



INFORMATIONAL MEMORANDUM

01-034M

ISSUED

10/31/2001

Florida Department of Insurance

Tom Gallagher

Treasurer, Insurance Commissioner and Fire Marshal

All Property & Casualty Insurers Authorized to Write Automobile Insurance in the State of Florida

Fair and Equitable Settlement of Automobile Claims

Section 626.877, Florida Statutes, requires that claims adjusters investigate every claim in accordance with the terms and conditions of the relevant contract and the laws of the State of Florida. Section 626.9541, Florida Statutes, concludes that failing to adopt and implement standards for the proper investigation of claims may constitute an unfair business practice. Insurers who adjust claims such that the repair to vehicles utilizes parts that do not restore the vehicles to their pre-accident condition, may be investigated by the Department for unfair (or improper) and inequitable settlement of claims.

Private passenger automobile policies typically commit insurers to restore damaged vehicles using parts of "like kind and quality," so that the vehicle is returned to the pre-accident condition. The use of non-original manufactured parts has not consistently proven to meet this contractual commitment. Systemic adjustment practices that contemplate the use of non-original manufactured parts may constitute an unfair trade practice.

The Department will continue to investigate complaints wherein the repair of vehicles does not comply with the contractual commitment to use replacement parts of like kind and quality. Insurers are encouraged to be diligent in their authorization for the repair of vehicles to assure that such repairs clearly meet the contractual language found in their insurance policies.

Questions about the Department's commitment to monitoring insurer compliance with its contractual obligations should be directed to Cheryl Jones at (850) 413-5272.