program accurately reflects that the CLCA product is available in every California county.

Section 20

A. Original Applications

The proposed revisions to Section 20, paragraph A are designed to reflect the deletion of the “Privacy Waiver Form.”

The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form. Similarly, the revisions updates and corrections to the AIPSO web address are reasonably necessary to accurately reflect the most current information in the Plan of Operations.

D. Policy Change Requests

Proposed Section 20, paragraph D will provide notification to all insurance producers that the Policy Change Request Certification Form must be utilized whenever a change is made to a CLCA policy.

This proposed addition is reasonably necessary to facilitate the re-certification of CLCA policyholders whenever a policy change is requested and to also ensure that producers are on notice that the Certification Form must be used whenever such change is requested.

Section 22

Proposed revisions to Section 22, paragraph A.1.a. serve to delete language describing the residence eligibility criteria for the CLCA program. These changes are reasonably necessary because the new CLCA program Plan of Operations no longer uses residence as a criterion for establishing program eligibility.

Proposed revisions to Section 22, paragraph A.1.d.(3)(c) and (d) establish that the term “principally at fault,” as used in the Plan of Operations manual, is synonymous with the meaning set forth in 10 California Code of Regulations section 2632.13. These changes are reasonably

necessary to ensure that producers use a consistent and lawful definition of “principally at fault” when assessing an applicant’s eligibility for the CLCA program.

Section 23

Revisions are proposed to Section 23 paragraph A in order to update the information that must be collected on an automobile insurance application. The amendments to the list of information will update Section 23 so that it reflects the application fields present on the CLCA Insurance Program application. These changes are reasonably necessary to bring the “Application Requirements” provision of the Plan of Operations in line with the data fields that are required on the automobile application.

Revisions are also proposed for paragraph B to reflect the deletion of the “Privacy Waiver Form.” The deletion of the Privacy Waiver Form language is reasonably necessary because the waiver form is no longer used as part of the Low Cost Automobile Insurance Program application form.

Section 26

The Commissioner proposes revisions to Section 26 for the purpose of introducing a producer performance standard, which will require certified producers to establish and maintain a trust account for the purpose of issuing producer or agency checks to submit with CLCA Program business.

These revisions are reasonably necessary to implement, interpret and ensure consistency with Insurance Code section 1734, which requires producers to maintain fiduciary funds, such as an insured’s premium payments, in a trust account.

Additional revisions are proposed in order to improve and expedite notification to insurance applicants when circumstances demonstrate that an applicant is ineligible for coverage. The proposed revisions to the procedure for returning ineligible applications will now permit the insurer to return the ineligible application directly to the producer when a deposit check does not fully satisfy the earned premium amount due. The insurer must provide copies of the written notice to both the applicant and the Plan.

This change is reasonably necessary in order to ensure that insurance applicants are made aware of a failure to make payment and consequent ineligibility for coverage in a timely fashion. The Commissioner expects that this change will assist applicants for insurance by promptly notifying such applicants of the need to fully pay any outstanding earned premium in order to acquire insurance coverage.

Section 28

Paragraph A.3 is proposed for revision in order to clarify written notice procedures pertaining to the return of a CLCA application by the Plan when it is determined that an applicant is ineligible

for coverage or when the information relating to an applicant's eligibility for the CLCA program is incomplete.

Paragraph D is proposed to be amended in order to require that the insurer assigned to underwrite a CLCA policy will provide the applicant with a copy of the written notice to the producer, thereby providing an expedited notice to the applicant that he or she is ineligible for CLCA coverage.

These changes are reasonably necessary to respond to observed instances where the notice procedures previously in place were insufficient to ensure that applicants were made aware of their ineligibility for coverage in a timely manner.

Sections 29, 30 and 37

The Commissioner proposes revisions to the sections referenced above in order to establish a new requirement that all changes to a CLCA policy be included on the Policy Change Request Certification Form. These proposed revisions also make clear that the producer must complete the Change Request Certification Form.

These proposed changes are reasonably necessary to ensure that changes to CLCA policies are handled in a uniform, organized manner. By requiring producers to complete the Policy Change Request forms, the CLCA Plan will be better able to maintain accurate records of policy changes.

Section 37

Additional proposed revisions to Section 37, Paragraph A.1.a. will change existing procedure, concerning the filing of proof of financial responsibility certificates with the DMV, as required by the California Vehicle Code. The new procedure makes clear that the CLCA Plan of Operations Office holds exclusive responsibility for filing financial responsibility certificates.

This change is reasonably necessary to ensure that both producers as well as insurers understand that the CLCA Plan of Operations is responsible for filing Financial Responsibility Certificates with the DMV.

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.)