Insurance Council
BRITISH COLUMBIA

Rebating Guidelines

V.1.1

©2022 Insurance Council of British Columbia

Table of Contents

DEFINITIONS 2

1.0 INTRODUCTION 3

2.0 PURPOSE 3

3.0 WHEN IS REBATING ALLOWED? 3

3.1 Timing of a Rebate 3

3.2 Insurer Contracts 4

4.0 WHEN IS REBATING NOT ALLOWED? 4

4.1 A Rebate Must Not Be Used to Induce a Client to Purchase Insurance 4

4.2 Promising to Pay a Future Rebate 4

5.0 CALCULATING THE REBATE 5

6.0 DISCLOSURES AND RECORD-KEEPING 5

6.1 Tax implications 5

6.2 File notes 5

7.0 RESOURCES 5

DEFINITIONS

Insurance Council Code of Conduct ("Code of Conduct"): This document establishes standards of conduct for the business of insurance to be followed by licensees. Council Rule 7(8) requires all licensees to comply with the Code of Conduct in addition to the Insurance Council's Rules.

Insurance Council Rules: A set of rules that sets out licence conditions and requirements for all insurance licensees in BC, in addition to requirements already set out under the provincial *Financial Institutions Act* and other legislation.

Insurance agent ("agent"): A person, other than an insurance company or an extraprovincial insurance corporation, who solicits, obtains or takes an application for insurance, or negotiates for or procures insurance, or signs or delivers a policy, or collects or receives a premium.

Insurance salesperson ("salesperson"): An individual who is employed by an insurance agent or by an insurer to solicit, obtain or take an application for general insurance, or to negotiate for or procure general insurance, or to collect or receive a premium for general insurance.

Licensee: An individual licensed by the Insurance Council of British Columbia, as defined in the *Financial Institutions Act*.

Premium: A premium is the single or periodical payment under a contract for the insurance, and includes dues, assessments and other consideration.

Rebate: The practice of offering payment or other things of value to a consumer to induce the sale of insurance products.

Thing of Value: Items of value include and are not limited to gift cards, money, property, rewards, awards, grants, scholarships, discounts, promises of future employment, event tickets, travel, lodging, and meals.

1.0 INTRODUCTION

Licensees may offer to rebate insurance consumers a portion of their premium to induce the purchase of insurance and gain a competitive advantage in the sale of insurance. While this practice is allowed, this guidance clarifies the Insurance Council of British Columbia's ("Insurance Council") expectations of licensees engaging in the practice of insurance rebates and what is allowed under section 79(1) of the *Financial Institutions Act* (the "*Act*") and section 2 of the *Act's* Financial Products Disclosure Regulation.

Section 79(1) of the *Act* states, "A person, in relation to the sale of insurance, must not, directly or indirectly, pay or allow, or offer or agree to pay or allow, a rebate of premium or part of it or other consideration or thing of value intended to be a rebate of premium, unless the rebate of premium is less than a prescribed amount or percentage."

The permitted rebate of premium is defined in Section 2 of the Financial Products Disclosure Regulation: "For the purposes of section 79 (1) of the Act, a rebate of premium must be less than 25% of the premium."

2.0 PURPOSE

These guidelines are for general insurance salespersons and agents, and life and accident and sickness insurance agents who wish to engage in the practice of rebating. The guidelines clarify the Insurance Council's interpretation of Section 79(1) of the *Financial Institutions Act* and set out the requirements and expectations of licensees engaging in rebating in British Columbia. Failure to adhere to the guidelines will be viewed as a breach of the usual practice of the business of insurance and could result in disciplinary action.

3.0 WHEN IS REBATING ALLOWED?

General insurance salesperson or agents, and life and accident and sickness insurance agents can rebate a client an amount of less than 25% of any premium payment for an insurance policy in British Columbia, subject to the following guidelines and requirements.

3.1 Timing of a Rebate

Year 1:

Licensees can rebate an insurance client any amount less than 25% of the total premium paid in the first year of the policy, even if the client has not paid, or has only partially paid the first-year premium. Specifically, for the first year only, a licensee can pay a rebate to the client in advance of the client paying the first-year premium. For example, if the client pays the premium monthly, the licensee may pay a rebate on the first-year premium after the first premium payment has been made.

Year 2 and beyond:

After the first year, a licensee can rebate any amount less than 25% of a single premium payment, but only after the client pays the premium. For example, if the client pays the premium monthly, the rebate can be paid to the client after each premium payment is made. The rebating amount must align with the premium payment and not exceed what is allowed under the *Act*.

3.2 Insurer Contracts

Before deciding to engage in the practice of rebating, it is important that the licensee confirm with the insurer that rebates are permitted under their contract. Section 8.2 of the Insurance Council's Code of Conduct requires licensees to act within the boundaries of the authority and guidelines established by insurers. For this reason, licensees should confirm with the insurer prior to rebating a client a portion of their premium.

4.0 WHEN IS REBATING NOT ALLOWED?

Although rebating a portion of a client's premium is permitted under the *Act*, there are certain situations when rebating would be in breach of a licensee's obligations under the Insurance Council's Code of Conduct.

4.1 A Rebate Must Not Be Used to Induce a Client to Purchase Insurance

Licensed insurance agents or salespersons must put the best interests of the client as their first concern, as required under section 7 of the Insurance Council's Code of Conduct. Therefore, a licensee must not use a rebate to induce a client to purchase an insurance product that is not in the best interests of that client. This includes insurance that the client does not need, want, or cannot afford.

For example, if a client purchases an insurance policy from a licensee who offers to rebate the client a portion of their premium, the licensee must not use the savings from the rebate to induce the client to purchase additional insurance. The best interests of the client must be considered first, and licensees must only offer the client the appropriate insurance that meets their needs or is specifically requested by the client.

4.2 Promising to Pay a Future Rebate

Licensees should not promise to pay future rebates. The ability to pay a future rebate is dependent on a number of factors that are outside of an agent or salesperson's control. These may include, but are not limited to the following:

a) The licensee may not be the agent of record for future premium payments.
b) The licensee may not have the ability to pay the rebate at a future date.
c) The insurer may change its policy on rebating and prohibit rebates altogether.

Therefore, promising a rebate on future premiums may not be something that the licensee can control and therefore should not be promised to a client.

5.0 CALCULATING THE REBATE

A rebate must be less than 25% of the premium. The premium is the single or periodical payment under a contract for the insurance, including dues, assessments, and other considerations. Therefore, a licensee can rebate an amount that is less than 25% of any and all premium payments for the life of the policy.

Although it is permissible to rebate a portion of all premiums for the life of an insurance policy, it is essential to note that a rebate must not be paid before the premium is paid. The exception to this is in the first year of the policy when the rebate can be paid in advance of the premium. In the second year of the policy, a rebate is only permitted to be paid after the premium payment has been made.

For example, if a policy is sold with monthly premiums of $100, the licensee may rebate up to $299.99 [($100 x 12 = $1,200 x .249 = $299.99) < 25% of the first-year premiums] at the time of the sale of the policy, even if the client has not yet paid all the first year premium payments. After the first year, the licensee may rebate up to $24.99 [($100 x .249 = 24.99) < 25%] each month that the client pays the premium.

6.0 DISCLOSURES AND RECORD-KEEPING

6.1 Tax implications

There may be tax implications for the client who receives a rebate. As the client may not be aware, it is expected that the licensee draw this to the client's attention and suggest the client consult an income tax professional on the potential tax implications of the rebate.

6.2 File notes

Licensees must keep accurate and detailed file notes. The licensee is expected to maintain a copy of the written disclosure to the client in the client file that describes the rebate terms. This will help prevent misunderstandings and provide transparency if the licensee is audited or subjected to a complaint.

7.0 RESOURCES

- *Financial Institutions Act*
- *Insurance Act*
- *Insurance Council Code of Conduct*
- *Financial Products Disclosure Regulation*