



THE STATE
of **ALASKA**

GOVERNOR BILL WALKER

Department of Commerce, Community,
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DIVISION OF INSURANCE

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BULLETIN B 15-11

**TO: ALL PROPERTY AND CASUALTY INSURERS AND OTHER PERSONS
ADJUSTING AND SETTLING MOTOR VEHICLE CLAIMS IN THE
STATE OF ALASKA AND OTHER INTERESTED PARTIES**

**RE: RESPONSES TO QUESTIONS RECEIVED BY THE DIVISION RELATING
TO STANDARDS FOR PROMPT, FAIR, AND EQUITABLE SETTLEMENTS
OF MOTOR VEHICLE CLAIMS**

On May 4, 2015, the director of the division of insurance adopted regulation changes in Title 3, Chapter 26 of the Alaska Administrative Code dealing with standards for prompt, fair, and equitable settlements of motor vehicle and property claims. These changes included changes to 3 AAC 26.080 and became effective on June 6, 2015.

Bulletin B 10-04 was issued on March 19, 2010 to address standards for the settlement of motor vehicle claims under 3 AAC 26.080. Bulletin B 11-04 was issued on July 14, 2011 to clarify Bulletin B 10-04 and to provide additional guidance for settling claims under 3 AAC 26.080. As a result of the amendments to 3 AAC 26.080 however, Bulletins B 10-04 and B 11-04 became moot and were revoked by Bulletin B 15-7 on July 20, 2015.

Additional questions have been raised concerning the implementation of the division's new regulations:

How Should the New Provisions Be Interpreted?

The changes to 3 AAC 26.030, 3 AAC 26.080, 3 AAC 26.090 and 3 AAC 26.300 should be interpreted just how they read utilizing accepted rules of statutory construction.¹ For example, words should be given their common and ordinary meaning and should be read in context.

3 AAC 26.030 – Is the 10 Day Response Time Requirement Business Days or Calendar Days?

3 AAC 26.030 provides in relevant part that "[a] person transacting a business of insurance who participates in the investigation, adjustment, negotiation, or settlement of a claim under any type of insurance shall respond to inquiries from the director related to the claim not later than 10 days from the date of the director's inquiry."

¹ See e.g. Norman J. Singer & Shambie Singer, *Statutes and Statutory Construction* (7th ed.)

The time will be calculated by the division in accordance with AS 01.10.080 which provides: "The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded."

3 AAC 26.080(j) – How many times does a consumer get to come back asking for additional amounts when the consumer notifies the insurer he/she is unable to purchase a comparable vehicle for the amount determined in 3 AAC 26.080(a)(1)(B)?

When the consumer notifies the insurer he/she is unable to purchase a comparable vehicle for the amount determined in 3 AAC 26.080(a)(1)(B), the insurer will reopen the claim file one time to determine a new settlement amount pursuant to the procedures outlined in 3 AAC 26.080(j).

When a consumer cannot purchase a comparable vehicle for the amount determined under 3 AAC 26.080(a)(1)(B) and the insurer reopens the file, the regulation requires the insurer to determine a new settlement amount in one of three ways.

Briefly, the first way a new settlement amount is determined is when the insurer locates a comparable vehicle from somewhere else for the consumer at no cost to the consumer. If this occurs, there is no dispute.

The second way a new settlement amount is determined is when the consumer locates a comparable vehicle and (1) the insurer pays the difference between the value determined by the insurer at the time of settlement and the cost of the comparable vehicle or (2) the insurer negotiates and effects the purchase of the comparable vehicle. If either of these scenarios occurs, there is no dispute.

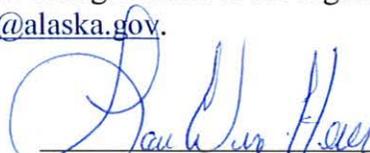
The third way a new settlement amount is determined is when the insurer, for a first-party claimant, concludes the loss settlement using the appraisal provisions of the policy.

If a comparable motor vehicle isn't found then 3 AAC 26.080(l) applies and the insurer may consider vehicles by other manufacturers that otherwise fall within the definition of "comparable motor vehicle".

3 AAC 26.080(j) does not change the analysis above. This provision provides a means to determine a new settlement amount only when the consumer cannot purchase a comparable vehicle for the amount determined at the time of settlement. Once the insurer reopens the consumer's claim file under subsection (j), even if there was any further dispute, the dispute would be in regard to the new settlement amount determined under (j) and not to a settlement amount determined at the time of settlement under (a)(1)(B).

If you have any questions regarding this bulletin or changes made to the regulations, contact Mike Ricker at (907) 465-2564 or michael.ricker@alaska.gov.

Dated October 28th, 2015



Lori Wing-Heier
Director