



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

NOTICE

TO: All Admitted and Non-Admitted Insurance Companies, All Licensed Insurance Adjusters and Producers, and Other Licensees and Interested Parties

FROM: Insurance Commissioner Ricardo Lara

DATE: May 14, 2020

RE: COVID-19 Protection for Policyholders from Unfair Settlement Practices

The California Department of Insurance (“Department”) is aware that during the COVID-19 pandemic, policyholders attempting to resolve claims with their insurers are facing both economic hardship and lack of access to the California court system. Due to social distancing and “stay at home” orders, California civil courts are presently operating at substantially reduced schedules and certain courts are not currently accepting new filings. Law and motion hearings and jury trials have been discontinued, often with no set resumption date. Additionally, after the California courts reopen, they will likely face a substantial backlog and are expected to give priority to criminal trials and other urgent matters, leaving civil cases essentially on hold for the foreseeable future.

Fortunately, on April 6, 2020, the Judicial Council of California issued [emergency rules](#) governing the California court system during the COVID-19 pandemic. Most importantly, pursuant to Emergency Rule 9, the statute of limitations for all California civil causes of action are tolled from April 6, 2020, until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted.

The Department has been informed that some insurers and other persons engaged in the business of insurance in this state are unfairly taking advantage of the COVID-19 crisis and providing unjustifiably low settlement offers knowing financial need is high and recourse to the civil court system in the state is currently severely limited. The Department has also been informed that certain insurers and other persons engaged in the business of insurance in this state are lowering or failing to make settlement offers with full knowledge that, because of the reduced California court schedules, policyholders are unable to obtain prompt redress in the California court system. This lack of access to the California court system puts policyholders who are already in severe financial hardship at a disadvantage and vulnerable to unjust settlement practices.

The California Unfair Practices Act sets forth several practices that constitute unfair methods of competition or unfair or deceptive acts or practices, including but not limited to:

- Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

- Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by the insureds, when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered;
- Failing to settle claims promptly, where liability has become apparent, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

Cal. Ins. Code §790.03(h).

Insurers and other persons engaged in the business of insurance in this state are hereby directed to comply with their various legal obligations under the California Unfair Practices Act (Cal. Ins. Code §790.03 et seq.) to promptly and fairly settle insurance claims.

Any person who or which engages in any unfair method of competition or any unfair or deceptive act or practice defined in Section 790.03 is subject to a civil penalty to be determined by the Insurance Commissioner, not to exceed \$5,000 for each act, or, if the act or practice was willful, a civil penalty not to exceed \$10,000 for each act. The Insurance Commissioner has the discretion to establish what constitutes an act. Cal. Ins. Code § 790.035(a)

Please be advised that Commissioner Lara intends to exercise the full extent of his authority under the Unfair Claims Practices Act to pursue all available administrative remedies including substantial civil penalties against any person engaged in the business of insurance in this state that has been knowingly committing or performing any of the enumerated unfair claims settlement practices set forth in the Unfair Practices Act with such frequency as to indicate a general business practice. Cal. Ins. Code §790.04