



TO: State Executives/CEOs, State E&O Directors, Agency Managers
FROM: Christopher J. Boggs, CPCU, ARM, ALCM, LPCS, AAI, APA, CWCA, CRIS, AINS
Executive Director Risk Management & Education
DATE: March 23, 2020
RE: Carrier Directives to Deny Claims

Recently we were made aware that insurance carriers are directing their agencies to deny certain claims related to the COVID-19/coronavirus; most specifically business income claims. Reports are some carriers have even put this directive in writing.

Big I's risk management department strongly advises that agencies **NOT** make a coverage determination on behalf of any insurance carrier or deny any claims for several key reasons:

- The agency is not a party to the insurance contract. The insurance policy is between the named insured and the insurance carrier. Only the carrier has the right to deny coverage.
- We are not aware of any agency contract that allows the insurance carrier to place claim investigation and ultimately the duty to deny a claim on the agent.
- There is a state licensure issue. Loss determination and claim denials can only be made by licensed adjusters. No single person can hold both and agents and an adjusters license. Don't operate outside your licensure.
- Unfair claims practices statutes require that claim denials be in writing specifying the reasons for the denial specific to THAT insured's situation and THAT insured's policy language. A blanket denial which does not consider the individual insured's situation and applicable policy language violates statute.
- Claims management is the carrier's responsibility, not the agents.

For these reasons, the agency should **not** issue a claim denial to any insured on behalf of the carrier.

However, if the carrier desires to create a blanket denial letter, agencies should share that letter with the insured, clarifying it comes from the carrier, but the agent should still submit the claim to the carrier if the insured reports a claim to the agency. Do NOT "talk the insured out of" filing a claim. Explain to the carrier that you shared its letter, but that as a licensed agent, you are not licensed to deny a claim. Further, refer the carrier to your state's Unfair Claims Practices regulation.

We recognize that these are unprecedented times. None of us has ever seen a situation such as exists now. Regardless, don't undertake duties that do not belong to the agency. Don't create an errors and omissions or regulatory issue for you or your agency. Stay within your licensure.

Know that we are here to answer any questions we can and help any way we can.