

## **Appendix N**

### **NAIC Standards - CAR Rule 10 & Performance Standards Section 2 – Commercial Policies**

The NAIC Standards for Claims as defined in the NAIC Market Conduct Examiners Handbook Chapter VIII are based on two model acts, the Unfair Claims Settlement Practices Act and the Unfair Property and Casualty Claims Settlement Practices Model Regulation. In Massachusetts, unfair claim settlement practices are defined in G.L. c. 176D §3 Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance. CAR Rule 10 is modeled on this statute and contains the elements of unfair claim settlement practices defined in §3 (9). The following identifies where the NAIC Standards are contained in Rule 10 and the Performance Standards.

#### **NAIC Standard 1**

##### Description:

- The initial contact by the company with the claimant is within the required time frame.

#### **Performance Standards**

##### PS I B 2 B Physical Damage Contact

- b. Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, to verify occurrence, and to establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

##### PS II A 3 a to c Bodily Injury Contact

- a. Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification
- b. The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.
- c. The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.

##### PS III B 1 to 4 PIP Contact

- 1. Injured persons or their legal representative making a claim should be contacted within 2 business days of receipt of notice of injury for purposes of investigation and verification.

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2. The named insured, if not an injured party, should be contacted within 3 business days of receipt of notice of injury for purposes of investigation and verification.
3. The insured operator, if not one of the above, should be contacted within 3 business days of receipt of notice of injury purposes of investigation and verification.
4. Necessary forms should be mailed within 5 business days after notice of injury.

### **NAIC Standard 2**

#### Description:

- Timely Investigations are conducted.

### **CAR Rules of Operation**

#### Rule 10

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:

1. Comply with the standards for prompt investigation of claims;

### **Performance Standards**

#### PS I B 2 Physical Damage Initial Screening & Investigation

- a. Contact with involved parties to secure sufficient documentation of facts involving accident circumstances, to verify occurrence, and to establish degree of fault should be timely and, in cases where no injuries reported, appropriate to the loss.

#### PS II A 2 BI Initial Investigation

- a. Review policy information to verify coverage and resolve any coverage issues.
- b. Contact involved parties and secure sufficient documentation of facts involving accident circumstances to verify occurrence and to establish degree of fault.
- c. Secure documentation to verify that all alleged injured parties were actually involved in the accident.
- d. Review and evaluate discrepancies and fraud indicators to determine scope of further investigation.

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### PS III A 2 PIP Initial Screening & Investigation

2. Initial investigation should confirm that coverage is appropriate:
  - a. Date of loss within policy period and all policy coverage is in order.
  - b. Injured persons are eligible for no-fault benefits.
  - c. Private health insurance availability should be verified and documented.
  - d. Injuries arise from use of motor vehicle.
  - e. Massachusetts's statute applies.
  - f. No exclusions apply, such as drunk driving, stolen car, and workers compensation.

### **NAIC Standard 3**

#### Description:

- Claims are resolved in a timely manner.

### **CAR Rules of Operation**

#### Rule 10

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:
  3. Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear;
- B. In the handling of residual market claims, Servicing Carriers shall not:
  2. Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

### **Performance Standards**

#### PS I B 4 Physical Damage Prompt Evaluation & Settlement

- a. After initial investigation is complete, a decision must be made to promptly process for settlement or refer case for special investigation.

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### PS II A 6 Bodily Injury Settlement Negotiations or Denial

- b. Evaluate and pursue warranted settlements when the injury and expense end result can be established.

### PS III F PIP Claims Payment

1. There should be no payment until the claimed loss has been verified and:
- f. Investigations promptly conducted, and upon agreement to pay, checks should be issued within 10 business days.

### **NAIC Standard 4**

#### Description:

- The Company responds to claim correspondence in a timely manner.

### **CAR Rules of Operation**

#### Rule 10

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:
7. Acknowledge and act promptly upon communications regarding claims.

### **NAIC Standard 5**

#### Description:

- Claim files are adequately documented.

### **Performance Standards**

#### I B 4 b Physical Damage Evaluation & Settlement

- a. The file must clearly document the basis for the decision and result.

#### II A Bodily Injury Settlement Negotiations or Denial

6. (a) Carriers should have a settlement evaluation plan to obtain reasonable negotiated settlements of warranted claims. Settlements should be within approved range or the reason clearly documented if exceeded.

#### II B Bodily Injury Fraud Handling Evaluation & Settlement

3. The file should clearly document the basis for the decision and result.

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### III F PIP Claim Payment

3. The file should clearly document the basis for the decision and result.

#### **NAIC Standard 6**

##### Description:

- Claims are properly handled in accordance with policy provisions and applicable statutes, rules, and regulations.

#### **Performance Standards**

##### Introduction:

- The Performance Standards are in addition to and require compliance with Massachusetts laws and regulations regarding automobile insurance and the CAR Rules of Operation. Any revisions to existing laws or regulations or any new laws or regulations will become part of the Performance Standards when they are promulgated.
- Several regulations and statutes are referenced in the Performance Standards and copies of these are contained in the Appendices.

#### **NAIC Standard 7**

##### Description:

- Company uses the reservation of rights and excess of loss letters, when appropriate.

### **II A Bodily Injury Initial Investigation**

- 2a. Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.

### **II B Bodily Injury Cases in Suit**

- 7b. Reservation of Right letters and Excess of Loss letters should be used when and where appropriate.

#### **NAIC Standard 8**

##### Description:

- Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.

### **I B Physical Damage Claims Recovery**

- 6b. Upon subrogation recovery, the deductible should be reimbursed in a timely and accurate manner when and where appropriate.

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### **NAIC Standard 9**

#### Description:

- Company claim forms are appropriate for the type of product.
- The use of required State forms is included in the Standards. Company claim forms are reviewed as they are encountered in the claim reviews and commented on in the Summary of Review if inappropriate.

### **NAIC Standard 10**

#### Description:

- Claim files are reserved in accordance with the company's established procedures.

### **CAR Rules of Operation**

#### Rule 10

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:
  - 4. Maintain claim reserving procedures for claims arising out of residual market business commensurate with their procedures for claims arising out of voluntary business;

### **Performance Standards**

#### PS I B 2 Physical Damage Initial Investigation

- f. The setting of initial reserves should be timely, reasonable, and follow documented company policy.

#### PS II A 2e & 5 e Bodily Injury Initial & Follow-Up Investigation

- The setting of initial reserves should be timely, reasonable, and follow documented company policy.
- Changes to reserves should be timely, reasonable, and follow documented company policy.

#### PS III A 3 PIP Initial Investigation

- The setting of initial and subsequent reserves should be timely, reasonable, and follow documented company policy.

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### Standard 11

- Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

### **CAR Rules of Operation**

#### Rule 10

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:
- 8. Promptly provide a reasonable explanation for denial of a claim or for the offer of a compromise settlement.

### **Performance Standards**

#### I C 4 Physical Damage Evaluation & Settlement

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

#### II B 3 Bodily Injury Fraud Handling Evaluation and Settlement

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

#### III F 3 Claims Payment

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

**Note:** Denials of claims are evaluated in SIU reviews.

### NAIC Standard 12

- Canceled benefit checks and drafts reflect appropriate claim handling practices.

**Note:** As part of Reinsurance Audits, CAR's Compliance Audit Department conducts a study on duplicate payments that includes stop payment and canceled checks.

### NAIC Standard 13

- Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies but offering substantially less than is due under the policy.

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### **CAR Rules of Operation**

#### **Rule 10**

- A. Claim practices of each Servicing Carrier shall correspond with those followed for voluntary business, and Servicing Carriers shall, in accordance with the Performance Standards and Best Practices:
  - 3. Effectuate prompt, fair and equitable settlements of claims in which liability is reasonably clear;
- B. In the handling of residual market claims, Servicing Carriers shall not:
  - 3. Fail to promptly settle claims, where liability is reasonably clear, under one portion of the policy coverage in order to influence settlements under other portions of the policy coverage.

### **Performance Standards**

#### **I B 4 Physical Damage Prompt Evaluation & Settlement**

- c. Carriers should have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

#### **II A 7 Bodily Injury – Cases in Suit**

- a. Carriers should have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

#### **III F 1 PIP Claim Payment**

- g. Carriers should have a litigation management program designed to bring cases to the earliest conclusion at a reasonable value.

#### **NAIC Standard 14**

- Loss statistical coding is complete and accurate.

#### **PS V Expenses**

- D. Carriers must report allocated expenses properly as defined in the Statistical Plan and Manual of Administrative Procedures. Extra-contractual expenses and unallocated expenses should not be reported as allocated expenses.