



## **Report to Agency on Public Comment Period**

Date: January 1, 2020

To: Dept. of Consumer and Business Services

From: Alex Cheng, Senior Policy Advisor

Subject: Summary of comments received on DFR proposed bulletin on virtual claim adjustment systems

Comment Period Start: October 24, 2019  
Comment Period End: November 15, 2019

### **Background**

The Division of Financial Regulation issued a proposed bulletin to provide guidance to auto insurers that use virtual claim adjustment systems on how to avoid unfair claim settlement practices. The proposed bulletin also clarified when an insurer may require the use of a mobile application to submit a claim.

### **Summary of Written Comments**

DFR received four comments from the insurance industry, auto repair industry, and the general public.

- The American Property Casualty Insurers Association (APCIA), National Association of Mutual Insurance Companies (NAMIC), and Northwest Insurance Council submitted joint comments stating that photo estimating is a time saving and convenient option for policy holders, and that there are relatively few consumer complaints on the issue.

The comments also express concern about specific language in the proposed bulletin: “It is insufficient for an insurer to rely on a secondary review after the initial settlement offer is made or to routinely rely on supplemental claims in order to make an adequate offer.” The comments state that damage is routinely uncovered during the repair process, and secondary reviews and supplemental claims are often necessary whether the claim is adjusted in-person or through a virtual system. The comments express concern that the language in the proposed bulletin suggests that insurers may not

conduct secondary reviews after the initial settlement offer.

- Mutual of Enumclaw submitted comments describing many of their current business practices that comply with the guidance in the proposed bulletin, including its policy of honoring consumers' requests for a physical inspection. The comments also express concern that limiting the use of photo estimating may result in increased costs, higher rates, reduced consumer choice, and stifled innovation.
- Excel Auto Body submitted comments supporting the guidance in the proposed bulletin. The comments expressed concern about certain insurance industry practices. They report that in some instances insurers have required policy holders and claimants to initiate a claim by uploading photos via a mobile application.

The comments also express concern about insurers using third parties to estimate claims based on photo evidence. The comments state that third party estimators may fail to recognize additional evidence presented by the auto repairer and refuse to change their estimates.

- Comments were submitted by an anonymous individual and suggest that the bulletin be addressed to all property and casualty insurers, as virtual claim adjustment systems are used industry wide.

The comments state that virtual claim adjustment systems are most useful for low-dollar losses and surface level property damage; however, building damage that exceeds \$2,500 is much more likely to include hidden damage. In these instances, use of virtual adjustment systems may result in underpayments or the insured requesting supplemental payments.

## **Discussion**

DFR welcomes innovation in the claim adjustment process that improves efficiency, accuracy, and preserves consumer choice. Virtual claim adjustment systems can help save time and administrative cost under certain circumstances. The proposed bulletin does not prohibit the use of virtual systems, but is intended to ensure consumer choice by allowing claimants to elect an in-person adjuster if they so choose. As noted in the comments, virtual systems are most effective in documenting surface level property damage for small dollar claims. They are less effective in identifying, documenting, and accurately assessing damage requiring major repairs, hidden damage, and high dollar claims. Preserving consumer choice is especially important in cases where the efficacy of virtual systems are more limited.

Some commenters expressed concern that language in the proposed guidance may be interpreted to mean that insurers may not conduct secondary reviews after the initial settlement offer. This was not the intent of the guidance. Insurers have a duty under ORS 746.230 to promptly and equitably settle claims in good faith. This includes conducting secondary reviews and providing supplemental payments when there is evidence indicating that the initial settlement offer was inadequate.

Virtual claim adjustment systems are used in several types of property insurance claims; however, the majority of consumer complaints and public comments received by DFR focus on auto insurance. It would be appropriate for DFR to limit the scope of the final bulletin to auto insurance claims at this time and consider additional guidance addressing all property insurance claims after further developing the public record on that issue.

### **Summary**

Having fully considered all submissions, I recommend the proposed bulletin be adopted with the following changes:

- Remove language that could be interpreted to suggest that insurers are not allowed to conduct secondary reviews; and
- Make additional non-substantive wording changes for clarity.

Alex Cheng  
Senior Policy Advisor