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Report: Insurers May Manipulate Systems in Effort to Underpay Injury Claims

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A new report released by the Consumer Federation of America (CFA) has found computerized claims' systems used by many of the nation's largest auto insurance companies can be easily adjusted to make broad-scale "lowball" claims' payments to injured claimants.

Considering estimates by the organization that 75,000 to 100,000 auto insurance claims were filed during the Memorial Day weekend alone, the controversial findings easily affect thousands if not millions of insurance consumers.

During a June 4 teleconference, Mark Romano, CFA's claims project director stated the handling of injury claims has changed dramatically. Where evaluations were once based on the judgment of claims adjusters, the new system relies on accurate data input and tuning of computerized software systems.

"This report is a wake-up call for consumers and regulators who are not aware of the many ways that computer claims' software can be manipulated to produce unjustifiably low injury payments to consumers and tens of millions of dollars in illegitimate 'savings' for insurers," Romano said. Romano was the "subject matter expert" on the Colossus injury claims' evaluation system at Allstate and Encompass insurance companies for almost ten years.

Colossus, considered the dominant claims' system on the market, is sold by Computer Sciences Corporation (CSC).

The report, *"Low Ball: An Insider's Look at How Insurers Can Manipulate Computerized Systems to Broadly Underpay Injury Claims"*, details the history of the use of Colossus and similar software products by auto insurance companies. The report describes how the programs are set up, "tuned" to reach particular claims' payment monetary goals and adjusted over time.

According to Romano, while these systems can be used to achieve consistency in injury claim evaluations they can also be easily manipulated to save insurers billions more by underpaying claims.

"When CSC and its competitors talk publicly about computer-based claims' systems, they stress that the programs allow insurers to more consistently evaluate bodily injury claims," said Romano. "Consistency is a legitimate goal, but these companies tell a different story behind closed doors. Software marketing representatives acknowledge that the real reason insurance companies are willing to invest millions in these systems is that they can dial down claims' payments to thousands of consumers at a time, regardless of whether these payouts are fair."

The report identifies specific techniques that insurers may use to directly and indirectly produce "lowball" claims.

Direct manipulation by an insurer may include:

1. Reducing tuning across the board;
2. Selectively removing or excluding higher cost claims from the tuning sample.

"Many of the concerns about Colossus and similar programs have focused on the potential for insurers to manipulate these systems directly in order to reduce claims' payouts," said Romano. "But insurers can also use many techniques to unjustifiably lower payments in a more subtle manner, by putting biased or incomplete information into the system."

Indirect manipulation by an insurer may include:

1. Requiring adjusters with no formal medical education to select injury codes for a less severe injury, resulting in substantially lower settlement payments.
2. Encouraging adjusters to downplay or even ignore the final prognosis code that may indicate a claimant's need for future medical treatment; thus lowering payments.
3. Encouraging the use of comparative negligence to reduce settlement payments.

The report includes excerpts from recently released court records in a class action lawsuit, Hensley v. Computer Sciences Corporation, that provide insight into company marketing tactics:

- Insurers could adjust Colossus to produce virtually any claims' payment reduction they wanted, whether or not it was justified. One CSC executive reportedly told the court that Colossus could be "tuned" up or down like a water spigot to achieve a particular level of savings, such as 15 percent, for all claims.
- A CSC executive told the court that on average Colossus achieved savings of around 19 percent on overall claims payouts for some its insurer clients. CSC's competitors, like the Insurance Services Office (ISO) claimed that they could maintain even higher savings over time through the use of their product, Claims Outcome Advisor.
- CSC misled regulators about the purpose of Colossus, claiming the main function of the product was to achieve consistent payouts rather than enormous claims' savings, which might be illegitimate.

ISO declined to comment on the report or its findings.

According to J. Robert Hunter, CFA's director of insurance, former federal insurance administrator and Texas Insurance Commissioner, CSC marketing materials noted that 13 of the top 20 insurance companies use Colossus.

Court records indicate CSC even altered its advertising message when the company determined the word "savings" was viewed negatively. The company substituted the word "consistency" in its place.

Calls and an email placed to CSC requesting comment were not returned.

Hunter provided recommendations to state insurance regulators on how to better protect consumers from insurers that manipulate settlement payments through Colossus and similar systems:

1. Directly regulate companies that sell claims' adjustment software products.
2. Examine and monitor use of computerized claims' assessment systems by major insurers immediately.
3. Require insurers to notify claimants in writing that a computerized claims' assessment was used to process their claim and to provide a copy of the report generated by the system.

When asked why market conduct exams hadn't revealed this manipulation of data, Hunter stated that most market conduct examinations are superficial at best.

"The NAIC examination of computer adjustment systems was incomplete and flawed," Hunter said. "They only investigated how a single company, Allstate, which used only one of these systems, Colossus. And their agreement with the company did little to change how Allstate adjusted Colossus to make claims' payments or to protect consumers from potential abuses."

According to a statement issued by the NAIC, states monitor claims settlements through the Unfair Claims Settlement Practices Laws.

"Computerized claims systems are generally geared for use in the claims settlement portion that involves pain and suffering, which can be a very subjective process. It is the expectation of state insurance regulators that these systems are just one factor in helping a claim representative reach a settlement conclusion," the NAIC statement added.

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