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14VAC5-400-80. Standards for prompt, fair and equitable settlements applicable to automobile insurance.

A. Where liability is reasonably clear, insurers shall not recommend that third party claimants make claims under their own policies solely to avoid paying claims under such insurer's insurance policy or insurance contract.

B. Insurers shall not require a claimant to travel unreasonably either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop.

C. Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.

D. If an insurer prepares an estimate of the cost of automobile repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant the names of one or more conveniently located qualified repair shops.

E. When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

F. When an insurer elects to repair and the automobile is in fact repaired in a repair shop selected by the insurer or designated by the insurer as a repair shop that will repair the automobile for the amount offered by the insurer, the insurer shall cause the damaged automobile to be restored to its condition prior to the loss at no additional cost to the claimant other than as stated in the policy and within a reasonable period of time.

Statutory Authority

§ [38.2-510](#) of the Code of Virginia.

Historical Notes

Derived from Regulation 12, Case No. 19961, § 9, eff. September 15, 1978.