

Insurance Commissioners Should Review Marital Status Pricing and Surcharges

Jeff Brooker was recently searching for automobile insurance. Brooker, an intern working at AASP, is 24 years old.

When Brooker received a price quote from Mercury Insurance, he asked if other discounts were available besides the good-driver discount for which Brooker qualified.

The agent told Brooker the only way he could reduce the price further would be if Brooker got married.

Brooker, who is both single and gay, wondered how he could ever qualify since same-sex marriage is not allowed. He also wondered how a brother and sister who live together could qualify since they too cannot marry each other. And why should a heterosexual couple who can marry be forced to do so to get a discount?

Auto insurance discrimination is not limited to young men such as Brooker. Some companies will not allow unmarried adults who live together to buy a joint policy for two cars to gain a multi-car discount.



Garamendi and Coleman release marital status report in 1993

This problem was addressed by an Anti-Discrimination Task Force convened by Insurance Commissioner John Garamendi in 1993. After studying marital status discrimination in many types of insurance, the Task Force issued a report which highlighted the comments Southern California AAA (see box in right column, this page). The report concluded:

"Consumers should not be economically rewarded or punished on the basis of a decision to marry or not to marry. Marital status discrimination should be treated for what it is – a violation of the fundamental right of privacy protected by the California Constitution."

The report of the Insurance Commissioner's Task Force was written by Thomas F. Coleman, who is now Executive Director of AASP.



Garamendi and Coleman discuss marital status bias again in 2002

Coleman and Garamendi met recently to discuss this ongoing problem. Garamendi is again running for Insurance Commissioner this year.

In some states, such as Montana, marital status discrimination in auto insurance is prohibited. Last year, the Legislature in Montana defeated an insurance-company-sponsored bill to legalize marital status pricing.

The issue has been brewing in Canada since 1992 when the Canadian Supreme Court ordered insurance companies to find alternative ways to assess risk. The court found that stereotyping of young males on the basis of marital status, while not absolutely illegal, was possibly a violation of the Ontario Human Rights Code. (*Zurich Ins. Co. v. Ontario Human Rights Commission*).

The court ruled that the mere fact that there is a statistical correlation between marital status and insurance losses does not fully satisfy the law's human rights values which cannot be overridden by business expediency alone. To allow discrimination simply on the basis of statistical averages would only serve to perpetuate traditional stereotypes with all their invidious prejudices. It is necessary therefore to consider whether there is a practical alternative in the circumstances.

Since there was no evidence before

the court that other reasonable criteria could be used as an alternative, the court dismissed the case. But it challenged the industry to come up with such criteria.

The issue recently surfaced in Canada again when the Ontario Human Rights Commission issued a report in February 2002 in which Chief Commissioner Keith Norton stated, "It is time to give serious consideration to human rights issues in insurance."

The report urged the insurance industry to find alternative rating criteria which do not use class stereotyping based on marital status.

Insurance Commissioners in the United States should issue a similar challenge to companies operating in this country. It's time for a review.

"Historically, insurers have found that for some lines of insurance, particularly auto insurance, married couples generated lower losses than single persons and have priced rates accordingly. Many speculate that it is lifestyle, rather than strictly marital status, that is responsible for the difference in loss costs and suggest that insurers should explore the use of lifestyle characteristics rather than simply rely on marital status as a pricing factor. This change in philosophy and insurance pricing would address most of the concerns (raised in the Garamendi-Coleman anti-discrimination report). The Exchange does not base rates on marital status, but we believe that lifestyle and similar characteristics are legitimate and reliable indicators of risk and should be allowed as insurance rating factors."

Alice Bisnow, Interinsurance Exchange of the Auto Club of Southern California (AAA)