Code of Maryland Regulations (COMAR): Title 31
MARYLAND INSURANCE ADMINISTRATION
Subtitle 04 INSURERS

Chapter 15 Antifraud Plans

.01 Purpose.

The purpose of this chapter is to establish minimum standards for antifraud plans as required by Insurance Article, §27-803, Annotated Code of Maryland.

.02 Applicability.

This chapter is applicable to every authorized insurer that conducts business and writes contracts of insurance in Maryland.

.03 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Administration" means the Maryland Insurance Administration.

(2) "Antifraud plan" means antifraud plans as provided for in Insurance Article, §27-803, Annotated Code of Maryland.

(3) "Commissioner" means the Insurance Commissioner of Maryland.

(4) Insurer.

(a) "Insurer" means authorized insurers and includes dental plans, fraternal benefit societies, the Maryland Automobile Insurance Fund, health maintenance organizations, nonprofit health service plans, third party administrators, and the Injured Workers' Insurance Fund.

(b) "Insurer" does not include reinsurers.

.04 Procedures and Requirements.

A. Antifraud Plan.

(1) An insurer authorized to write insurance business in this State shall institute, implement, and maintain an insurance antifraud plan.

(2) This section does not apply to an insurer that has filed an antifraud plan with the Administration, and the plan has been approved by the Commissioner.

(3) An insurer beginning business in this State after the effective date of these regulations shall submit an antifraud plan within 90 days of the insurer's receipt of a certificate of authority to conduct the business of insurance.

B. Contents of Antifraud Plan. An antifraud plan shall:

(1) Contain provisions for educating and training an insurer's employees in the detection of insurance fraud;

(2) Provide for methods and procedures concerning the investigation of suspicious claims; and

(3) Apply to but not be limited to:

(a) Claims fraud,

(b) Application fraud,

(c) Insurance producer fraud,

(d) Third-party administrator fraud, and

(e) Internal fraud.

C. Amendments to Antifraud Plans. Within 30 days after modifying or amending an antifraud plan, an insurer shall:

(1) Notify the Commissioner in writing; and

(2) Provide a copy of the revised antifraud plan showing the amendments.

D. Approval of Antifraud Plans and Amendments.

(1) The Commissioner shall review each insurer's antifraud plan and any subsequent amendments to determine compliance with:

(a) The requirements of Insurance Article, §27-803, Annotated Code of Maryland; and

(b) This chapter.

(2) If the Commissioner has not disapproved an antifraud plan or amendment within 30 days of its filing, the plan shall be deemed approved.

(3) Under §D(1) of this regulation, if the Commissioner determines that an insurer's antifraud plan and any subsequent amendment is not in compliance, the Commissioner shall disapprove the plan or amendment and send a written notice of disapproval with the reasons for disapproval to the insurer.

(4) If the insurer's antifraud plan is disapproved by the Commissioner, the insurer shall submit a new plan to the Commissioner within 60 days after the date the plan was disapproved.

E. This regulation does not apply to third party administrators (TPAs) that only participate in federal programs and are therefore required to file a federal antifraud plan provided that:

(1) Such a federal antifraud plan has been filed with the Centers for Medicare & Medicaid Services;

(2) The TPA provides the federal antifraud plan at the Commissioner's request; and

(3) The TPA files a written attestation stating:

(a) The name of the TPA;

(b) The name and title of the employee attesting who has authority to bind the TPA;

(c) That the TPA is required to file an antifraud plan with the federal government; and

(d) The date the TPA filed the antifraud plan with the federal government.

.05 Plan Components.

A. Education/Training.

(1) An antifraud plan shall contain procedures for the provision of education or training, or both, to the insurer's employees regarding the detection of insurance fraud.

(2) Training in the recognition and referral of suspicious claims shall be:

(a) Required of new and existing claims personnel, underwriters, auditors, insurance producers, and consumer service personnel; and

(b) Offered to independent insurance producers who have appointments with the company.

(3) At a minimum, the educational components of antifraud plans shall address the following:

(a) Courses of instruction shall be:

(i) Designed to address specific aspects of fraud associated with a company's product line, and

(ii) At least 2 hours in duration;

(b) Personnel shall be presented with updated material at the entrance level and at least once every 2 years in conjunction with continuing education standards or as a company policy;

(c) A new employee shall receive the regulated education and training regarding the detection of fraud within 6 months of the effective date of employment; and

(d) Training programs may be developed and conducted either by internal personnel or by outside contractors.

B. Detection.

(1) An antifraud plan shall have provisions regarding the early detection of all areas of fraud including, but not limited to:

(a) Embezzlement and internal theft;

(b) Underwriting and application fraud;

(c) Theft and misappropriation of premiums by insurance producers;

(d) Claims fraud; and

(e) Application fraud.

(2) The antifraud plan shall delineate the methods or approaches, or both, that will be utilized in detecting fraud.

(3) An authorized insurer shall:

(a) Designate an individual or individuals, or a specific unit, either in-house or outside, to be responsible for coordinating the detection, referral, and investigation of suspected fraudulent activity;

(b) Include the designation in the antifraud plan; and

(c) Submit amendments to the designation to the Administration.

(4) Fraud detection guides shall be prepared, published, and maintained to assist claims personnel, underwriters, and insurance producers in the identification, detection, and handling of suspicious claims.

C. Investigation.

(1) An antifraud plan shall contain:

(a) Procedures for handling fraud complaints;

(b) Procedures that are to be followed when instances of suspected fraud have been detected, evaluated, and found to warrant a full investigation;

(c) The requirement that the company representative responsible for the conduct and oversight of fraud investigations assign the matter for investigation;

(d) The designation of the individuals responsible for conducting investigations on behalf of the insurer including the individuals responsible for providing the notifications required by §C(1)(g) of this regulation;

(e) Guidelines and procedures for conducting investigations and cooperating with the Insurance Fraud Division or other law enforcement agency which is conducting a criminal investigation if in-house staff is utilized;

(f) Written considerations as to work product and courtroom testimony; and

(g) Guidelines and procedures for notifying the appropriate law enforcement agency, including the Insurance Fraud Division of the Administration.

(2) Investigators.

(a) A company may maintain an in-house staff of investigators or contract with an outside firm.

(b) If an outside firm is used, the firm shall comply with all Maryland licensing laws and regulations to the extent that they are applicable.

D. Auditing.

(1) An antifraud plan shall contain procedures regarding the auditing of insurance producers by the company.

(2) The auditing procedures shall provide for both routine auditing and random audits.

(3) If an irregularity is discovered during an audit, the antifraud plan shall require that the duly authorized company representative who conducts or oversees investigations be notified immediately.

E. Referral for Prosecution.

(1) If an insurer, in good faith, has cause to believe that insurance fraud has been or is being committed, the insurer shall report the suspected fraud to the Insurance Fraud Division or to the appropriate federal, State, or local law enforcement authority.

(2) The reporting policy shall be in writing and maintained in the offices of the company point of contact for fraud.

(3) The written policy shall be open for inspection by market conduct examiners of the Maryland Insurance Administration.

.06 Reporting of Fraud-Related Data.

A. An insurer shall maintain appropriate records for the Commissioner to determine the effectiveness of its antifraud plan.

B. A report shall be developed and provided to the Administration on an annual basis regarding the plan's effectiveness and the effectiveness of the investigative and prosecutorial efforts.

C. The report shall be filed with the Administration by March 31 of each year, reporting the previous year's statistics. The report shall be limited to Maryland data. The following information shall be reported:

(1) Number of policies in force;

(2) Number of claims;

(3) Number of suspected fraud cases;

(4) Number of suspected fraud cases in which a claim was denied;

(5) Number of suspected fraud cases reported to the authorities;

(6) Number of suspected fraud cases by product line;

(7) Number of suspected fraud cases in which a claim was denied, by product line;

(8) Number of cases prosecuted by criminal authorities; and

(9) Breakdown by perpetrator, as follows:

(a) Insured,

(b) Claimant,

(c) Insurance producer/employee,

(d) Noninsurance professional, by category, and

(e) Other.