

What is unfair claims settlement?

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Written by Dennis B. Funa



Atty. Dennis B. Funa

INSURANCE FORUM

What is Unfair Claims Settlement?

Unfair claims settlement practices is defined through an enumeration of five acts committed by the insurer in Section 247 of the Amended Insurance Code. These five acts are: 1) knowingly **misrepresenting to claimants** pertinent facts or policy provisions relating to coverage at issue; 2) failing to acknowledge with reasonable promptness pertinent **communications with respect to claims** arising under its policies; 3) failing to adopt and implement reasonable standards for the **prompt investigation of claims** arising under its policies; 4) not attempting in good faith to effectuate **prompt, fair and equitable settlement of claims** submitted in which liability has become reasonably clear (although the first sentence of Section 247 already states refusal, without just cause, to pay or settle claims); or 5) **compelling policyholders to institute suits** to recover amount due under its policies by offering without justifiable reason substantially less than the amounts ultimately recovered in suits brought by them.

Note that the commission of these acts is qualified by the phrase “*without just cause and performed with such frequency as to indicate a general business practice*”. Thus, failing to make prompt payment of claims may be excused for just reasons.

Unfair claims settlement practices may be proven by the number, meaning frequency, and types of valid complaints, as well as a comparison of complaint experience with other insurance companies writing similar lines of insurance (Sec. 247 [b]).

The U.S. National Association of Insurance Commissioners (NAIC) classified these unfair claims settlement practices into four basic categories: 1) misrepresentation of insurance policy provisions; 2) failing to adopt and implement reasonable standards for the prompt investigation of claims; 3) failing to acknowledge or to act reasonably and promptly when claims are presented; and 4) refusing to pay claims without an investigation.

Nature and Recourse

Under the Insurance Code, the Insurance Commissioner is an administrative agency vested with two-fold powers, *regulatory* (non-quasi-judicial) and *adjudicatory* (quasi-judicial) powers. Section 437 of the Amended Insurance Code specifies the authority

to which a decision of the Insurance Commissioner, in the exercise of its regulatory function, may be appealed. A dispute on unfair claims settlement is exclusively in the exercise of administrative and regulatory (non-quasi-judicial duty) duties and functions of the Insurance Commission, *i.e.*, the authority to revoke or suspend an insurer's certificate of authority, and thus should be appealed to the Office of the Secretary of Finance.

Should a party dispute the decision of the Insurance Commissioner on this matter, the case is properly appealable to the Secretary of Finance after a denial of a motion for reconsideration. A party would have no direct recourse through a petition for certiorari to the Supreme Court and thus would have no jurisdiction over the case (*Almendras Mining Corp. v. Office of the Insurance Commissioner et al.*, G.R. No. 72878, April 15, 1988).

However, under Section 439 of the Amended Insurance Code, appeals from a final decision of the Insurance Commissioner rendered in the exercise of his adjudicatory authority falls within the exclusive appellate jurisdiction of the Court of Appeals.

Sanctions

A finding of unfair claims settlement is sanctionable with the suspension or revocation of the company's certificate of authority (Sec. 247 [c]). Note that in addition to the revocation or suspension of license (although not expressly stated in Section 247), the Insurance Commissioner also has the discretion to impose upon the erring insurance companies and its directors, officers and agents, fines and penalties, as set out under Section 438.

Concurrence of proceedings

Oftentimes a claimant would file both a claims case and an administrative case against a company at the same time. In such instances, as stated in *Go v. Office of the Ombudsman, Commissioner Eduardo Malinis et al.* both proceedings may continue at the same time independently, and apparently conflicting decisions would be of no moment. The claims case may be filed in either the Insurance Commission or the regular courts, depending on the amount of the claim.

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Dennis B. Funa (dennisfuna@yahoo.com) is presently the deputy Insurance commissioner of the Legal Services Group of the Insurance Commission.