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In Minnesota, pothole claims rarely get paid

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Heidi Bloom's Ford Fusion hit the pothole first.

Three days later, Lucille Baugh, Lindsay DeRosia and Kay Peterson all ran into the same crater. Lynn Jancik hit it two days after that.

The five motorists had a rough ride over a single pothole on Interstate 94 near the Huron Boulevard exit in Minneapolis in January 2011. Each filed a claim with the [Minnesota Department of Transportation](#) to pay for their bent rims, gashed tires and a blown transmission, which cost a collective \$3,566.

One by one, their claims were denied.

As the worst of pothole season approaches, dozens of motorists will file claims with city, county and state agencies after bad roads take a bite out of their cars. An overwhelming majority of them will get the same award: zero.

Over the past three years, about 5 percent of claimants to MnDOT and the city of St. Paul got compensated for pothole-inflicted damage, according to a data analysis by the Star Tribune. Comparable Minneapolis data wasn't available, but a public works official said very few pothole claims get paid.

"Potholes are everywhere at this time of year," said MnDOT spokesman T.K. Kramasz. Despite "an army" of workers out patching potholes, MnDOT has other priorities, he said. "We can't keep people on the freeway all the time or nobody would ever go home."

The most common reasons state and local agencies give for rejecting claims are that they didn't know about the pothole ahead of time, or if they did, that they did not have a "reasonable" amount of time to patch it up.

Yet even some governments acknowledge that their standards for assessing pothole claims are nebulous. The Minneapolis City Council is considering a request from its street maintenance managers to put its policy in writing for the first time, to "aid pothole damage claim deliberation."

Hitting a pothole can wreck a car's suspension and ball joints and knock it out of alignment. The claims filed in recent years with MnDOT and St. Paul range from \$21 to \$7,402.

In 2012, 47 motorists filed claims against MnDOT. Only two received compensation totaling \$539. In 2011, 243 filed claims and 16 were settled or paid for a total of \$7,671. Since 2010, MnDOT has paid 25 of the 490 claims filed by drivers.

The numbers are equally low in St. Paul. Over the past three years, the city has paid on only four of 65 pothole claims.

A review of denied claims shows that most were dismissed because the agencies were either unaware of the pothole or patched it within days of learning about it.

In the case of the five claims for the same I-94 pothole, MnDOT said it had promptly responded to the pothole reports. The state said the pothole that blew out a front tire on Jancik's Honda Accord had reopened after a repair only two days earlier.

"Their reasoning was laughable," said Jancik, who lives in Inver Grove Heights. "They knew the potholes were there before I



Lynn Jancik's claim in 2011 was denied.

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hit it.”

Even if agencies are aware of potholes and don't fix them promptly, they still deny many claims.

Sheila Ellis of St. Paul was one of three motorists who hit a pothole on Lower Afton Road and Morningside in St. Paul in March 2010.

“I had seen it before, but I was able to avoid it,” Ellis said. “This time there was someone behind me and I couldn't move.”

The pothole caused \$277 worth of damage to the rear suspension of her Ford Focus. Ellis filed a claim with the city. So did two other drivers, both of whom got paid, because the pothole had been around for 14 days. But Ellis' claim was rejected.

“When I called to appeal their decision, I was told they did not know about the pothole, like it says in the letter they sent me,” she said.

Sandra Bodensteiner, the St. Paul official who handles the claims, admitted that she “missed that one.” She said her system is unable to track the location of potholes, so she cannot compare when claims are filed for the same hole. “There's always room for improvement,” Bodensteiner said. “If we had a better system, I may not have missed that claim.”

In a July 2011 letter denying a different pothole claim, Bodensteiner dispensed some advice. “Perhaps you should drive slower and more carefully or buy a vehicle that has a higher clearance if you are worried about minor imperfections in the roads,” she wrote.

Bodensteiner said the volume of all claims rises when the economy tanks.

“People see another possible source of getting their money back, so they are going to try and recuperate their funds,” she said.

Andrea Gulbrandsen of Eagan is one of the lucky ones. MnDOT admitted that it was well aware of the 6-inch pothole at Hwy. 13 and Diffley Road before it ruptured her 1993 Buick Regal's tire in August 2011. She was paid \$112.

“I only called to complain and a helpful MnDOT employee told me I could file a claim,” Gulbrandsen said. “If people hit something in the road, it's worth a shot.”

An insurance policy's collision portion, which is carried by about 75 percent of drivers, covers potholes, but the deductible may make it pointless to file, according to insurance industry representatives. Sometimes insurers who have covered pothole damage go after municipalities.

But for most motorists, filing a lawsuit isn't a reasonable option, said Melissa Golke of Lord and Faris, a Minneapolis law firm that handles auto accident cases.

“We avoid taking pothole litigation cases because it is very expensive and difficult to get a settlement,” she said. “It's practically impossible and not worth it.”

Enough motorists have gotten upset about Minneapolis' unwritten pothole-claim policy that its public works department has decided it's time to spell it out. [A draft of the policy](#) outlines factors that the city considers before fixing a pothole. Arterial streets come first, residential streets second, and then alleys.

Motorists shouldn't expect that a written policy will mean more payment for pothole mishaps.

“It would provide more clarity to the public” about how the city is making decisions, said Heidi Hamilton, deputy director of Minneapolis Public Works. “This is just a recognition that we should do something about this.”

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