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Senior Manager Automobile Insurance Policy Unit
Industrial and Financial Policy Branch

Ministry of Finance 95 Grosvenor Street, 4th Floor
Toronto, Ontario
M7A 1Z1

The Canadian Association of Direct Relationship Insurers (CADRI) is a trade association representing insurance companies who offer automobile, home and commercial insurance products to Canadians on a direct basis. Whether through the web, on the phone or face-to-face, CADRI members provide end-to-end service and are in direct relationships with their customers through all steps of the sales and service process.

CADRI monitors the insurance regulatory environment in all Provinces and Territories and supports regulation that encourages distribution accessibility and efficiency, technological innovation and other measures necessary for a healthy and competitive insurance market for the benefit of all Canadians.

Because of their involvement as both distributors and underwriters of insurance products, CADRI members have developed a comprehensive understanding of all facets of the insurance business and are in a unique position to offer valuable input in the development of a Canadian insurance market regulatory framework that is responsive to customers' needs.

The members of CADRI are:

- belairdirect
- CAA Insurance
- Canadian Direct Insurance
- Co-operators General Insurance
- Desjardins General Insurance Group
- RBC Insurance
- State Farm
- TD Insurance

Thank you for the opportunity to provide comments on the review of the dispute resolution system in Ontario. It is an important time to review this system with a view to improving efficiency and reducing costs. There are significant issues with the current dispute resolution system in Ontario that call for major changes and we look forward to working with the Government to improve the system.



CADRI works closely with the Insurance Bureau of Canada on general industry issues. CADRI members concluded this issue was of such importance to consumers and the industry that we should add our perspective to this key topic.

Mediation

CADRI members are of the view that mediation is an important component of the dispute resolution system and that it should remain mandatory. It is an important step in the process to resolve a dispute between an insurer and a claimant. Mandatory mediation is a best practice widely used in other dispute processes such as civil courts.

- ***Notification***

However, to ensure that mediation works well it is crucial that the insurer is notified quickly after a dispute has been filed. That way, both parties have appropriate time to organize information prior to the meeting. Currently, the insurer is not notified until after a mediator has been assigned a file. This time delay eliminates the possibility for insurers to review and potentially resolve the dispute prior to mediation. In some circumstances, the notice has not been received until after mediation has been deemed “failed”. It is important that a claimant fulfills all requirements set out prior to the mediation.

- ***Active Participation***

CADRI members support the active participation of both parties during the mediation process. Requiring an insured claimant to actively participate in the mediation process will help to ensure that the claimant is aware of the claims being advanced and how they are being represented. With the claimant present at mediation, the opportunity to resolve the issue improves. A claimant that is engaged and providing information during the mediation process would improve efficiency and outcomes. CADRI therefore recommends that the rules regarding mediation participation be strengthened to ensure that there is a connection between the insured claimant and the full resolution process.

Arbitration

- ***FSCO Arbitration Tribunal vs. External Arbitration***

The review presents the opportunity to consider the possibility of moving arbitrations from the Financial Services Commission of Ontario (FSCO) FSCO to an external independent arbitration provider. In the interests of increased efficiency, CADRI believes that the Ontario Government should explore all available options for having claims adjudicated outside of FSCO.



- ***Clear timelines***

Currently, the time lapse between mediation and arbitration varies but can be as long as one year. There is an additional wait time for the arbitration decision that can add up to another six months to the process. CADRI members recommend setting clear timelines for each step in the dispute process so that the insurer and claimant can adequately prepare and have some certainty as to when the process will be complete.

Costs

Unfortunately, the current mediation/arbitration system has resulted in a culture that is less focused in dispute resolution and more about the prospect of cash settlements and lump sum payments. While it may be beneficial in some instances for small nominal claims to be “cashed” out, the system should focus on the resolution of disputes to ensure that those who need treatment can access it.

Conclusion

The system in Ontario is not working well and needs more than some minor adjustments. Current processes and stakeholder behavior seem to flout the intent of resolving disputes based on sound objective medical evidence in favour of pursuing cash settlements. Major changes to the dispute resolution system can shift some of the emphasis back to dispute resolution and result in fair settlements.

Yours truly,

Alain Thibault
President and Chair
Canadian Association of Direct Relationship Insurers