

Maryland

By Kelly M. Lippincott and Sarah W. Conkright

What insurer practices are addressed by statute, regulation and/or insurance department advisory?

Misrepresentation of facts or policy provisions.

Md. Code Ann., Ins. §§27-303(1) (Unfair claim settlement practices of insurers or nonprofit health service plans) and §27-304(1) (unfair claim settlement practices committed with frequency to indicate general business practice).

Refusal to pay claims without conducting a reasonable investigation.

Md. Code Ann., Ins. §27-304(4).

Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered.

Md. Code Ann., Ins. §27-304(7).

Attempting to settle claims for less than an amount to which a reasonable person would believe he or she was entitled after referring to written or printed advertising material or literature made part of an application.

Md. Code Ann., Ins. §27-304(8).

Attempting to settle claims on the basis of an application altered without notice to, or knowledge or consent of, the applicant.

Md. Code Ann., Ins. §§27-303(3) and 27-304(9).

Failure, after paying claim, to inform insureds or beneficiaries of the coverage under which payment was made.

Md. Code Ann., Ins. §§27-303(4) and §27-304(10).

Asserting to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

Md. Code Ann., Ins. §27-304(11).

Delaying investigation or payment of claims by requiring a claimant or his or her physician to submit a preliminary claim report and then requiring subsequent submissions which contain substantially the same information.

Md. Code Ann., Ins. §27-304(12).

Failure to promptly settle claims under one coverage of a policy where liability is reasonably clear in order to influence settlements under other coverages of the policy.

Md. Code Ann., Ins. §§27-303(5) and 27-304(13).

Failure to promptly provide a reasonable and proper explanation of the basis for a denial of claim.

Md. Code Ann., Ins. §§27-303(6) and 27-304(14).

Concealment of benefits, coverages or other provisions that are pertinent to the claim.

No such provision.

Issuance of checks or drafts in partial settlement of a loss or claim under a specific policy coverage that contains language releasing the insurer or its insured from its total liability.

No such provision.

Failure to maintain complete claims files, in sufficient detail that pertinent events and dates may be reconstructed.

No such provision. (*But see* Md. Code Ann., Ins. §27-1001(d)(4) (requiring insurer to produce each document from its claim file that enables reconstruction of the insurer's activities relative to first-party claim after insured files a complaint with the Commissioner)).

Does this state have any other pertinent law regarding insurer practices?

- Md. Code Ann., Ins. §27-303(2) (refuse to pay a claim for an arbitrary or capricious reason based on all available information).
- Md. Code Ann., Ins. §27-304(15) (refuse to pay a claim for an arbitrary or capricious reason based on all available information).
- Md. Code Ann., Ins. §27-303(9) (fail to act in good faith, as defined under §27-1001 of this title, in settling a first-party claim under a policy of property and casualty insurance).
- Md. Code Ann., Ins. §27-304(18) (fail to act in good faith, as defined under §27-1001 of this title, in settling a first-party claim under a policy of property and casualty insurance).

What timing issues are addressed by statute, regulation and/or insurance department advisory?

Failure to acknowledge and act promptly on claims communications.

Md. Code Ann., Ins. §27-304(2).

Failure to adopt and implement reasonable standards for prompt investigation of claims.

Md. Code Ann., Ins. §27-304(3).

Failure to affirm or deny coverage within a reasonable time after proof of loss.

Md. Code Ann., Ins. §27-304(5).

Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear.

Md. Code Ann., Ins. §27-304(6).

Continuing negotiations with a claimant who is not an attorney, nor represented by an attorney, up to the time the claimant's right may be affected by a statute of limitations, insurance policy or contract time limit, without giving the claimant written notice that the time limit may expire and affect his or her rights. How much prior notice, before the time limit expires, must be given to claimants? Is the notice requirement limited to first-party claimants?

No such provision.

Making statements indicating that the rights of a claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the claimant of a relevant statute of limitations. Is this provision limited to third-party claimants?

No such provision.

Requiring a claimant to give written notice of loss or proof of loss within a specified time unless the time limit is specified in the policy.

No such provision.

Failure to provide an adequate response, e.g., within 15 working days of the receipt of an inquiry from the insurance commissioner or an appropriate reply to all other pertinent communications about a claim from a claimant that reasonably indicate a response is expected.

No such provision.

Does this state have any other pertinent law regarding timing issues?

Md. Code Ann., Cts. & Jud. Proc. §3-1701(f) (Actions against insurance providers to determine coverage) provides:

An insurer may not be found to have failed to act in good faith under this section solely on the basis of delay in determining coverage or the extent of payment to which the insured is entitled if the insurer acted within the time period specified by statute or regulation for investigation of a claim by an insurer.

Are there other statutes, regulations and/or insurance department advisories that address specific types of claims?

Failure to settle claims on the grounds that responsibility for payment should be assumed by others, except as otherwise provided by the policy. Is this provision limited to first-party claims?

No such provision.

Failure to disclose to a claimant all relevant benefits, coverages and other provisions under which the claim is asserted. Is this provision limited to first-party claims?

No such provision.

Denial of a claim on the grounds of the claimant's failure to exhibit the relevant property without proof of the insurer's demand and the claimant's unfounded refusal.

No such provision.

Requiring a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment. Is this provision limited to first-party claims?

No such provision.

Does this state have any other pertinent law regarding specific types of claims?

Md. Code Regs. 31.15.12.03 (Duties of Insurer Following Determination of Total Loss of Motor Vehicle).

Are there other statutes, regulations and/or insurance department advisories pertinent to unfair claims settlement practices?

No such provision.

Practice tips for this state

As a general rule, an insured must file a first-party property, casualty, or disability bad faith claim with

the Maryland Insurance Administration before it may file such a claim in court. *See* Md. Code Ann., Ins. §27-1001(c)(1); Md. Code Ann., Cts. & Jud. Proc. §3-1701(b). There are a few exceptions to the rule. *See* Md. Code Ann., Ins. §27-1001(c)(2) (actions within the small claim jurisdiction of the District Court; claims under a commercial insurance policy to which the applicable limit of liability exceeds \$1 million; the insured and the insurer agree to waive the requirement).

Compliance with Maryland's Unfair Claim Settlement Practices statute will help an insurer to avoid bad faith claims, and it will provide viable defenses should such claims arise.

Maryland Insurance Administration
<http://insurance.maryland.gov>

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