



## TEXAS DEPARTMENT OF INSURANCE

COMMISSIONER'S BULLETIN #B-0026-11

June 20, 2011

**TO: ALL COMPANIES, CORPORATIONS, EXCHANGES, MUTUALS, RECIPROCALLS, 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 first and third party claimants regarding claim payments for damage to motor vehicles. Commissioner's Bulletin No. B-0031-10 (<http://www.tdi.state.tx.us/bulletins/2010/cc30.html>) was issued in August, 2010; however, reports of steering, limiting labor/reimbursement rates, and other potential unfair claim settlement practices continue to be received.

In accordance with Subchapter G, Chapter 1952 of the Texas Insurance Code and Title 28, Section 5.501 of the Texas Administrative Code, insurers have a responsibility to claimants regarding payment for damage to a motor vehicle and must comply with these provisions. Furthermore, insurers must not directly or indirectly require a claimant to use a specific repair person/facility or require the claimant to select a specific repair person/facility from a list provided by the insurer.

Section 1952.301 of the Texas Insurance Code 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 claimant of the policy from selecting a repair person or facility to repair damage to the vehicle.

Texas Insurance Code, Section 1952.302 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 claimant that the claimant must use a specific repair person/facility, or a repair person/facility identified on a preferred list compiled by an insurer, for the damage repair or parts replacement to be covered by the policy.

Texas Administrative Code, Section 5.501 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 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.

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 conflict with the Texas Insurance Code and Texas Administrative Code because it would indirectly limit the coverage under the policy by discouraging the claimant from selecting a repair facility that is not on the insurer's list. While the prescribed notice specifies that an insurer is not required to pay more than a reasonable amount for repairs or repair parts, neither the prescribed notice nor policy language suggest that the reasonable amount for repairs or repair parts be based on the amounts charged by or the parts used by a limited number of (insurer) preferred repair facilities.

The Department continues to have concerns 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 vehicle warranties. 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 an insurer to pay a claimant 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 to make the repairs necessary for the manufacturer to honor the vehicle warranty.

Texas Insurance Code, Sections 541.060 and 542.003 and Texas Administrative Code, Section 21.203 require that all insurers attempt in good faith to effectuate "fair and equitable" settlements of claims and not engage in unfair settlement practices. The Department will enforce the provisions of the Texas Insurance Code and Texas Administrative Code to make certain that insurers are in compliance and are not engaging in unfair claim settlement practices.

The Department takes all allegations of unfair claims settlement practices seriously and will investigate in the context of both individual cases and general business practices. The Department will investigate such allegations through complaint handling, market conduct exams and other reviews deemed necessary, taking appropriate enforcement action when evidence of unfair claim settlement practices or other statutory violations are demonstrated.

Questions regarding this bulletin may be directed to Leslie Hurley, Manager, Personal Lines Division at (512) 322-2266 or [leslie.hurley@tdi.state.tx.us](mailto:leslie.hurley@tdi.state.tx.us) or to Mark Worman, Manager, Commercial Property & Casualty Division at (512) 305-6711 or [mark.worman@tdi.state.tx.us](mailto:mark.worman@tdi.state.tx.us).

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Commissioner of Insurance

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