

COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

May 10, 2017

All Property & Casualty Insurers
and Auto Body Shops in Montana

RE: Rescinding advisory memorandum on
auto repair estimating systems and market price (issued 1/5/16)

To Whom It May Concern:

The advisory memorandum issued by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (CSI), on January 5, 2016, titled "Auto Repair Estimating Systems and Market Price" has been rescinded, and will not be enforced by the CSI.

Pursuant to Mont. Code Ann. § 33-18-224(1)(a)(iii), an insurer may not "unilaterally disregard a repair operation or cost identified by an estimating system that the insurer and an automobile body repair business or location have agreed to utilize in determining the cost of repair." (Emphasis added). This language does not require an insurer to comply with results from an estimating system the parties have not agreed to utilize.

Additionally, the definition of "market price" pursuant to Mont. Code Ann. § 33-18-222(1) is either the agreed rate between the insurer and the business, or the "prevailing competitive rate[] . . . in the local area where the repairs are to be performed." The CSI does not have the authority under this statute to dictate on a uniform basis those factors that must be included in determining a market price.

Sincerely,

Matthew M. Rosendale, Sr.
Commissioner of Securities and Insurance
Montana State Auditor