



April 21, 2025

Kathryn Callahan
Director of Regulatory Policy
Maryland Insurance Administration
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Re: Proposed Bulletin on Depreciation of Labor

Dear Ms. Callahan:

On behalf of Westminster American Insurance Company, I appreciate the opportunity to submit comments in response to Bulletin 25-XX, regarding the proposed prohibition on depreciation of labor in property claims settled on an actual cash value (“ACV”) basis. We respectfully oppose the Administration’s categorical position that insurers may not depreciate labor in ACV settlements, and we offer the following legal, contractual, and practical considerations in support of continued flexibility in this area.

Policy Language Controls ACV Calculations

Insurance policies are contracts, and under Maryland law, clear and unambiguous language must be enforced as written. Many property insurance policies in Maryland expressly define ACV as the “cost to repair or replace with like kind and quality, less depreciation,” without restricting depreciation to materials alone. In the absence of specific language limiting depreciation to physical goods, insurers are entitled to depreciate all components of the repair cost, including labor, consistent with the contract.

In Maryland, enforcement of clear policy language remains a guiding principle. See *Baltimore Gas & Electric Co. v. Commercial Union Ins. Co.*, 113 Md. App. 540 (1997). The proposed blanket prohibition would override contract terms lawfully entered into and previously approved by the Administration.

Judicial Support for Labor Depreciation

Courts in various jurisdictions have upheld the depreciation of labor when the policy language allows. For example, the Oklahoma Supreme Court in *Redcorn v. State Farm Fire & Casualty Co.*, 55 P.3d 1017 (Okla. 2002), found that where a roof is a single product, both materials and labor may be depreciated. Courts in Arkansas and Minnesota have reached similar conclusions. These rulings reflect a legally sound view that depreciation is a measure of value and not a restriction on cost categories.

Labor Is a Component of Depreciable Value

The assertion that labor cannot be depreciated because it does not physically deteriorate fails to recognize how labor is embedded in the final value of a repair. A roof, floor, or wall is not simply a sum of its materials—it is a finished product reflecting both material and labor inputs. When such a structure ages or wears down, it is the value of the **whole** that depreciates. Excluding labor from depreciation overstates ACV and may result in over-indemnification.

Industry Standards and Fair Market Valuation Support This Practice

Depreciating labor in ACV settlements is consistent with actuarial soundness and established claims practices. Pricing software such as Xactimate permits labor depreciation, and many insurers have relied on this approach for years. Prohibiting it would disrupt pricing models, reserving practices, and longstanding expectations shared by insurers, regulators, and policyholders.

More importantly, ACV is intended to place the insured in their pre-loss financial position, not to provide a windfall. If depreciation applies only to materials, older structures could result in inflated ACV payouts, raising costs for all insureds through higher premiums.

A Prospective Regulatory Change is Preferable

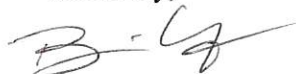
If the Administration seeks to change the treatment of labor depreciation, such a shift should occur prospectively and through transparent rulemaking, not retroactive bulletins. Retroactively banning labor depreciation impairs existing contracts, disrupts settled claims, and exposes insurers to liability for practices that were lawful and contractually authorized at the time. It may also exceed the Administration's statutory authority and raise significant constitutional concerns under both the Contract Clause and Due Process Clause.

Conclusion

For the reasons above, we urge the Maryland Insurance Administration to reconsider the categorical prohibition on labor depreciation. Rather than a blanket ban, the Administration should recognize the validity of this practice where policy language permits and should apply any regulatory changes on a prospective basis only.

We welcome the opportunity to work with the Administration to develop fair, legally sound standards that protect consumers while respecting the integrity of the insurance marketplace.

Sincerely,



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