

Summary of Approved Changes to Performance Standards For the Handling and Payment of Claims

2006

Introduction

On February 16, 2006 the Commissioner of Insurance approved the proposed revisions involving Section IV Voluntary/Ceded Claims Handling Differential and the Penalties Section of the Performance Standards. Sections I, II, III, and V concerning the handling of Physical Damage and Property Damage Liability, No Fault Personal Injury Protection, Bodily Injury, Expenses, and the Measurements increasing the compliance benchmarks to reflect NAIC requirements were previously approved in the Commissioner's decision on September 12, 2005. As per that decision implementation of the new standards and thresholds is effective on November 12, 2005 and CAR will evaluate all the new and existing standards measuring claim activity occurring after that date.

Language has been added in the Introduction to acknowledge the direction by Commissioner of Insurance Julianne M. Bowler to expand the Performance Standards to include industry best practices, to incorporate NAIC Standards and their performance measures, and to tie the penalty for non-compliance directly to a Carrier's market share of the deficit.

Appendix K - CAR Claim Department File Review Process

This section incorporates the sample selection and claim examination procedures following the guidelines in the NAIC Market Conduct Examiners Handbook. As directed by the Commissioner of Insurance in the September 12, 2005 Decision on the proposed Performance Standards CAR audit procedures and sampling techniques were revised to ensure an adequate review of claims on both ceded and voluntary policies.

Appendix M – Questionnaire

The use of the Questionnaire by CAR Claims to provide background information on claims handling programs established by the carriers prior to the commencement of the annual review is clarified. Following approval of the changes to the Performance Standards on February 16, 2006 the Questionnaire has been forwarded to the Servicing Carriers for completion. Subsequently the Questionnaire will be completed bi-annually or whenever significant changes are made to the Performance Standards or CAR Rules to warrant additional programs being developed.

Appendix N – Industry Best Practices

An outline has been added to identify where the industry best practices are referenced in the Performance Standards.

Appendix O – NAIC Standards

The NAIC Standards are included showing their reference in Rule 10 and the Performance Standards.

Performance Standards

I. Auto Physical Damage & Property Damage Liability Claims

This new heading has been added to the section previously called Auto Body Payments. There are five subsections:

- A. Auto Body Payments
No changes
- B. Normal Claims Handling
 - 2. Initial Investigation
 - a) Coverage standard added. Notify Underwriting where appropriate.
 - b) Contact standard added. Should be timely & appropriate to loss.
 - f) Reserves standard added. Initial Reserves should be timely, reasonable, & follow documented company policy.
 - 4. Litigation Management standard added to conform to NAIC Standard 13.
 - 6. Recovery standard added.
 - b) Reimbursement of deductible added to Subrogation to conform to NAIC Standard 8.
- C. Fraud Handling
 - 3. Special Investigation
 - a) Referral to the IFB moved from Evaluation & Settlement to conform to statutory requirements to report when fraud suspected.
- D. Glass
The entire GLASS section has been moved from a separate standard to the Physical Damage section.
- E. Fraud Training
 - 3. Training of producers and CSRs in claim reporting and fraud recognition has been added to conform to new requirement in Rule 10.

II. Standards for Fraudulent Claims Definition Established Under Regulation 211 CMR 93.00 – (see Appendix E)

This entire section has been removed as it is a definition, not a standard, and is already contained in Appendix E.

II. Bodily Injury & Uninsured/Underinsured Motorist

This was previously called Fraud – Bodily Injury Claims. There are three subsections:

- A. Normal Claim Handling

- 2. Initial Investigation
 - a) Coverage standard added. Verify and resolve issues. Reservation of Rights & Excess letters sent when appropriate to conform to NAIC Standard 7.
 - b) Reserve standard added. Initial Reserves should be timely, reasonable, & follow documented company policy.
 - 3. Contacts
 - Contact standard added – same requirements as PIP contact.
 - a) 2 day contact for injured parties
 - b) & c) 3 day contact for uninjured insured/operator
 - 4. Loss Management
 - Loss management standard added.
 - a) Verification tools should be used to identify disability & reasonableness of treatment.
 - 5. Follow Up & Continuing Investigation
 - d) Diary and authority levels followed.
 - e) Timely & reasonable reserve changes.
 - 6. Settlement Negotiation or Denial
 - a) Settlement within approved range or explanation documented if exceeded.
 - 7. Damage Disputed Cases – Cases in Suit
 - b) Reservation of Rights & Excess letters sent when appropriate to conform to NAIC Standard 7.
 - c) Timely referral to appropriate counsel.
 - d) Evaluation, case strategy & legal action plan documented.
 - e) Review of legal bills for accuracy and reasonableness.
 - 9. Recovery
 - New section – Subrogation, Contribution
- B. Fraud Handling
- 3. Special Investigation
 - a) Referral to the IFB moved from Evaluation & Settlement to conform to statutory requirements to report when fraud suspected.
- C. Fraud Training
- 3. Training of producers and CSRs in claim reporting and fraud recognition has been added to conform to new requirement in Rule 10.
- III. No-Fault Personal Injury Protection Benefits Handling**
- A. Screening Reports & Initial Investigation
- 2. Initial Investigation
 - a) Coverage verified & appropriate.
 - c) Private health insurance verified.
 - 3. Initial & subsequent reserves timely, reasonable, & documented.
- F. Claim Payment
- 1. g) Litigation Management standard added to conform to NAIC Standard 13.
 - 3. Evaluation and Settlement
 - Added to be consistent with language in PHY DAM and BI and to conform to NAIC Standard 11.

IV. Voluntary/Ceded Claim Handling Differential

- A. Ceded claims must be processed with the same degree of diligence as are voluntary claims.
- B. In order to evaluate the handling of voluntary and ceded claims the measurements relating to the resolution of a claim will be calculated showing voluntary and ceded results and subject to statistical testing in order to determine if there is any statistically significant difference in the handling of voluntary and ceded claims.

V. Expenses

- B. Control of legal expenses.
 - 1. Evaluation, case strategy, & legal action plan documented.
 - 2. Legal bills reviewed for accuracy & reasonableness.

Measurements & Penalties

Measurements

The sources of information that CAR uses to monitor and evaluate the performance of a Servicing Carrier has been reworded to clarify the use of the questionnaire as follows:

Measurements of performance and compliance with the Standards are conducted through annual surveys of claims enhanced by relevant Statistical Plan data and procedures established by CAR. The bi-annual completion of a questionnaire by the Servicing Carriers provides background information on the claim handling programs established by the carrier to comply with the Standards.

The Commissioner of Insurance has directed in her letter of April 29, 2004 that benchmarks based on industry best practices be included and that financial penalties be established for failure to meet these benchmarks. The Commissioner has further instructed in her Remand Order of August 27, 2004 that the performance measures including the error tolerance be consistent with those established by the NAIC. Language has been added as follows to explain how a Carrier's performance is measured:

The Servicing Carriers are evaluated on the effectiveness of their claim handling in meeting industry best practices as well as for their compliance with the Performance Standards and the NAIC Standards. The benchmark for compliance with the best practices and Standards is 90% for procedures in accordance with the NAIC error tolerance of 10% and 93% for claims resolution in accordance with the NAIC error tolerance of 7%.

A chart showing the Best Practices/NAIC Standards, Measurement, and Benchmarks has been added to this section.

Separate aggregate scores for Procedures (90%) and Resolution (93%) for each section of the Standards will be calculated and penalties assessed for each section in which there is non-compliance with either the Procedures or Resolution Standards or both.

Non Compliance Penalties

The Penalty section has been completely revised to tie the penalty for non-compliance directly to a Carrier's market share of the deficit. The amount of the penalty will be a dollar amount multiplied by the carrier's Market Share represented as a whole number. A multiplier in Year 1 of non-compliance of \$1000 will be assessed increasing to \$3000 in Year 2 and \$10,000 in Year 3. Minimum penalties have also been established to insure that there is not a financial incentive for a Servicing Carrier to fail to meet compliance.

Beginning with the 2006 Annual Report a matrix of all the aggregate scores for the Procedure and Resolution standards in each section for all companies and the Industry will be included and posted on CAR's website.