Colorado Law about Unfair Claim Practices

Colorado has enacted laws which govern the way insurance companies handle claims. One such law is the Colorado Unfair Claims Practice Act located in Colorado Revised Statute § 10-2-1104, which states:

Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(I) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue; or
(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies; or
(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies; or
(IV) Refusing to pay claims without conducting a reasonable investigation based upon all available information; or
(V) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed; or
(VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear; or
(VII) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds; or
(VIII) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application; or
(IX) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured; or
(X) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made; or
(XI) Making known 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; or (XII) Delaying the investigation or payment of claims by requiring an insured or claimant, or the physician of either of them, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information; or
(XIII) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or
(XIV) Failing 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 or for the offer of a compromise settlement; or
(XV) Raising as a defense or partial offset in the adjustment of a third-party claim the defense of comparative negligence as set forth in section 13-21-111, C.R.S., without conducting a reasonable investigation and developing substantial evidence in support thereof. At such time as the issue is raised under this subparagraph
(XV), the insurer shall furnish to the commissioner a written statement setting forth reasons as to why a defense under the comparative negligence doctrine is valid.
(XVI) Excluding medical benefits under health care coverage subject to article 16 of this title to any covered individual based solely on that individual's casual or nonprofessional participation in the following activities: Motorcycling; snowmobiling; off-highway vehicle riding; skiing; or snowboarding;
(XVII) Failing to adopt and implement reasonable standards for the prompt resolution of medical payment claims.

Courts have also established rules that insurance companies must follow. For example:

1. An insurer should investigate an insured's claim for benefits. Source: C.R.S. Section 10-3-1104(1)(h)(IV), Novell v. American Guaranty & Liability Ins. Co., 15 P.3d 775 (Colo. App. 1999)

2. An insurer should give equal consideration to the interests of the insured as it does to its own interests with neither interest being superior. Bailey v. Allstate Insurance Co., 844 P.2d 1336 (Colo. App. 1992), Egan v. Mutual of Omaha Insurance Company, 598 P.2d 452 (Cal. 1979), cited with approval in Farmers Insurance Group, Inc. v. Trimble, 805 P.2d 419 (Colo. 1993).

3. An insurer should not deny a claim based on speculation or conjecture. Rawlings v. Apodaca, 726 P.2d 565, 572 (Ariz. 1986).

4. An insurer's decision to deny a claim should be based on information known at the time of denial, not information later discovered. Pfeiffer v. State Farm Mutual Auto Insurance Company, 940 P.2d 967 (Colo. App. 1996).

5. An insurer should exercise a quasi-fiduciary duty to its insured in the context of the a claim for uninsured or underinsured motorist benefits. Peterman v. State Farm Mutual Auto Insurance Co., 961 P.2d 487 (Colo. 1998). Handling uninsured or underinsured motorist claims should not be adversarial.

6. An insurance company should not deny a claim without substantial justification. Giampapa v. American Family Mutual Auto Insurance Company, 64 P.3d 230 (Colo. 2003).

7. A willful and wanton breach is a refusal to pay insurance benefits when due. This is established when an insurer acts without justification and in disregard of the plaintiff's rights. Pham v. State Farm Mutual Auto Ins. Co., 70 P.3d 567, 572 (Colo. App. 2003). An insurer is responsible for non-economic damages caused by its willful and wanton denial of an insured's claim for first-party benefits. Giampapa v. American Family Mutual Auto Insurance Company, supra.

8. An insurer must keep an insured reasonably apprized of the status of the insured's claim for benefits. C.R.S. Section 10-3-1104(1)(h)(II)(V)(VI)(XIV).

9. An insurer should not investigate, evaluate or deny a claim based on biased, one-sided information. Rawlings v. Apodaca, supra, Mariscal v. Old Republic Life Insurance Co., 50 Cal.Rptr. 224, 227, (Cal. App. 1996).

10. An insurer must be honest with its insured and third-party claimants. Weigel v. Hardesty, supra.

11. An insurer's attorney may be liable to the insured if the attorney engages in fraudulent or malicious conduct toward the insured. Weigel v. Hardesty, supra.

12. An insurer should provide its insured with factual reasons for why the insurer is denying or delaying payment of an insured's claim for benefits. C.R.S. Section 10-3-1104(1)(h)(XIV).

13. Insurers should not try to "low ball" insureds for unreasonably low amounts. Zilisch v. State Farm Mutual Auto Insurance Co., 995 P.2d 276 (Ariz. 2000)

14. An insurer should tender to its insured the amount of benefits to which the insurer agrees the insured should be paid for which the insurer does not dispute. Borland v. Safeco Insurance Co., 147 Ariz. 195, 709 P.2d 552 (1985).

15. An insurer should compensate an insured for financial losses, including interest on the benefits, caused to the insured by the insurer's unreasonable delay in investigating and evaluating an insured's

claim. Bowen v. Farmers Insurance Exchange, 929 P.2d 14 (Colo. App. 1996).

16. An insurer should not take advantage of the insured's vulnerable condition after experiencing a covered loss. Zilisch v. State Farm, supra.