

The NAIC Standards for Claims as defined in the NAIC Market Conduct Examiners Handbook Chapter VIII are based on two model acts, the Unfair Claims Settlement Practices Act and the Unfair Property and Casualty Claims Settlement Practices Model Regulation.

- In Massachusetts unfair claim settlement practices are defined in G.L. c.176D, §3 Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance.
- CAR Rule 32 is modeled on this statute and contains the elements of unfair claim settlement practices defined in §3. 9.

The following identifies where the NAIC Standards are contained in Rule 32 and the Performance Standards:

A. NAIC Standard 1

1. Description

The initial contact by the company with the claimant is within the required timeframe.

2. Performance Standards References

a. Standard I.B.2.b.: Physical Damage Contact

Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, to verify occurrence, and to establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

b. Standard II.A.3.a. - c.: Bodily Injury Contact

Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification.

The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

c. Standard III.B.1. - 4.: PIP Contact

Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification.

The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury purposes of investigation and verification.

Necessary forms should be mailed within 5 business days after notice of injury.

B. NAIC Standard 2

1. Description

Timely Investigations are conducted.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Comply with the standards for prompt investigation of claims.

3. Performance Standards References

a. Standard I.B.2.b.: Physical Damage Initial Screening and Investigation

Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, verify occurrence, and establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

b. Standard II.A.2.a. - d.: BI Initial Investigation

Review policy information to verify coverage and resolve any coverage issues.

Contact involved parties and secure sufficient documentation of facts involving accident circumstances to verify occurrence and to establish degree of fault.

Secure documentation to verify that all alleged injured parties were actually involved in the accident.

Review and evaluate discrepancies and fraud indicators to determine scope of further investigation.

c. Standard III.A.1. – 2.: PIP Initial Screening and Investigation

Initial investigation should confirm that coverage is appropriate:

- Date of loss within policy period and all policy coverage is in order.
- Injured persons are eligible for no-fault benefits.
- Private health insurance availability should be verified and documented.
- Injuries arise from use of motor vehicle.
- Massachusetts statute applies.
- No exclusions apply, such as drunk driving, stolen car, and workers compensation.

C. NAIC Standard 3

1. Description

Claims are resolved in a timely manner.

2. CAR Rules of Operation

a. Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear.

In the handling of residual market claims, ARCs shall not:

Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

3. Performance Standards References

a. Standard I.B.4.a.: Physical Damage Prompt Evaluation and Settlement

After initial investigation is complete, a decision must be made to promptly process for settlement or refer case for special investigation.

b. Standard II.A.6.b.: Bodily Injury Settlement Negotiations or Denial

Evaluate and pursue warranted settlements when the injury and expense end result can be established

c. Standard III.F.1.f.: PIP Claims Payment

There should be no payment until the claimed loss has been verified and:

- Investigations promptly conducted, and upon agreement to pay, checks should be issued within 10 business days.

D. NAIC Standard 4

1. Description

The Company responds to claim correspondence in a timely manner.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Acknowledge and act promptly upon communications regarding claims.

E. NAIC Standard 5

1. Description

Claim files are adequately documented.

2. Performance Standards References

a. Standard I.C.4.: Physical Damage Evaluation and Settlement

The file must clearly document the basis for the decision and result.

b. Standard II.A.6.a.: Bodily Injury Settlement Negotiations or Denial

ARCs should have a settlement evaluation plan to obtain reasonable negotiated settlements of warranted claims. Settlements should be within approved range or the reason clearly documented if exceeded.

c. Standard II.B.3.: Bodily Injury Fraud Handling Evaluation and Settlement

The file must clearly document the basis for the decision and result.

d. Standard III.F.3.: PIP Claim Payment

The file shall clearly document the basis for the decision and result.

F. NAIC Standard 6

1. Description

Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

2. Performance Standards References

Introduction

The Performance Standards are developed to establish a benchmark for the handling of private passenger motor vehicle insurance claims. Also, these standards are designed to require compliance with Massachusetts laws and regulations regarding motor vehicle insurance and the CAR Rules of Operation. Any revisions to existing laws or regulations are incorporated into the Appendices as these are promulgated.

Several regulations and statutes are referenced in the Performance Standards and incorporated in the Appendices.

G. NAIC Standard 7

1. Description

Company uses the reservation of rights and excess of loss letters, when appropriate.

2. Performance Standards References

a. Standard II. A.2.a.: Bodily Injury Initial Investigation

Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.

b. Standard II.A.7.b.: Bodily Injury Cases in Suit

Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.

H. NAIC Standard 8

1. Description

Deductible reimbursement to insured upon subrogation recovery is made in a timely and accurate manner.

2. Performance Standards References

Standard I.B.6.b.: Physical Damage Claims Subrogation/Recovery

Upon subrogation recovery the deductible shall be reimbursed in a timely and accurate manner when and where appropriate.

I. NAIC Standard 9

1. Description

a. Company claim forms are appropriate for the type of product.

b. The use of required State forms is included in the Standards. ARC claim forms are reviewed as found in the claim reviews and commented upon in the Hybrid Audit Review if not appropriate.

J. NAIC Standard 10

1. Description

Claim files are reserved in accordance with the company's established procedures.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Maintain claim reserving procedures for claims arising out of residual market business commensurate with their procedures for claims arising out of voluntary business.

3. Performance Standards References

a. Standard I.B.2.f.: Physical Damage Initial Investigation

The setting of initial reserves should be timely, reasonable, and follow documented ARC policy.

b. Standard II.A.2.e.: Bodily Injury Initial and Follow-Up Investigation

The setting of initial reserves should be timely, reasonable, and follow documented ARC policy.

c. Standard II.A.5.e.: Bodily Injury Initial and Follow-Up Investigation

Changes to reserves should be timely, reasonable, and follow documented ARC policy.

d. Standard III.A.3.: PIP Initial Investigation

The setting of initial and subsequent reserves should be timely, reasonable, and follow documented company policy.

K. NAIC Standard 11

1. Description

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement.

3. Performance Standards References

a. Standard I.C.4.: Physical Damage Evaluation and Settlement

After special investigation is complete, a decision must be made to pay the claim or resist. The file should clearly document the basis for the decision and result.

b. Standard II.B.3.: Bodily Injury Fraud Handling Evaluation and Settlement

After special investigation is complete, a decision must be made to pay the claim or resist. The file must clearly document the basis for the decision and result.

c. Standard III.F.3.: Claims Payment

After special investigation is complete, a decision must be made to pay the claim or resist. The file shall clearly document the basis for the decision and result.

Note that denials of claims are evaluated in SIU reviews.

L. NAIC Standard 12

Canceled benefit checks and drafts reflect appropriate claim handling practices.

Note that as part of the Reinsurance Audits CAR's Compliance Audit Department conducts a study on duplicate payments that encompasses stop payment and canceled checks.

M. NAIC Standard 13

1. Description

Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies but offering substantially less than is due under the policy.

2. CAR Rules of Operation

Rule 32

Claim practices of each ARC shall correspond with those followed for voluntary business, and ARCs shall, in accordance with the Performance Standards and Best Practices:

Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear.

In the handling of residual market claims, ARCs shall not:

Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

3. Performance Standards References

a. Standard I.B.4.c.: Physical Damage Prompt Evaluation and Settlement

ARCs shall have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

b. Standard II.A.7.a.: Bodily Injury – Cases in Suit

ARCs shall have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

c. Standard III.F.1.g.: PIP Claim Payment

ARCs should have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

N. NAIC Standard 14

1. Description

Loss statistical coding is complete and accurate.

2. Performance Standards References

Standard V.D.: Expenses

ARCs must report allocated expenses properly as defined in the Statistical Plan and Manual of Administrative Procedures. Extra-contractual expenses and unallocated expenses should not be reported as allocated expenses.

Note that loss statistical coding is audited as part of the Hybrid Audit.