Chapter 11 Insurance Fraud - Your Role in Claims

According to Progressive Insurance (2001), almost one in ten people in American would commit insurance fraud if they knew they wouldn't be caught. Three in ten people would not report insurance fraud if they knew it was occurring. One in four people believe it's okay to exaggerate claims to make up for deductibles (Insurance Research Council, 2000). Talk about a lack of ethics – and we're talking about the public!

So how does fraud affect you? It's quite simple – when it costs more for a business to provide a product or service, the business must raise its price. To the insured, this means higher premiums.

As an agent, insurance fraud represents one more thing you have to be on the lookout for as you vet risks. In terms of ethics, this means notifying the authorities if you suspect or have knowledge that fraud is taking place. It also prohibits you from participating in any type of scam, such as sending automobiles damaged in staged accidents to a particular mechanic who collects money for unnecessary service and rewards you with a kickback.

Fraud in Auto Insurance

Some of the most rampant fraud in property and casualty insurance occurs in connection to Personal Injury Protection or PIP, as it's commonly called.

PIP is an extension of car insurance available in some states that covers medical expenses and, in some cases, lost wages and other damages. PIP pays benefits regardless of who is at fault and is mandatory in some states, especially those with "no-fault" laws.

Fraud in PIP is committed by insureds, not agents, but it's something you need to be on the lookout for.

The Insurance Research Council reported in 1996 that one in three bodily injury claims involves fraud. You would think insureds would have second thoughts about those fraudulent claims if they knew the research council also reports that fraud adds $5.2-$6.3 billion to the auto premiums that policyholders pay each year.

Some people go as far as to stage fake car crashes in order to file equally fake claims. This brings PIP fraud into the realm of medical insurance fraud, as these same people go on to fake vague soft tissue injuries and consult doctors who don't conduct the most thorough of examinations because they want the business.

Dealing with fraud is a serious issue for property and casualty insurers, which paid out as much as 11 to 30 cents of each claim dollar toward "soft fraud," according to the Insurance Research Council – Insurance Services Office in 2002. Soft fraud is the term used to describe small time fraud and is of what the majority of property and casualty insurance fraud consists. Increased efforts to combat fraud at the time this survey was taken were reported to be "moderately" effective, if at all. It would probably help if these insurers actually thoroughly investigated fraud. The Insurance Research Council – ISO also reported in 2002 that less than one in four insurers investigate insiders such as employees and agents who commit premium fraud.

Fraud Motivated by National Disasters

When disaster strikes, such as a hurricane or flood, insurers experience a massive influx of claims for property damage. Unfortunately, this presents an opportunity for individuals seeking to file fraudulent claims based on the assumption that since there are so many being filed, insurers will be more interested in getting them settled than thoroughly investigating them.

On the flip side, national disasters also represent an enormous amount of benefit payouts to insurers. This leads to debates over whether damage was caused by the hurricane winds or the subsequent flooding. Consumer advocates and yes, lawyers, are always on the lookout for this type of fraud following a national disaster.

Insurers in states where hurricanes are common prepare for this, as do their respective legislatures. If you live in a state that experiences national disasters that cause extensive property damage, you are already familiar with the kinds of fraud the storm brings in.

Fraud in Homeowners Insurance

Fraudulent claims are one the reasons why adjusters are so important to insurance companies. Here is an example of insurance fraud that occurred in Texas:

Several individuals purchased two-story homes in a scheme to defraud their home insurers. In each case, furniture was removed from the house and replaced with damaged furniture. Then, with the use of garden hoses, the individuals systematically flooded the interior of the house causing excessive water and mold damage.

The insurer would be notified by the insureds who claimed that a leak from a broken pipe occurred while the owners were away. Before the insurance adjuster arrived, the leak would be repaired.

Homes in the greater Houston area, Bay City and Austin were used in this scheme. Those involved in the scheme were homeowners, independent sub-contractors, vendors and service providers in filing claims and repairing damages to the homes. They fabricated bills from repairing appliances to furnishings, clothing and electronics.

Twelve of the Texas Department of Insurance’s Fraud Unit Investigators along with Federal Law Enforcement Officers were involved in this investigation, which has become the Fraud Unit's largest crackdown on fraudulent insurance claim filings. Seven individuals were convicted in U.S. District Court, Houston and sentenced to more than 31 years for their part in a scheme to defraud homeowner insurance companies out of more than $5,000,000.

The Hall of Shame

The Coalition Against Insurance Fraud takes the time to appoint spectacular cases of fraud to its “Insurance Fraud Hall of Shame.”

Some of its inductees includes a teacher who paid two failing students to “steal” and destroy her car so she could file a theft claim and get a new car. She lost her job and spent a few months in jail.

Another more disturbing case involved a deeply in debt former tycoon who burned his own home down with his 90 year old mother inside, claiming she committed suicide and caused the fire. Not surprisingly, his prison sentence was a little longer than the teacher (about 189 years and nine months to be exact).

As you can see, insurance fraud ranges from the mildly humorous in a “I can’t believe they thought they could get away with that” way to the morbidly criminal, such as the ungrateful son above.

Insurance Sales

Selling an insurance policy is not something an agent makes up as he or she goes along. In fact, any type of sales can be reduced to a science. There are many opinions about the best way to present a product, get the prospect’s trust, and “seal the deal.” In ethical terms, it’s a little simpler. Your ethics may be what gets the sale, more so than your technique.

Trust

An insurance agent is much more than a suit and a selection of brochures. You are a professional and you must be perceived as one in order to gain your prospect's trust. If you arrive to an appointment with a possible applicant disheveled, unorganized or worse, uninformed, you've lost the sale before your presentation even began.

So much about sales is based on trust. People will buy from someone they trust – not someone who is impatient or fails to answer questions thoroughly. Trust and ethics are connected in that you want your professionalism, knowledge and ability to serve your prospects to be what gains their trust - not your skill in "tricking them" into trusting you.

During your sales presentation, your prospective client trusts that what you're saying is true. He expects that the benefits you claim are part of the policy you're offering are real. A misleading presentation or failure to disclose pertinent information during this phase can 1) lose you the sale or 2) void the policy because of a tainted application process.

The bottom line is to be trustworthy - not just act as though you are. Doing a good job in gaining your clients' trust will likely result in referrals, anyway, so it's a win-win situation for you (and them).

Your Role in Claims

Since so many claims filed by individual insureds are property claims, it would be very helpful for you to be able to discuss not just the things that are covered by the policy, but how claims will be handled if the insured must submit one.

Though you are the agent and not the adjuster, since the relationship between the insured and the insurer will have been forged by you in the beginning, it is common for an insured to contact you about a claim before contacting the insurer or being approached by an adjuster.

A great way to be prepared for this is to familiarize yourself with the Unfair Claims Settlement Practices Act, which was drafted by the National Association of Insurance Commissioners (NAIC) and adopted in almost every state. Here is a brief description of this Act, though it is best for you to get a copy of your own state's version.

The Unfair Claims Settlement Practices Act

The practice of settling claims is regulated closely by state insurance commissions. This is done for these two reasons:

-The very purpose of collecting money from policy owners is to pay claims.
-Claims that go unpaid, are altered, or are delayed in payment can significantly affect other areas of the insured's financial situation.

The Unfair Claims Settlement Practices Act provisions are meant to protect insureds and claimants from claims settlements that are deceptive, misleading or unfair.

These provisions are in place to guide both insurance companies and the adjusters who represent them. The following are considered unfair claims practices:

-Misrepresenting relevant facts or insurance policy provisions relating to coverage at issue
-Failing to recognize and act reasonably promptly upon communications with respect to claims arising under insurance policies
-Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies
-Refusing to pay claims without conducting a reasonable investigation based upon all available information
-Failing to affirm or deny coverage of claims within a reasonable time after proof of loss

statements have been completed
-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 such insureds
-Attempting to settle a claim for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or principal advertising material accompanying or made part of an application
-Attempting to settle claims on the basis of an application that was altered without notice, knowledge or consent of the insured
-Making claims payments to insureds or beneficiaries not accompanied by statements setting forth the coverage under which the payments are being made
-Making known 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
-Delaying the investigation or payment of claim by requiring an insured, claimant, or the physician of either, to submit preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information
-Failing to promptly settle claims where liability has become reasonably clear under one portion of the insurance policy coverage in order to influence settlement under other portions of the insurance policy coverage
-Failing to promptly provide a reasonable explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement

Have your state’s version of the Unfair Claims Settlement Practices Act handy when the call comes from a distraught client who is dealing with a lengthy or frustrating claim process. It will help you to recognize any failures on the part of the adjuster handling the claim or by the insurer, and will further build the relationship you have with the client.

After all, being a good agent doesn’t end when you deliver the policy. Being a good agent means supporting clients when they need you, even if all you can do at that point is provide information.