



The Travel Health Insurance Association of Canada

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Superintendent of Insurance

Alberta Finance and Enterprise
Room 402
9515 - 107th Street
Edmonton, Alberta
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RE: Consultation on Proposed Regulations for the Amended Insurance Act (the "Consultation")

The Travel Health Insurance Association of Canada ("THIA") represents over 80 Canadian travel insurance industry participants, including both life and health and property and casualty insurance companies, intermediaries, administrators and medical providers and professionals. The mission of THIA is to develop standards of conduct and to promote professional and public education, relevant to the providers of travel health insurance operating in Canada.

Consequently, THIA's membership has an interest in the subject matter of the Consultation (the "New Insurance Regulations") in so far as it relates to the sale of travel related insurance.

In response to the Government of Alberta's request for commentary from industry stakeholders, THIA is pleased to provide commentary on those aspects of the New Insurance Regulations which are most important and relevant to travel insurance and THIA's membership.

THIA's comments on the New Insurance Regulations, as they are described in the Consultation, are as follows:

Disclosure of Limitation Periods

THIA has reviewed with interest Section 1 of the Consultation. It is proposed that insurers and their adjusters be required to notify policyholders in writing of the time period for bringing a legal action and, it is suggested, this notification requirement should apply upon notice of claim, on denial of claim and at least 60 days, and not more than 120 days, before the limitation period expires.

THIA supports provisions that benefit consumers and that contribute to a consumer's understanding of the rights and obligations that arise in connection with the insurance products they buy. Accordingly, THIA does not object to a single requirement to apprise consumers that there is an applicable limitation period. However, provisions that seek to protect consumers, and that impose a legal obligation, must be reasonable, operationally feasible and not impossible of relatively precise interpretation. It is not reasonable that an insurer must provide notification of a limitation period on three different occasions, including an occasion that pre-dates a determination of the consumer's claim. Limitation periods are not relevant to the vast majority of claims as they are approved. In addition, the time when a limitation period

begins to run, is not always clear and can be open to interpretation. As such, it may not be possible for an insurer to comply with a requirement that imposes an obligation to provide notice at least 60 days, and not more 120 days, prior to the expiry of a limitation period, when the precise date of expiry is open to a number of possible interpretations. Further, significant system programming will be required to comply with this final requirement as the expiry of the limitation periods is not presently an automated event. Significant additional expense will have to be incurred in this regard and clearly, that expense will have to be recouped through higher premiums.

In THIA's view, consumers need to know that a limitation period may apply, and that they may need to take steps to preserve their right of action against an insurer when advised of the denial of a claim. A provision requiring insurers to notify consumers at the time the insurer advises the claimant of such denial addresses the need to inform and protect the consumer. This is reasonable, is operationally functional and not open to many different interpretations. We strongly urge that this provision be revised to impose an obligation to notify consumers only once, at the time they are advised of the denial of a claim. Any new requirement will be substantive operationally, we believe the need for this application is only in respect of claims that are substantive. Consequently we are requesting that this requirement only apply to claims in excess of \$1000.

Electronic Transactions

Certain travel insurance policies do contain accidental death benefits. THIA is of the view that electronic beneficiary designations in accidental death insurance should be permitted if such a designation is made in the course of applying for the insurance and not by separate instrument, or, where separate steps are taken to authenticate the person purporting to make the change through a separate instrument. This change is important to THIA's membership given the heavy reliance on electronic documents in the field of travel insurance. A failure to allow such electronic designations can prejudice the consumer as in the absence of such a designation the beneficiary is typically automatically the insured's estate. This is not always the consumer's desired result, nor is it the most efficient result. In our view, the issue around beneficiary appointments is authentication of the person making the designation rather than the means by which the designation is made.

Disclosure of Compensation and Conflicts of Interest

It is proposed that where an insurer issues a group insurance policy and pays compensation to the group policyholder or administrator, the insurer must notify the group person insured in writing of the nature and amount of compensation. Our reading of this provision is that it would apply to group travel insurance programs. While THIA supports the provision in principle, it does not support a requirement that the precise amount of compensation need be disclosed. These types of provisions have proven very difficult to apply, and comply with, in practice, as compensation is not always a straight percentage of premium and it is not always determinable in advance. For example, compensation may be tiered depending on the experience of the program over time, which can only be determined a number of years out. Compensation can also be based on the size of the program and this can change over time. Lastly, compensation may depend on both of these factors. If the desire is to apprise consumers of a potential for a conflict of interest, then the disclosure of the fact that there is compensation suffices for this purpose. This would avoid the requirement for a form of disclosure that has to set out a number of possible scenarios and which may confuse and cloud the issue.

Cooling off Period

THIA notes the proposed 10 day right to rescission for accident and sickness policies. Needless to say, this provision is very problematic for travel insurance. A consumer could conceivably take their entire insured trip and then return and still take advantage of the 10 day right to rescission. We also note that certain aspect of trip cancellation benefits constitute accident and sickness coverage and therefore a consumer could purchase a policy ten days before departure and still take advantage of the right to rescind should a trip cancellation cause not materialize. THIA strongly urges that there be an exception for travel insurance, from the 10 day cooling off period. Quebec has provided for relief for travel insurance in its directives. Consequently we are requesting that this provision not apply to any travel insurance policy purchase within 10 days of the departure date.

Fire Insurance, Dispute Resolution and Statutory Conditions

Certain aspects of travel insurance policies may be inadvertently caught by the fire and dispute resolution provisions and the statutory conditions provision. For example, the baggage loss component of travel insurance is a property insurance coverage. These provisions were likely not intended to apply to travel

insurance and they make little sense when applied to travel policies. THIA suggests that this part of the Insurance Act (Alberta) should not apply to travel insurance. This should include the fire insurance provisions, the dispute resolution process and the Statutory Conditions for which there is proposed an exemption for credit, guarantee, surety, title and loss of employment insurance. A similar exemption makes sense for travel insurance as it often includes baggage loss coverage and trip cancellation and interruption or delay reimbursement benefits. The types of risks, related causes of action and claims processes are not complicated to resolve when compared to other types of insurance and the Statutory Conditions often make no sense when applied to this type of coverage.

Other Comments

Representatives of THIA would be pleased to attend at your offices in order to respond to any of your needs for further information.

Kindly, do not hesitate to contact the undersigned. I will arrange to provide additional information, or to meet in person as you may require.

Yours Very Truly

Martha Turnbull
Martha Turnbull
President