




COMMISSIONER OF SECURITIES AND INSURANCE

Troy Downing
Commissioner

Office of the
Montana State Auditor

ADVISORY MEMORANDUM

To: ALL INTERESTED PERSONS

From: TROY DOWNING 
Commissioner of Securities and Insurance, Montana State Auditor

Date: December 6, 2021

Advisory Memorandum Regarding Limitations on Coverage for Health Care Expenses under Motor Vehicle Policies

This advisory notice by the Office of the Montana State Auditor, Commissioner of Securities and Insurance (“**CSI**”) reminds insurers of certain requirements under the Montana Insurance Code (the “**Code**”) that apply when casualty insurers limit payment of health care expenses under motor vehicle policies¹ to those that are “reasonable and customary,” “usual and customary,” “allowable charges,” or consistent with a similar contractual standard.

Forms Requirements

Any motor vehicle policy “that limits payment of health care services based on standards described as usual and customary, reasonable and customary, prevailing fee, allowable charges, a relative value schedule, or other comparable terms shall include, displayed in the schedule page or elsewhere in the policy,” the following provisions:

1. A definition of the term or terms and an explanation of how the limitation of payment based on the term or terms is derived;
2. If the standard of the term or terms is derived by the use of a database, a description of the database reasonably calculated to inform the insured or certificate holder of the method used to define the geographic or demographic area from which the data used to determine the term or terms is derived; and
3. A statement informing the insured that the insured’s health care provider may charge more than the limits established by the defined terms and that the additional charges may not be covered by the policy. Mont. Code Ann. § 33-15-308.

¹ For purposes of this notice, “motor vehicle policy” refers to a motor vehicle liability policy or any other policy insuring against health care expenses incurred as a result of a motor vehicle accident.

Unfair Claim Settlement Practices

The Code prohibits any person from engaging “in any trade practice which is . . . an unfair or deceptive act or practice in the business of insurance.” Mont. Code Ann. § 33-18-201(1). Specifically, “[a] person may not, with such frequency as to indicate a general business practice:”

1. Refuse to pay claims without conducting a reasonable investigation based upon all available information;
2. Neglect to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;
3. Attempt to settle a claim for less than the amount to which a reasonable person would have believed the person was entitled by reference to written or printed advertising material accompanying or made part of an application; or
4. Fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim. Mont. Code Ann. §§ 33-18-201(4); 33-18-201(6); 33-18-201(8); 33-18-201(14).

CSI notes that the Motor Vehicle Insurance Responsibility and Verification Act requires a motor vehicle liability policy to “insure the person named in the policy . . . against loss from the liability imposed by law for damages arising out of the ownership, maintenance, or use of the motor vehicle,” up to prescribed aggregate limits. Mont. Code Ann. § 61-6-103(1). Where an insured under a motor vehicle liability policy is liable for damages to a third party, **the insurer must pay the third party all reasonable damages up to the applicable limit.** See Mont. Code Ann. §§ 61-6-103(1); 27-1-302.

Regarding first-party claims or other claims for coverage of health care expenses in excess of the coverage required by the Motor Vehicle Insurance Responsibility and Verification Act, an insurer must conduct reasonable investigations, adjust claims reasonably and in good faith, and provide prompt and reasonable explanations to claimants for denials. **An insurer’s use of third-party software or databases does not absolve the insurer of those responsibilities.** For example, an insurer that relies on a third-party database to automatically adjust claims must still conduct a reasonable investigation and promptly provide a reasonable explanation based on the terms of the motor vehicle policy if the full claim amount is not paid.

For questions about this advisory notice, please contact a CSI Property and Casualty Specialist for forms-related inquiries, or a CSI Market Conduct Examiner for compliance-related inquiries at 406-444-2040.

This advisory notice is informational only and does not enlarge, delimit, or otherwise modify any requirements of the Code or in any way limit the authority of CSI under applicable law. CSI encourages insurers to consult with independent legal counsel for further guidance on the application of the Code to any particular circumstance.
