

A. Motor Vehicle Body Payments

1. Service Times

- a. Assigned Risk Companies (ARCs) must establish programs and procedures to ensure prompt settlements of warranted motor vehicle physical damage claims.
- b. ARCs must establish procedures to permit prompt appraisal of damage and to make prompt claim payments of motor vehicle physical damage claims.
- c. The Standard for assignment to an appraiser from the date the report is received or date of notice of recovery of theft is 2 business days.
- d. The Standard for transmittal of the completed appraisal from the date of the appraisal assignment is 5 business days in accordance with 212 CMR 2.04(1)(e).
- e. The Standard for payment of a first party motor vehicle physical damage claim under any Direct Payment Plan is 5 business days from completion of the appraisal on all repairable motor vehicles, subject to all other provisions of the Plan.
- f. The Standard for payment of a first party motor vehicle physical damage claim that is not under any Direct Payment Plan is 7 business days following receipt of a Completed Work Claim Form.

2. Direct Payment Plan

- a. All ARCs must have a Direct Payment Plan.
  - 1) The Industry Plan can be adopted. Refer to Appendix C.
  - 2) Modifications to the Industry Plan can be filed for approval by the Commissioner of Insurance.
  - 3) An ARC can develop its own plan and submit it for approval by the Commissioner of Insurance.
- b. Any Direct Payment Plan developed by an ARC must include a referral shop program.

3. Parts Cost

- a. ARCs must have programs and procedures to demonstrate its efforts to obtain discounts and pay less than full retail price for parts.
- b. ARCs must consider the applicability of aftermarket, rebuilt, and like kind and quality (LKQ) parts on all appropriate appraisals.
- c. ARCs must allow for, and insist on, the use of aftermarket, rebuilt, and LKQ parts in lieu of new or cost of repair, whenever appropriate.

#### 4. Labor Rates and Times

ARCs must have a plan designed to seek the most competitive labor rates and times, and to determine whether labor rates, repair, and replacement times are reasonable and consistent with industry-recognized sources.

#### 5. Total Loss Payments

- a. ARCs shall not declare any motor vehicle a total loss when a prudent appraisal evaluation would have shown that the motor vehicle could have been repaired at an overall cost less than the actual cash value minus the salvage value.
- b. The actual cash value of any motor vehicle must be determined based on the following requirements of Regulation 211 CMR 133.05 Determination of Value. Refer to Appendix E.

**Actual Cash Value:** Whenever the appraised cost of repair plus the probable salvage value may be reasonably expected to exceed the actual cash value of the motor vehicle, the insurer shall determine the motor vehicle's actual cash value. This determination shall be based on a consideration of all the following factors:

- 1) The retail book value for an motor vehicle of like kind and quality, but for the damage incurred;
- 2) The price paid for the motor vehicle plus the value of prior improvements to the motor vehicle at the time of accident, less appropriate depreciation;

- 3) The decrease in value of the motor vehicle resulting from prior unrelated damage which is detected by the appraiser; and
  - 4) The actual cost of purchase of an available motor vehicle of like kind and quality but for the damage sustained.
  - c. Existing pre-insurance inspection reports must be reviewed for options, mileage, prior condition, prior damages, and placed in the claim file on all total losses.
  - d. ARCs must be in compliance with the Salvage Title Law, G.L. c.90D, §20 (a through e). Refer to Appendix G.
6. Towing and Storage Costs
- a. ARCs must have a plan to demonstrate that its staff has knowledge of and enforce all regulations applicable to towing and storage rates and conditions.
  - b. ARCs must have a plan to ensure that non-regulated towing and storage charges are reasonable, or to resist and reduce said charges if unreasonable.
  - c. ARCs must have a plan to control storage costs including the prompt disposition of salvage.
7. Appraisal of Damage and Reinspections
- a. ARCs must have basic guidelines for appraisers, which include the following areas:
    - 1) Compliance with Regulation 212 CMR 2.04 – The Appraisal and Repair of Damaged Vehicles. Refer to Appendix D.
    - 2) Scoping and completing an appraisal
    - 3) Use of aftermarket, rebuilt, LKQ parts
    - 4) Open items and supplements
    - 5) Refinishing
    - 6) Depreciation and betterment
    - 7) Unrelated damage

- 8) Structural Damage
  - 9) ACV estimating
  - 10) Screening for fraudulent claims
  - b. ARCs must have an ongoing training plan and program for continuing education of staff appraisers, including fraud awareness.
  - c. ARCs must have a plan for periodic evaluation of the quality and accuracy of its independent appraisers.
  - d. Re-inspections must be completed on 75 percent of all repaired motor vehicles whose damage exceeded \$4,000 including damages paid under a Direct Payment Plan.
  - e. Re-inspections must be completed on 25 percent of all repaired motor vehicles whose damage was less than \$4,000 including damages paid under a Direct Payment Plan.
  - 8. ARCs must establish procedures to comply with claims requirements included in the mandatory pre-insurance inspection program established by Regulation 211 CMR 94.00. Refer to Appendix F.
- B. Normal Claim Handling
- 1. Initial screening of reports of accidents and losses
    - a. All new notices shall be screened by a person with sufficient experience and training to be able to identify warning signs requiring special inquiry or investigation or by an appropriate expert software system designed for fraud screening, and thereafter assigned to a person with sufficient experience and training.
    - b. The initial screening shall determine whether accident circumstances, facts, and information reported are consistent and sufficient to establish the occurrence.
    - c. The initial screening shall identify losses involving theft or arson, which always require detailed investigation.

- d. The fraud indicators of CAR's Special Investigative Unit (SIU) Standards and Fraud Profile shall be considered to determine possible warning signs of fraud. Refer to Appendix A.
- e. A determination shall be made of the type and extent of further investigation that may be necessary if the initial screening identifies discrepancies or inconsistencies.

## 2. Initial Investigation

The initial investigation shall include:

- a. Reviewing policy information to verify coverage, resolve any issues including garaging or operators, and notifying Underwriting where appropriate.
- b. Timely contact with involved parties to secure sufficient documentation of facts involving accident circumstances, to verify occurrence, and to establish degree of fault and, in cases where no injuries are reported, appropriate to the loss.
- c. Obtaining documentation of ownership and existence of said motor vehicle in appropriate cases, especially total losses.
- d. Documenting the damages or value of the motor vehicle.
- e. Reviewing and evaluating discrepancies and fraud indicators to determine the scope of further investigation.
- f. Timely setting of reasonable initial reserves and following the documented company policy.

## 3. Appraisal Program

- a. Appraisers must recognize and report discrepancies which may indicate need for further investigation.
- b. Appraisals shall be reviewed in conjunction with other information developed to determine if there are any indicators of fraud.

4. Prompt Evaluation and Settlement

- a. After initial investigation is complete, a decision must be made to promptly process for settlement or refer case for special investigation.
- b. In the normal course of claim handling, a file shall be referred for special investigation or expert analysis when discrepancies exist that are unresolved.
- c. ARCs shall have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

5. Department of Revenue (DOR) Requirements

Prior to making any payment equal to or in excess of \$500 to a third-party claimant, the ARC must comply with the requirements of the Insurance Claim Payment Intercept Program, G.L. c.175, §24D  
NOTE: Failure to comply with G.L. c.175, §24D will subject the ARC to penalties proscribed by the DOR. These penalties will be in lieu of those penalties imposed for noncompliance with the Performance Standards. Refer to Appendix H.

6. Subrogation/Recovery

- a. The investigation shall determine other parties involved in the accident, the probable extent of liability on each party, and the carrier or party against whom subrogation will be directed, if applicable.
- b. Upon subrogation recovery the deductible shall be reimbursed in a timely and accurate manner when and where appropriate.

C. Fraud Handling

1. Screening process for suspected fraudulent claims

- a. When a discrepancy is of such weight as to raise substantial questions of fraud (example: all keys accounted for and the motor vehicle shows no ignition damage), the case shall be referred for special investigation.
- b. Whenever several discrepancies exist and/or a pattern appears that matches prior suspicious cases, the case shall be referred for special investigation.

- c. Unresolved discrepancies, such as Vehicle Identification Number (VIN) problems, prior total loss or salvaged motor vehicle, title inconsistencies, or other verifiable documents shall result in the case being referred for special investigation.
- d. Whenever a combination of minor discrepancies occur which cannot be resolved, the case shall be referred for special investigation.

## 2. Appraisal Program

- a. When damage to the motor vehicle is identified as inconsistent with accident circumstances, the case shall be considered for special investigation.
- b. Clear photographs must accompany explanation of all damage inconsistencies.

## 3. Special Investigation

- a. Claims identified as suspicious or suspected fraudulent shall be referred for more detailed special investigation and consideration given to referring the claim to Insurance Fraud Bureau (IFB), National Insurance Crime Bureau (NICB) and/or the appropriate law enforcement agency for prosecution.
- b. The CAR SIU Standards for investigation of suspicious claims must be adhered to as part of the special investigation process. Refer to Appendix A.
- c. The savings recorded on physical damage claims shall be documented and reported to CAR on a quarterly basis.

## 4. Evaluation and Settlement

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

## D. Glass

- 1. ARCs must establish a program to effect prompt repair or replacement of damaged or broken glass covered under motor vehicle physical damage coverage, at a fair and competitive cost.

2. ARCs must have a plan to screen all glass bills and obtain reasonable discounts on market price lists for all domestic and foreign windshields and all side and back glass.
3. ARCs must have a plan to pay labor costs which are reasonable and competitive for glass repair or replacement.
4. ARCs must consider a plan to waive any glass deductible if the insured elects to repair the glass damage in lieu of replacement.
5. ARCs must have a plan to address fraud, including inspection or re-inspection of a representative sampling of all glass losses. In no event shall the selection be based on the age or sex of the policyholder, customary operators of motor vehicle, or the principal place of garaging of the motor vehicle.

E. Fraud Training

1. ARCs must have a plan that provides for ongoing training of fraud awareness and how to identify suspicious claims.
2. ARCs must have a plan for training of special investigation and handling of suspicious and suspected fraudulent claims.
3. ARCs must have a plan to provide training on claim reporting and fraud recognition to producers and its customer service representatives.