

## Insurance & HMOs

August 20, 2010

### Regulator Warns Auto Insurance Companies About 'Steering'

AUSTIN - Texas Commissioner of Insurance Mike Geeslin issued a warning bulletin to auto insurers, reminding them that it is illegal under Texas law for insurers or their agents to directly or indirectly engage in practices that constitute "steering."

The bulletin was issued based on reports that some insurance companies may be directing claimants to use a repair shop from a list of preferred repair shops. Texas insurance law clearly states that the claimant has the right to select where a motor vehicle is repaired. Another concern addressed in the bulletin is that some insurers may attempt to steer claimants indirectly by suggesting, either verbally or in writing, that other reasonable repair costs might not be covered unless claimants use a preferred repair shop or specific part to make the repairs. Similarly, it is considered improper to pay claims based on artificially low repair costs. Such practices could lead to substandard repairs.

According to the bulletin, these types of behavior would be considered unfair claim settlement practices, and could lead to an investigation and possible enforcement action.

Commissioner bulletins are issued periodically to advise the insurance industry about practices the Texas Department of Insurance (TDI) considers critical to maintaining compliance with state law and rules. Commissioner Bulletin B-0031-10, addressing the practice of steering, is available on the web at [www.tdi.state.tx.us/bulletins/2010/cc30.html](http://www.tdi.state.tx.us/bulletins/2010/cc30.html).

Anyone with an insurance-related complaint may contact TDI by calling the toll-free Consumer Help Line at **1-800-252-3439**; filling out an online complaint form on TDI's website, [www.tdi.state.tx.us](http://www.tdi.state.tx.us); or e-mailing TDI at [ConsumerProtection@tdi.state.tx.us](mailto:ConsumerProtection@tdi.state.tx.us). To report a case of suspected insurance fraud to TDI, call **1-888-327-8818**.

For more information contact: [PIO@tdi.state.tx.us](mailto:PIO@tdi.state.tx.us)

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Texas Department of Insurance  
333 Guadalupe, Austin 78701  
P.O. Box 149104, Austin 78714  
(512) 463-6169

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### COMMISSIONER'S BULLETIN #B-0031-10

August 2, 2010

**TO: ALL COMPANIES, CORPORATIONS, EXCHANGES, MUTUALS, RECIPROCALs, ASSOCIATIONS, LLOYDS, COUNTY MUTUALS OR OTHER INSURERS WRITING PROPERTY AND CASUALTY INSURANCE IN THE STATE OF TEXAS AND TO AGENTS AND REPRESENTATIVES AND THE PUBLIC GENERALLY**

**RE: Automobile Repair Facilities**

The purpose of this bulletin is to remind insurers of their responsibilities to claimants regarding payment for damage to a motor vehicle and the selection of a repair person or facility in accordance with Subchapter G, Chapter 1952 of the Texas Insurance Code (TIC) and Title 28, Section 5.501 of the Texas Administrative Code (TAC). The Department has received information which causes it to be concerned that insurers may be providing claimants with additional notice regarding motor vehicle repairs that may be in conflict with the TIC and TAC.

Section 1952.301 of the TIC specifies that an insurer may not directly or indirectly limit the insurer's coverage under a policy covering damage to a motor vehicle by:

1. specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products that may be used to repair the vehicle; or
2. limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle.

Section 1952.302 of the TIC specifies that an insurer, an employee or agent of an insurer, an insurance adjuster, or an entity that employs an insurance adjuster may not state or suggest, either orally or in writing, to a beneficiary that the beneficiary must use a specific repair person or facility or a repair person or facility identified on a preferred list compiled by an insurer for the damage repair or parts replacement to be covered by the policy.

Section 5.501 of the TAC requires an insurer to provide a notice to the insured or third-party claimant who makes a claim regarding damage to a vehicle. The required notice specifies that a claimant has the right to select where a motor vehicle is repaired and the parts used for repairs. The notice also specifies that an insurer is not required to pay more than a reasonable amount for such repairs and parts.

The Department requests that insurers review all notices that are being provided to claimants regarding motor vehicle repairs to ensure the notices are not in conflict with the TIC and TAC. For example, providing notice to a claimant, either verbally or in writing, that implies the claimant may be responsible for paying for certain repair costs if the claimant chooses a repair facility that is not on the insurer's list of preferred repair facilities, may be in conflict with the TIC and TAC because it would indirectly limit the coverage under the policy by discouraging the claimant from selecting a repair facility that is not on the list. While the prescribed notice specifies that an insurer is not required to pay more than a reasonable amount for repairs and parts, neither the prescribed notice nor policy language suggest that the reasonable amount for repairs or parts be based on a limited number of preferred repair facilities or specific repair parts.

The Department is also concerned that setting reimbursement rates artificially low for specific motor vehicle repairs and parts that are used to make the repairs may lead to substandard repairs, which may also impact the warranty on a vehicle. The majority of personal automobile insurance policies require insurers to pay the amount necessary to repair or replace the property with other(s) of like kind and quality. It is an unfair claim settlement practice for insurers to pay claimants an amount for the repair of the vehicle, including parts, that is not a reasonable amount for repairing or replacing the property with other of like kind and quality or is not sufficient enough to make the repairs necessary for the manufacturer to honor the vehicle warranty.

Sections 541.060 and 542.003 of the TIC and section 21.203 of the TAC require all insurers to attempt in good faith to effectuate "fair and equitable" settlements of claims and not engage in unfair settlement practices. The Department will enforce the rights of claimants to receive the benefits to which they are contractually entitled.

The Department will investigate allegations of unfair claims settlement practices, both in the context of individual cases and general business practices, and will take appropriate enforcement action when evidence of unfair claim settlement practices is demonstrated.

Questions regarding this bulletin may be directed to David Nardecchia, Deputy Commissioner, Personal & Commercial Lines Division, at (512) 305-7544 or david.nardecchia@tdi.state.tx.us or to Leslie Hurley, Manager, Personal Lines Division, at (512) 322-2266 or leslie.hurley@tdi.state.tx.us.

Mike Geeslin  
Commissioner of Insurance

For more information contact: [PropertyCasualty@tdi.state.tx.us](mailto:PropertyCasualty@tdi.state.tx.us)



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