

BASIC CLAIMS HANDLING

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While the insurance industry has developed certain duties and standards for proper claims handling over the years, not all companies adhere to or practice these standards at all times. Abuses by insurance companies developed over the years and steps had to be taken to protect the public and the policyholders.

“Insureds purchase insurance to pay for losses, for peace of mind, and to benefit society by reducing social burdens. When insurers do not provide those benefits of insurance, they cause just the opposite: unpaid losses, great stress, and burdens on society.” The Claims Environment, (2nd Edition, Doris Hoopes, 2000, Insurance Institute of America, AICPCU/IIA), Page 9.2

Many states have taken the Unfair Property/Casualty Claims Settlement Practices Model Regulation, Model # 902 and Unfair Claims Settlement Practices Act, Model # 900 of the National Association of Insurance Commissioners (NAIC) and enacted some or all aspects into state law. The Model Act was proposed by the NAIC in response to Federal threats to regulate insurance on a national basis unless the states regulated and controlled insurance on a state by state basis.

“These laws codify and forbid many of the specific wrongful practices by insurers that courts previously condemned.” The Claims Environment, (1st Edition, James Markham, Kevin M. Quinley, Layne S. Thompson, 1993, Insurance Institute of America), page 273

The Model Act # 902 by the NAIC did provide and:

“ . . .set forth minimum standards for the investigation and disposition of property and casualty claims ... The various provisions of this regulation are intended to define procedures and practices which constitute unfair claims practices.” Page 902-1

In addition to the standards developed by the insurance industry and the NAIC for the proper handling of claims, the courts in various states have often ruled that because of the special relationship between an insured and an insurer there exists and is inherent within the insurance policy a covenant of good faith and fair dealing.

Since the insurance policy is generally a contract of adhesion, written and offered by the insurance company on a take it or leave it basis, and since the insurance company generally has a tremendous advantage in size and financial power, the insurance company must deal with the policy holder in good faith and must deal fairly.

DUTIES AND STANDARDS

* *“A special relationship is formed between the insurance buyer and the insurance company in an insurance transaction.”* The Claims Environment, 1st Edition, page 5

* *“. . . the primary function of a claim representative is to pay promptly and fairly . . .”* The Claims Environment, 1st Edition, page 9

* *“The primary duty of the claim representative is to deliver the promise to pay. Therefore, the claim representative’s chief task is to seek and find coverage, not to seek and find coverage controversies or to deny or dispute claims.”* The Claims Environment, 1st Edition, page 13

* An insurance company should *“. . . adopt and implement reasonable standards for prompt investigation and settlement of claims arising under its policies;”* Unfair Claims Settlement Practices Act, Model # 900, NAIC

* *“Because of the personal relationship formed in an insurance transaction, the insurance company should not place its interests above the insured’s.”* The Claims Environment, 1st Edition, page 13

* *“No insurer shall fail to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of a policy or contract under which a claim is presented.”* Unfair Property/Casualty Claims Settlement Practices Model Regulation, page 902-3

* *“No agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim;”* Unfair Property/Casualty Claims Settlement Practices Model Regulation, page 902-3

* *“No insurer shall deny a claim based upon the failure of a first party claimant to give written notice of loss within a specified time limit unless the written notice is a written policy condition,”* Unfair Property/Casualty Claims Settlement Practices Model Regulation, page 902-3

* *“Every insurer shall disclose to a first party claimant or beneficiary, all benefits, coverage, time limits or other provisions of any insurance policy issued by that insurer that may apply to the claim presented by the claimant. When additional benefits might reasonably be payable under an insured’s policy upon receipt of additional proofs of claim, the insurer shall immediately communicate this fact to the insured and cooperate with and assist the insured in determining the extent of the insurer’s additional liability.”* California Code of Regulations, Section 2695.4(a)

* *“It is to the insured that the insurance company owes the contractual obligation of utmost good faith and fair dealing.”* The Claims Environment, 1st Edition, page 18

* *“An investigation must often be undertaken to fully develop the facts needed to determine coverage. Good faith claim practices require that this investigation be objective, thorough, and timely.”* The Claims Environment, 1st Edition, page 29

* *“Claim representatives handling first-party losses should promptly pay all amounts they know the insurer owes and should negotiate in a forthright, honest, and flexible manner over any amounts that are in dispute.”* The Claims Environment, 1st Edition, page 19

* *“No insurer shall attempt to settle a claim by making a settlement offer that is unreasonably low. The commissioner shall consider any admissible evidence offered regarding the following factors in determining whether or not a settlement offer is unreasonably low:*

(1) the extent to which the insurer considered evidence submitted by the claimant to support the value of the claim;

(6) the extent to which the insurer considered the probable liability of the insured and the likely jury verdict or other final determination of the matter;”

California Code of Regulations, Section 2695.7(g)(1), (6)

* *“The insurer shall affirm or deny liability on claims within a reasonable time and shall tender payment within thirty (30) days of affirmation of liability, if the amount of the claim is determined and not in dispute.”* Unfair Property/Casualty Claims Settlement Practices Model Regulation, page 902-5

* An insurance company should not refuse “ . . .to pay claims without conducting a reasonable investigation.” Unfair Claims Settlement Practices Act, Model # 900, NAIC

* *“When there is no dispute as to the existence of coverage for a portion of the insured’s claim, the carrier should pay that amount. It should not withhold payment on the ground that there is a dispute as to the remainder of the claim.”* Insurance Claims & Disputes, (Allan D. Windt, Third Edition, 1995, Shepard’s/McGraw-Hill, Inc.) pages 75-76

* An insurance company should not fail “ . . . in the case of claims denials or offers of compromise settlement to promptly provide a reasonable and accurate explanation of the basis for such actions;” Unfair Claims Settlement Practices Act, Model # 900, NAIC

CLAIM-HANDLING GUIDELINES

CLAIMS magazine is providing the following free regional guidelines to help adjusting professionals stay abreast of each state’s property and casualty claim-handling requirements. Each guideline features 10 states, grouped by region and can be easily downloaded and printed for desktop reference.

The guidelines are in chart form by state.

Special thanks to Timothy Lynch and Anne Bandle from the law firm of Lynch and Associates in Anchorage, Alaska (www.northlaw.com), who compiled this essential information.

Northeast Guidelines
Gulf/Atlantic Coast Guidelines
Midwest Guidelines
Rocky Mountain Guidelines
Pacific Coast Guidelines
<http://claimsmag.com/Pages/Claims-Magazine-Claim-Handling-Regulations.aspx>

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