

# Utah

By Michael C. Mills

## **What insurer practices are addressed by statute, regulation and/or insurance department advisory?**

*Misrepresentation of facts or policy provisions.*

Utah Code Ann. §31A-26-303(2)(a).

*Refusal to pay claims without conducting a reasonable investigation.*

Utah Admin. Code r. 590-190-9(5).

*Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered.*

Utah Code Ann. §31A-26-303(3)(c) (Requires proof of a general business practice).

*Attempting to settle claims for less than an amount to which a reasonable person would believe he or she was entitled after referring to written or printed advertising material or literature made part of an application.*

No such provision.

*Attempting to settle claims on the basis of an application altered without notice to, or knowledge or consent of, the applicant.*

Utah Code Ann. §31A-26-303(2)(b).

*Failure, after paying claim, to inform insureds or beneficiaries of the coverage under which payment was made.*

Utah Code Ann. §31A-26-303(3)(d) (Requires proof of a general business practice).

*Asserting to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or*

*compromises less than the amount awarded in arbitration.*

Utah Code Ann. §31A-26-303(3)(f) (Requires proof of a general business practice).

*Delaying investigation or payment of claims by requiring a claimant or his or her physician to submit a preliminary claim report and then requiring subsequent submissions which contain substantially the same information.*

Utah Code Ann. §31A-26-303(3)(g) (Requires proof of a general business practice).

*Failure to promptly settle claims under one coverage of a policy where liability is reasonably clear in order to influence settlements under other coverages of the policy.*

Utah Code Ann. §31A-26-303(2)(c). *See also* Utah Admin. Code r. 590-190-9(8).

*Failure to promptly provide a reasonable and proper explanation of the basis for a denial of claim.*

Utah Code Ann. §31A-26-303(3)(e) (Requires proof of a general business practice. Also requires explanation for a compromise settlement). *See also* Utah Admin. Code r. 590-190-9(2).

*Concealment of benefits, coverages or other provisions that are pertinent to the claim.*

Utah Admin. Code r. 590-190-5(1) creates an affirmative duty on the part of the insurance company to disclose all pertinent benefits coverages or other provisions of an insurance contract or policy. This regulation applies only to first-party coverage.

*Issuance of checks or drafts in partial settlement of a loss or claim under a specific policy coverage*

*that contains language releasing the insurer or its insured from its total liability.*

Utah Admin. Code r. 590-190-9(15).

*Failure to maintain complete claims files, in sufficient detail that pertinent events and dates may be reconstructed.*

Utah Admin. Code r. 590-190-4.

*Does this state have any other pertinent law regarding insurer practices?*

No.

### **What timing issues are addressed by statute, regulation and/or insurance department advisory?**

*Failure to acknowledge and act promptly on claims communications.*

Utah Code Ann. §31A-26-303(3)(a) (Requires proof of a general business practice). *See also* Utah Admin. Code r. 590-190-6.

*Failure to adopt and implement reasonable standards for prompt investigation of claims.*

Utah Code Ann. §31A-26-303(3)(b) (Requires proof of a general business practice).

*Failure to affirm or deny coverage within a reasonable time after proof of loss.*

Utah Admin. Code r. 590-190-10.

*Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear.*

Utah Code Ann. §31A-26-303(3)(g) (Requires proof of a general business practice).

*Continuing negotiations with a claimant who is not an attorney, nor represented by an attorney, up to the time the claimant's right may be affected by a statute of limitations, insurance policy or contract time limit, without giving the claimant written notice that the time limit may expire and affect his or her rights. How much prior notice, before the time limit expires, must be given to*

*claimants? Is the notice requirement limited to first-party claimants?*

Utah Admin. Code r. 590-190-10(4). Notice of expiration of the statute of limitations or contract time limit shall be given to the claimant at least 60 days before the date on which such time limit may expire.

*Making statements indicating that the rights of a claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the claimant of a relevant statute of limitations. Is this provision limited to third-party claimants?*

Utah Admin. Code r. 590-190-10(5) (Limited to third-party claimants).

*Requiring a claimant to give written notice of loss or proof of loss within a specified time unless the time limit is specified in the policy.*

Utah Code Ann. §31A-21-312(1)–(2) provides that failure to file timely proof of loss does not invalidate claim if insured can explain delay and if the insured was not prejudiced. Utah Admin. Code r. 590-190-10(1) obligates the insurer to inform the insured on the timing of proof of loss requirements.

*Failure to provide an adequate response, e.g., within 15 working days of the receipt of an inquiry from the insurance commissioner or an appropriate reply to all other pertinent communications about a claim from a claimant that reasonably indicate a response is expected.*

Utah Code Ann. §31A-26-307.

*Does this state have any other pertinent law regarding timing issues?*

Utah Admin. Code r. 590-190-10.

- (2) 30 days from receipt of the proof of loss to complete investigation and accept or deny claim unless investigation cannot be reasonably completed.
- (3) 30 days from receipt of proof of fact of a covered loss and amount the loss payment must be made.

### Are there other statutes, regulations and/or insurance department advisories that address specific types of claims?

*Failure to settle claims on the grounds that responsibility for payment should be assumed by others, except as otherwise provided by the policy. Is this provision limited to first-party claims?*

Utah Admin. Code r. 590-190-9(14) (Limited to first-party claims).

*Failure to disclose to a claimant all relevant benefits, coverages and other provisions under which the claim is asserted. Is this provision limited to first-party claims?*

Utah Admin. Code r. 590-190-5(1) (Limited to first-party claims).

*Denial of a claim on the grounds of the claimant's failure to exhibit the relevant property without proof of the insurer's demand and the claimant's unfounded refusal.*

Utah Admin. Code r. 590-190-5(2).

*Requiring a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment. Is this provision limited to first-party claims?*

Utah Admin. Code r. 590-190-9(12). No specific limitation to first-party claims.

*Does this state have any other pertinent law regarding specific types of claims?*

- Unfair practices involving property, liability and title claims are addressed in Utah Admin. Code r. 590-190.
- Unfair practices involving life insurance claims are addressed in Utah Admin. Code r. 590-191.
- Unfair practices involving unfair accident and health and income replacement claims are addressed in Utah Admin. Code r. 590-192.

- Standards and unfair practices involving automobile insurance claims are addressed in Utah Admin. Code r. 590-190-11 & 12.
- When an automobile insurer represents both a tortfeasor and a claimant, the insurer (1) must advise claimant of this situation as soon as it becomes known to the insurer, and (2) cannot allocate medical payments to the tortfeasor's liability coverage until claimant's personal injury protection coverage is exhausted. Utah Admin. Code r. 590-190-9(19).
- Standards and unfair practices involving fire and extended coverage type policies are addressed in Utah Admin. Code r. 590-190-13.

### Are there other statutes, regulations and/or insurance department advisories pertinent to unfair claims settlement practices?

Utah Code Ann. §31A-26-303(4) authorizes the Commissioner of Insurance to define by rule those acts or business practices which are unfair claims settlement practices if those acts are misleading, deceptive, unfairly discriminatory, overreaching, or an unreasonable restraint on competition.

### Practice tips for this state

Violations of Utah's Unfair claim settlement practices do not create a private right of action. Utah Code Ann. §31A-26-303(5).

Utah Insurance Department: <https://insurance.utah.gov/about/personnel-directory.php>

#### AUTHOR

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