

Updated Guideline for New York UBI Programs (Plug-in Telematics Devices and Smartphone Apps)

For all filings (new or existing programs) submitted on or after April 25, 2019

1. No data will be collected prior to the policyholder's signed acceptance of the terms and conditions of the UBI program (e.g., internet check box, wet or electronic signature).
2. The terms and conditions agreement, and any amendments, must be filed for DFS review.
3. The terms and conditions agreement does not require policyholders to waive their rights regarding exposure of the insurer, device manufacturer, app developer and/or data storage facilities for alleged liability caused by a defective plug-in telematics device, or a data breach related to the data collected or personal data on the smartphone.
4. The terms and conditions agreement does not mandate that disputes pertaining to alleged liability caused by a defective plug-in telematics device or a data breach related to the data collected or personal data on the smartphone, be adjudicated via arbitration (mandatory arbitration).
5. The company must note in its filing the kind of device(s) that will be used to track driving data (e.g., plug in device, smartphone app and/or vehicle manufacturer's monitoring system (e.g., GM OnStar, Hyundai Blue Link, Ford SYNC, etc.), and whether the program collects GPS and/or time/date information.
6. Linked data (i.e., data that could identify a specific individual) will only be released to a third party under specified circumstances, such as when a subpoena is issued by a court. All such circumstances are to be described in the terms and conditions and the policyholder is to be notified in writing prior to the release of any linked data.
7. The UBI data collection device or smartphone app will not be used to collect any data unrelated to the calculation of the UBI discount or general rating of automobile policies (e.g., collecting data on businesses frequented, consumer items purchased, etc., are not permitted).
8. The data collection period for determining a policyholder's level of discount is at least 120 days for the entire program (smartphone app and/or telematics device).
9. Required Three Year Reevaluation Period – Applicable only to new programs and existing programs modified on or after April 25, 2019:
 - a. A new data collection period must be commenced no later than 36 months from the end of the policy period in which the final UBI score was generated following the effective date of the filing.
 - b. Each new data collection period must be at least 120 days, and the information obtained from each new data collection period should be used to determine the policyholder's new discount factor.
10. The data collected for the UBI program will not be used to affect policyholders in a negative way (e.g., increasing premiums (including application of surcharges), non-renewing policies, preventing doughtiering, etc.).

11. The UBI program will not be changed without the Department's prior approval, including the algorithm and the method used to collect data.
12. Flex rating will not be used to change the UBI program, including the discount amounts, or to include surcharges of any kind.
13. The UBI program's effectiveness in New York will be monitored solely through the use of data and experience generated by New York state specific policyholders.
14. The data will not be used or sold for non-rating purposes until the personally identifiable information has been de-linked.
15. For programs collecting GPS and/or time/date information, the personally identifiable data associated with GPS and/or time/date information should be delinked no later than 18 months from the end of the policy period in which it was collected. If it is not possible to separate the GPS and/or time/date information from other collected information, then all personally identifiable data should be delinked no later than 18 months from the end of the policy period in which it was collected.
16. The UBI discount will be included in the company's maximum policyholder discount (i.e., not in addition to the maximum policy discount limit).
17. The program complies with the Department's Cyber Regulation (23 NYCRR 500) and Privacy Regulation (11 NYCRR 420/Regulation 169).

Additional Guideline for Smartphone App Based UBI Programs:

1. An alternative data collection method (e.g., plug-in telematics device) will be available for consumers without a smartphone, etc., and who are, therefore, unable to avail themselves of the smartphone app.
2. The company will not limit the program to smartphones issued by specific manufacturers. All smartphones that meet the general technical specifications for data collection must be accepted.
3. All policyholders must be notified, in the terms and conditions agreement, of their ability to dispute, and the specific procedure to dispute, inaccuracies in the data captured or categorized by the smartphone app.
4. All disputes regarding the accuracy of data captured or categorized by the smartphone app (e.g., a policyholder claims he/she was a passenger in a taxi as opposed to the driver of the vehicle for a particular trip) must be resolved in favor of the policyholder.
5. For policyholders who dispute between 3% and 8% of the recorded trips (company selects exact percentage) without verifiable (documented) support, during the initial data collection period, the company must enact the following resolution options, which must be clearly described in the terms and conditions agreement:

1. Offer a new data collection period using a plug-in telematics device, or
2. Provide an extension of the current data collection period, using the smartphone app, for a minimum of 90 additional days.

If, during the extended evaluation period (item 2 above), a policyholder disputes more than the percentage of trips selected by the company without verifiable (documented) support, the company must offer the policyholder the option of installing a plug-in telematics device with a new evaluation period or being terminated from the UBI program at the policy's next renewal.

6. Distracted driving statistics (e.g., talking on phone with/without Bluetooth, texting, surfing the web, etc.):
 - a. A company may collect distracted driving statistics; however, such statistics may not be used in the algorithm to determine the final UBI score/factor.
 - i. The Department must be advised whether distracted driving statistics will be collected.
 - b. A company may establish a separate distracted driving discount, using a smartphone app that was submitted to the Department for review, provided the score/factor is refreshed at each policy renewal.
7. The company must provide to the Department, at email address UBIappData@dfs.ny.gov, on a semi-annual basis, all complaints concerning the smartphone app, including trip disputes, and the disposition of those complaints.