

COMMENTS RECEIVED FROM PHILIP VAN HOUTEN, CINCINNATI INSURANCE COMPANY

Attorney Kish,

Some comments in reference to the NAIC proposed antifraud plan guideline:

- will there be immunity provisions for companies or individuals who are required to report fraudulent insurance acts?
- will there be a requirement for insurance carriers to report questionable or suspicious activity?
- will there be a time requirement for insurance carriers to report this activity?
- will you include a sample reporting form in the guideline?

As to immunity, there are two types that can be considered...either an absolute immunity or a qualified immunity. As I'm sure you are aware, a qualified immunity is provided in many states if the referral is made without malice and in bad faith. I suspect most carriers would rather be given an absolute immunity.

If a sample reporting form is to be a part of the guideline, I would ask that the term "suspect" not be used. Georgia has a reporting form that uses the term "suspect". This creates difficulties for insurance carriers who are mandated to report questionable activity involving a claim and are required to place their insured's name in the suspect box on the form. All carriers must keep an open mind until the completion of every investigation; listing an insured as a "suspect" prior to the completion of an investigation can create issues that shouldn't be necessary.

I also have reservations about the requirements to submit annual reports to the states about anti-fraud activities. As the manager of an SIU, I believe our time can be better spent investigating questionable claims or circumstances than creating regulatory reports. Rather than requiring all companies to submit an annual report, the states should identify carriers who do not submit any referrals and focus on them.

I hope this makes some sense. Good luck in putting this together and thanks for the opportunity to comment.

Phil

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