



June 28, 2024

Insurance Commissioner Ricardo Lara
Acting Public Advisor Edward Wu
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

Re: Requests for Finding of Eligibility to Seek Compensation Submitted by Consumer Watchdog and Consumer Federation of California Education Foundation

Dear Commissioner Lara and Acting Public Advisor Wu:

As organizations representing millions of Californians, we write to express our deep concern with recent Department of Insurance actions that create new extra-regulatory hurdles to independent public scrutiny of insurance rates, regulations, and enforcement of the state’s insurance consumer protection laws.

The Department’s recent actions regarding pending requests for finding of eligibility to seek compensation by Consumer Watchdog and Consumer Federation of California Education Foundation illustrate our concerns. Neither statute nor regulation authorize the Commissioner to solicit comment or call a public hearing on whether organizations “represent the interests of consumers” for purposes of being eligible to seek compensation in Department proceedings. The applicable regulations only provide that the Commissioner has 10 days to determine whether a request for finding of eligibility is complete and 15 days to rule on a complete request. That is a determination that the Commissioner has made for decades without the need to mount new hurdles, much less

enable insurance companies to use the eligibility process as a vehicle to attack intervenors.

Insurance Code Section 1861.10(a) says, “Any person may initiate or intervene in any proceeding permitted or established pursuant to this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article.”

Any intervenor is eligible for compensation if “the person represents the interests of consumers” and ultimately makes a substantial contribution to a decision, order or regulation by the Commissioner or a court. (Section 1861.10(b).) The sole purpose of the request for eligibility is to make the preliminary determination that a person or organization does in fact represent consumers.

It is outrageous for insurance companies to suggest consumer organizations that have fought for insurance consumers’ rights for decades – and have been confirmed as consumer intervenors by the current Commissioner and prior Commissioners as far back as 1995 – don’t represent consumers. Rate challenges by these two organizations have saved consumers nearly \$6.5 billion over the last two decades.

In order to be awarded reasonable advocacy and witness fees, an intervenor files a separate request based on the record of a completed action to show “that he or she has made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner or a court.” Section 1861.10(b) This occurs only after a proceeding concludes, not as part of the request for eligibility.

Voters granted consumers the right to monitor insurance companies’ compliance with Proposition 103 as part of the 1988 insurance reform initiative that requires insurance companies to open their books and prove their rates and premiums are reasonable before the Insurance Commissioner can approve them.

Prop 103 created the public intervenor process to give consumers a voice in rate oversight, to provide the Commissioner with a diversity of perspectives and expertise, and to act as a check on the Department when the Commissioner is not exercising their own power in consumers’ interests.

The public notice seeking comment in these cases was not served on either Consumer Watchdog or Consumer Federation of California Education Foundation by the Department, nor, to our knowledge, were any other public interest organizations notified. The only people who appear to have received it are the insurance industry and its allies, and it was posted only on the “Insurers” page of the Department’s website. It is an unprecedented step for the Commissioner to actively solicit objections to consumers’ and consumer groups’ participation. No commissioner has ever done so. The only purpose for soliciting such comments, and threatening an unauthorized hearing on such objections, is to provide the insurance industry a forum to further its specious, self-serving complaints to keep

consumer organizations from objecting to their unjustified rate hikes or advocating for stronger consumer protection regulations. The best way to give insurance companies more power is to allow them to decide who can challenge their rates and practices.

The insurance industry wants intervenors out of the ratemaking process because independent public scrutiny of insurance rate increases saves consumers money.

Consumers need advocates now more than ever, as they bear the increasing burdens of higher insurance prices, claims-handling delays and unjustified denials, benefit restrictions that devalue policies, and unjustified non-renewals.

We urge you to drop this extraordinary attack on public participation and approve the applications of Consumer Watchdog and Consumer Federation of California Education Foundation without further delay.

Sincerely,

Zoe Jonick
Lead Organizer
350 Bay Area

Jodi Reid
Executive Director
California Alliance for Retired Americans

Jenn Engstrom
State Director
California Public Interest Research Group (CALPIRG)

Hollin Kretzmann
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Kwedi Moore
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