

September 5, 1991

SUBJECT: INSURANCE

Circular Letter No. 11 (1991)  
September 5, 1991

TO: ALL INSURERS AND RISK RETENTION GROUPS DOING BUSINESS IN NEW YORK STATE

RE: SCOPE OF REGULATION 64 ON CLAIMS SETTLEMENT PRACTICES

Regulation No. 64 (11 NYCRR 216) establishes minimum standards for claims-handling practices. These standards, if violated without just cause and with such frequency as to indicate a general business practice, would constitute unfair claims settlement practices pursuant to Article 26 of the Insurance Law. When settling claims, insurers are expected to adhere to all pertinent Regulation 64 standards.

It has come to the Department's attention that there may be confusion on the part of some insurers concerning the kinds of insurance to which Regulation 64 applies. Several sections of the Regulation, in defining minimum standards for prompt, fair and equitable settlements, pertain only to motor vehicle property damage liability and physical damage claims, including verification and reporting requirements.

The other sections of Regulation 64 apply to all lines of business except those specifically exempted by § 216.2: workers' compensation, credit, title, inland marine (unless subject to the provisions of § 3425 of the Insurance Law), and ocean marine insurance. In addition:

- subdivisions (a) and (b) of § 216.6 do not apply to life insurance;
- subdivision (b) of § 216.6 does not apply to accident and health insurance; and
- §§ 216.4 and 216.5 and subdivision (c) of § 216.6 do not apply to accident and health insurance (where the claimant is not a policyholder, certificate holder under a group insurance policy, or relative or member of the household of such policyholder or certificate holder).

Thus, subject to the above parameters, sections in Regulation 64 that apply to all lines of insurance include:

- § 216.0--Preamble
- § 216.1--Definitions
- § 216.3--Misrepresentation of Policy Provisions
- § 216.4--Failure to Acknowledge Pertinent Communications
- § 216.5--Standards For Prompt Investigation of Claims
- § 216.6--Standards For Prompt, Fair and Equitable Settlements
- § 216.9--Written Notice to Claimants of Payment of Claim in Third-party Settlements
- § 216.11--Examinations

While a number of market conduct investigations into insurer claim practices have focused upon auto insurance, emphasis in the future will also be placed on determining compliance with minimum claims settlement standards in regard to other applicable lines of business. Appropriate actions, as outlined in annexed Circular Letter No. 5 (1989), will continue to be taken in all instances where market conduct investigations reveal unfair claims settlement practices.

The executive in charge of claims should send written acknowledgement of this Circular Letter, no later than September 20, 1991, to:

David Holstein  
Supervising Insurance Examiner  
Market Conduct Unit  
Property & Casualty Insurance Bureau  
New York State Insurance Department  
160 West Broadway  
New York, New York 10013-3393.

Very truly yours,

[SIGNATURE]

SALVATORE R. CURIALE

SUPERINTENDENT OF INSURANCE