

Bulletin

RECOMMENDATIONS FOR THE DEVELOPMENT AND APPLICATION OF THE D.C. INSURANCE FRAUD PREVENTION AND DETECTION PLAN

PREAMBLE

The Department of Insurance, Securities and Banking (hereinafter referred to as the “Department”) mandates that all authorized insurers shall institute, implement, maintain, and submit an insurance fraud prevention and detection plan (hereinafter referred to as the “anti-fraud plan”) pursuant to D.C. Code § 22-3225.09 (a). Every insurer licensed in the District of Columbia shall submit an anti-fraud plan to the Department within 6 months of the effective date of their Certificate of Authority.

As an insurer authorized to transact business in the District of Columbia (hereinafter referred to as the “District”) you must submit the anti-fraud plan. Please submit the plan in hard copy.

The Department has developed this document to serve as a guideline to assist you in developing your anti-fraud plan for the District. The Department’s intent in establishing these procedures is to create a systematic approach to the development of an anti-fraud plan. All aspects of insurance fraud should be addressed. The anti-fraud plan shall include all classifications of insurance fraud. This includes, but is not limited to, internal fraud (officers, directors, agents, or employees of your company), claims fraud, application and underwriting fraud, and broker fraud. The written anti-fraud plan shall be open for inspection by the Department.

Anti-fraud Plan Components:

A. Prevention, detection, and investigation of insurance fraud: D.C. Official Code

§ 22-3225.09(a)(1):

The anti-fraud plan should contain specific procedures for the prevention, detection and investigation of all areas of insurance fraud. Such procedures should be prepared, published, and maintained to assist your Special Investigation Unit (hereinafter referred to as “SIU”) or your point of contact.

B. Orientation of employees on insurance fraud prevention and detection: D.C. Official Code § 22-3225.09(a)(2):

The anti-fraud plan should contain specific procedures for an orientation, education, and training program for your employees. It is imperative that your employees have the skills to recognize and investigate all insurance fraud. To increase understanding of insurance fraud, your new and existing employees should undergo an ongoing training program on the multidimensional nature of insurance fraud. The program should include a minimum of 2-hour sessions on a continuing education basis.

Continuation of Anti-fraud Plan Components:

C. Employment of fraud investigators: D. C. Official Code § 22-3225.09(a)(3):

The anti-fraud plan should contain specific procedures for determining who should conduct or oversee such investigations. You should analyze your options to maintain an in-house staff of investigators or contract with an outside firm.

D. Reporting of insurance fraud to the appropriate authorities: D. C. Official Code § 22-3225.09(a)(4):

The anti-fraud plan shall contain specific procedures for reporting all insurance fraud that you, in good faith, have cause to believe has been or is being committed in the District.

E. Collection of restitution for financial loss caused by insurance fraud: D. C. Official Code § 22-3225.09(a)(5):

The anti-fraud plan should contain specific procedures for collecting restitution.

The below-mentioned is an illustration for your consideration of a response that we received from one insurance company:

“If a determination has been made that an event of insurance fraud has occurred and restitution on the company’s behalf is not being sought by appropriate law enforcement authorities or other authorized persons, the company shall determine whether to undertake civil action to seek restitution. Such determination will be based upon a review of the specific facts involved in the loss suffered by the company as result of the event of insurance fraud, the likely response of seeking restitution in court, the likelihood of prevailing at trial and the likelihood of recovering any potential judgment against the person or organization responsible for the insurance fraud. In making this determination, the Compliance Officer may consult with the company’s outside counsel. A final determination as to whether the company should seek restitution in a specific instance will be made by the President of the company after consulting with the Compliance Officer or any other member of the Legal Department.”