

## Bulletin 336

### Motor Vehicle Glass and Collision Damage Repair

#### **THIS BULLETIN REPLACES BUREAU OF INSURANCE BULLETINS 171 AND 284**

The Maine Legislature has enacted 2005 Public Law, Chapter 101, An Act To Prohibit Steering in Automobile Insurance, effective September 17, 2005. This act repeals and expands on the provisions of 24-A M.R.S.A. § 2164-C. The act also directs the Bureau to issue this bulletin regarding the new provisions of section 2164-C.

Former section 2164-C addressed a glass-repair practice known as steering. The statute prohibited admitted insurers, and their agents or employees, from requiring, directly or indirectly, that appraisals or repairs to motor vehicle glass be made or not be made in a specified place of business. The statute also prohibited any such insurer, and its agents or employees, from entering into an agreement with any person to act as its agent for purposes of managing, handling or arranging such appraisals or repairs and from paying the agent the difference between the list price of the repair services provided and the amount paid to the repair shop.

New section 2164-C retains those provisions and extends them to motor vehicle collision damage appraisals or repairs. Further, new section 2164-C also prohibits any admitted insurer, and its agents or employees, from recommending that a claimant use a particular motor vehicle repair service or network of repair services without informing the claimant that there is no obligation to use the recommended repair service or network of repair services.

The disclosure requirement of new section 2164-C addresses an issue dealt with in Bulletin 171 concerning glass repairs. The Bureau has received complaints of insurers referring insureds to specific repair shops or networks of repair shops without clearly disclosing that the insureds may use any facility for their repairs. Bulletin 171 stated the Bureau's position that such practices fell within the prohibition of former section 2164-C. Insurers should note that new section 2164-C prohibits such practices with respect to both glass repairs and collision repairs. The new law states that admitted insurers "may not recommend the use of a particular motor vehicle repair service or network of repair services" without disclosing that the claimant has no obligation to use the recommended service or network. The phrase "motor vehicle repair service or network of repair services" is broader than the terms motor vehicle glass repairs and collision damage repairs, and therefore includes both types of repairs. Insurers should also note that new section 2164-C's disclosure provision covers claimants, a term that includes insureds and third-party claimants.

Bulletin 171 expressed the Bureau's concern about the practice of limiting claims payments, regardless of where repairs are made, to amounts which have been agreed to between an insurer and one or more repair shops if such payments are less than insureds could reasonably cause the repair to be performed absent the agreement. While new section 2164-C does not address this issue in either glass or collision damage repair, it continues to be the Bureau's position that insurers may:

- \* contract with repair shops for repairs to their insureds' motor vehicles on a discounted basis, if the interests of those insureds who elect to have repairs made elsewhere are not adversely affected and if such agreements do not violate other applicable, such as antitrust, laws; and

- \* to the extent allowed by their insurance contracts, limit the amount of claim payments for motor vehicle repairs to the amount for which the insured can reasonably cause the repair to be performed absent a special arrangement between the insurer and repair shop or network of repair shops.

Bulletin 284 expressed the Bureau's concerns about two issues related to the practice of insurers who retain third parties to administer or manage glass claims arising under their policies. Some of these firms have, or are affiliated with firms or networks of firms who have, retail glass repair or replacement services of their own. The Bureau has received complaints that:

- \* insureds, including those who have already selected facilities to repair or replace auto glass, are

either encouraged or recommended to take their vehicles to the claims administrator's repair facilities;  
and

\* some auto glass claim administrators may be refusing to respond to communications from repair or replacement facilities which have been selected by insureds to do the repairs in accordance with their insurance policies.

The Bureau is of the position that such practices violate new section 2164-C with respect to motor vehicle glass and collision damage repairs. Insurers are ultimately responsible for the appropriate settlement and payment of claims arising under their policies, whether they process those claims directly or through contracts with third party administrators. Insurers should monitor closely the settlement practices of their administrators concerning such repairs. Monitoring might include, for example, informing their administrators as to section 2164-C's requirements and requiring administrators to use telephone scripts that contain language conforming to those requirements. These examples are merely illustrations of the steps insurers can take to address these issues.

August 22, 2005 \_\_\_\_\_  
Alessandro A. Iuppa  
Superintendent of Insurance

NOTE: This bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties or privileges nor is it intended to provide legal advice. Readers should consult applicable statutes and regulations and contact the Bureau of Insurance if additional information is needed.