

Auto insurers play hardball in minor-crash claims

By Drew Griffin and Kathleen Johnston
POSTED by CNN: 11:23 p.m. EST, February 9, 2007

ATLANTA, Georgia (CNN) -- If you are injured in a minor car crash, chances are good that you will be in the fight of your life to get the insurance company to pay all the medical costs you incur -- even if the accident was no fault of your own.

That's what CNN discovered in an 18-month investigation into minor-impact soft-tissue injury crashes around the country. Those are accidents in which there is little damage to the vehicle and the injuries to people are not easy to see by the naked eye or conventional medical tools like X-rays.

Since the mid-1990s, most of the major insurance companies -- led by the two largest, Allstate and State Farm -- have adopted a tough take-it-or-leave-it strategy when dealing with such cases.

The result has been billions in profits for insurance companies and little, if anything, for the public, according to University of Nevada insurance law professor Jeff Stempel.

"We can see that policyholders individually are getting hurt by being dragged through the court on fender-bender claims, and yet we don't see any collateral benefit in the form of reduced premiums even for the other policyholders," Stempel said.

"So I think now we can say to continue this kind of program is in my view institutionalized bad faith."

If you have never heard of the strategy, it's because insurance companies don't want you to know that they are paying out less and less for minor crashes even while their profits soar and your premiums continue to rise.

But after a review of more than 6,000 company documents and court records, interviews with a dozen people nationwide, including former company insiders, and conversations with accident victims, the picture is clear: If you challenge the offer by some insurance companies you will be left with no option but to go to court, where you will be dragged through the wringer.

Expensive, time-consuming

In an affidavit in a New Mexico case where Allstate is being sued, one of the company's former attorneys said the strategy is to make fighting the company "so expensive and so time-consuming that lawyers would start refusing to help clients."

Shannon Kmatz, a police officer and former Allstate claims agent, said company employees were encouraged to get rid of claims quickly and cheaply and even offered accident victims as little as \$50, telling them to take it or leave it.

Both Roxanne Martinez of Santa Fe, New Mexico, and Ann Taylor of West Lafayette, Indiana, saw the practice firsthand.

Martinez suffered neck and back injuries when she was sideswiped by a driver insured by Allstate.

After three years, the company finally offered her \$15,000 -- a little more than half of what she needed for lost wages and medical bills.

She went to court, and four years after the accident a jury awarded her \$167,000 plus interest.

"It's kind of hard when you are thinking they are going to leave you broke. ... That was very stressful," she said.

Taylor was not as fortunate when her case went to trial.

The Indiana nurse was rear-ended by a State Farm employee driving a State Farm car. Damage to her car was minimal but she suffered herniated disc and muscle tears.

Taylor racked up medical bills and lost wages amounting to about \$15,000. The company offered her \$2,000.

"I was just very insulted," she said.

She sued, but three years later a jury came back with a judgment for her of only \$1,500.

The jury didn't believe she could be hurt in an accident in which the vehicle had barely a dent.

Three jurors told CNN photos of the two cars involved in the accident -- enlarged and prominently displayed by the defense -- played a huge role in their decision.

And one said they assumed Taylor had already been compensated by the insurance company and was just trying to get more money.

Profitable strategy

The cases, CNN found, illustrate a carefully developed strategy to make the victims look like they are trying to defraud the insurers.

But documents CNN obtained indicate profit, not fraud, is the reason companies decided to play hardball in small accidents.

For Allstate and State Farm, according to documents obtained by CNN, the strategy was developed in the mid-1990s with the assistance of consulting giant McKinsey & Co.

Looking for a way to boost profits, McKinsey focused on soft-tissue injuries incurred in minor crashes.

While the McKinsey documents -- numbered in the thousands -- are under seal in courts around the country, CNN saw several of them during a court hearing in Lexington, Kentucky.

Playing off Allstate's signature slogan, one document recommends the insurer put boxing gloves on its "good hands" for those who insist on going to court.

The strategy, according to former Allstate and State Farm employee Jim Mathis, relies on the three D's -- denying a claim, delaying settlement of the claim and defending against the claim in court.

"The profits are good, and as long as the community, the public allows this to occur, the insurance companies will get richer and people ... will not get a fair and reasonable settlement," Mathis said.

Both Allstate and State Farm declined requests for interviews.

In an e-mail, Allstate wrote it did not believe it would "have any real opportunity of being successful in getting you (CNN) to do a balanced report."

State Farm wrote: "We take customer service seriously and seek to pay what we owe, promptly, courteously and efficiently, and we handle each claim on its own merits."

The company also said, "Any attempt to generalize that State Farm adopted consultant recommendations as other insurers is just plain wrong."

A company spokesman sent an additional e-mail, saying that the company did work with McKinsey to improve claims handling but State Farm stopped using the McKinsey program in 1999.

Robert Hartwig, president of the Insurance Information Institute, told CNN insurers do not have a strategy of blanket denial of claims. He also said strategies to limit expenditures on minor-impact crashes are needed to fight fraud.

Hartwig specifically singled out lawyers who he claims make a living on car accident victims, saying those lawyers are upset because "the gravy train is over."