

COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.
COMMISSIONER



OFFICE OF THE
MONTANA STATE AUDITOR

INFORMATIONAL BULLETIN

To: ALL INTERESTED PERSONS

From: MATTHEW M. ROSENDALE, SR.
Commissioner of Securities and Insurance, Montana State Auditor

Date: July 27, 2020

INSURANCE FRAUD REPORTING

The Commissioner's goal is to establish and maintain good working relationships with those in the insurance industry and together reduce and eliminate insurance fraud. This Informational Bulletin addresses the statutory requirement to report suspected insurance fraud, how fraud reports (sometimes referred to as "referrals") can be made, tips for providing an effective fraud report, the duty to cooperate, and immunity from liability.

Statutory Requirement to Report Suspected Insurance Fraud

Those in the insurance industry are required to make referrals of suspected fraud:

Mont. Code Ann. § 33-1-1303. Reporting requirements. (1) An insurer, insurance producer, or other person who has reason to believe that insurance, viatical settlement, medical care discount card, or pharmacy discount card fraud has occurred shall report the suspected fraud to the commissioner or to the insurance producer's or other person's insurer within 60 days of discovery of the occurrence. An insurer shall review a report given to the insurer, and if the insurer determines that there is a reasonable likelihood that fraud has occurred the insurer shall forward the report to the commissioner within 30 days of receipt.

How to Report Suspected Insurance Fraud

Insurance Professionals (insurers, producers, adjusters, and consultants) should report fraud through the National Association of Insurance Commissioners (NAIC) Online Fraud Reporting System (OFRS) located at: <https://eapps.naic.org/ofrs/>

The OFRS system can also be accessed through a link on Montana Commissioner of Securities and Insurance website: <https://csimt.gov/insurance/report-fraud/>

Insureds and other interested parties who wish to report fraud may do so by completing a fraud referral form available on the Montana Commissioner of Securities and Insurance website: <https://csimt.gov/insurance/report-fraud/>. The completed form can be emailed, mailed or faxed to the CSI as the form directs.

Providing an Effective Fraud Report

An effective fraud referral is complete, current, accurate and concise.

Insurance Professionals: When submitting a report through the NAIC OFRS, please note the following best practices:

- Identify the person most knowledgeable of the suspected fraud as the “Reporting Person.” Include their direct telephone number and email address. Include also the name of the insurance company and its NAIC number.
- The “Subject” is the alleged suspect of the fraud referral. Include as much identifying information as possible: (e.g. full name, SSN, DOB, address, telephone, etc.).
- The “Claim/Incident Information” should include the claim and policy numbers, date and location of loss, amount paid or exposure amounts.
- Identify all “Evidence” obtained including any existing exculpatory evidence.
- Provide a list of “Suspected Fraud Types.” (For example, “material misrepresentation in recorded interview” or “application misrepresentation.”)
- The “Detailed Synopsis” should be thorough and concise. Summarize the details of the claim, alleged fraud that occurred, and claim resolution.
- Identify any “Additional Parties” including witness names and contact information.

Insureds and Interested Parties: When submitting a fraud report, the following tips help the Commissioner’s office:

- Please be as detailed as possible when completing the form. Please include dates, times, names and a summary of the suspected fraud.
- Follow the 5 W’s: Who, What, Where, When and Why when completing your report.
- Be sure to check the box indicating the type of fraud if known.
- Provide your name and up to date contact information, so we can contact you if we have questions.

Duty to Cooperate

Those in the insurance industry are required to cooperate with the Commissioner throughout the investigation. Cooperation includes responding to telephone calls, emails, requests for information and communicating status of requests.

Mont. Code Ann. § 33-1-1205. Duties of authorized insurers, adjusters, administrators, consultants and producers – notice exception.

(1) Each insurer, independent adjuster, independent administrator, independent consultant, and independent producer shall cooperate fully with the commissioner with respect to the provisions of this part [Title 33, Chapter 1, Part 12 – Insurance Fraud Protection].

All information requested by the Commissioner in connection with an investigation must be provided. This includes, but is not limited to, the entire claim and Special Investigations Unit (SIU) file, including all video/audio recordings, transcripts, application, certified copy of policy, photo metadata, etc.

Electronic transmissions (submitted via email or the State's ePass system) are preferred over hard copy.

The Insurance Code may provide immunity from liability for cooperating with an investigation and providing requested information:

Mont. Code Ann. § 33-1-1210. Immunity from liability. (1) In the absence of malice, an insurer, an officer, employee, or producer of the insurer, an independent adjuster, an administrator, a consultant, or any private person is not subject to civil liability for filing reports, providing information, or otherwise cooperating with an investigation or examination of insurance fraud conducted by the commissioner.

It's important to understand that insurance professionals have a statutory duty to report suspected fraud and to cooperate with investigations, and that there are certain statutory protections in place for those who do report to provide relief from liability in certain circumstances.

For More Information

We appreciate the efforts of insurance professionals, insureds, and other interested parties in reporting suspected fraud to the Commissioner's office. We hope this informational bulletin has provided you with helpful information you can use when completing a fraud referral. Should you have any questions or need additional information, please contact Investigations Bureau Chief, Ted Bidon, at tbidon@mt.gov or 406-444-2040.