

ALABAMA DEPARTMENT OF INSURANCE
ADMINISTRATIVE CODE

CHAPTER 482-1-125
STANDARDS FOR PROPERTY/CASUALTY INSURANCE CLAIMS

482-1-125-.08 Standards For Prompt, Fair And Equitable
Settlements Applicable To Automobile Insurance.

(1) When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods shall apply:

(a) The insurer may elect to offer a replacement automobile that is at least comparable in that it will be by the same manufacturer, same or newer year, similar body style, similar options and mileage as the insured vehicle and in as good or better overall condition and available for inspection within a reasonable distance of the insured's residence, unless the insured agrees to a vehicle of a different manufacturer, year, body style, options and/or mileage. The insurer shall pay all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the automobile paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(b) The insurer may elect a cash settlement based upon the actual cost, less any deductible provided in the policy, to purchase a comparable automobile by the same manufacturer, same model year, with similar body style and condition, similar options and mileage, including all applicable taxes, license fees and other fees incident to the transfer of ownership of a comparable automobile. The amount payable on taxes, license fees, and transfer fees shall be limited to the amount that would have been paid on the totaled, insured vehicle at the time of settlement. Such cost may be derived pursuant to the Alabama Department of Revenue Regulations regarding total loss.

(c) When a first party automobile total loss is settled on a basis which deviates from the methods described in Subparagraphs (a) and (b) of Paragraph (1), the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount. The basis for such settlement shall be fully explained to the first party claimant.

(2) Where liability and damages are reasonably clear, insurers shall not recommend that third party claimants make claim under their own policies solely to avoid paying claims under such insurer's policy.

(3) Insurers shall not require a claimant to travel an unreasonable distance either to inspect a replacement automobile, to obtain a repair estimate or to have the automobile repaired at a specific repair shop. Insurers may require repair estimates to be obtained in the area where the accident occurred.

(4) If partial losses are settled on the basis of a written estimate prepared by or for the insurer, the insurer shall supply the insured a copy of the estimate upon which the settlement is based. The estimate prepared by or for the insurer shall be reasonable, in accordance with applicable policy provisions, and of an amount which will allow for repairs to be made in a workmanlike manner.

(5) When the amount claimed is reduced because of betterment or depreciation all information supporting such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount.

(6) When the insurer elects to repair and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged automobile to be restored as nearly as possible to its condition prior to the loss at no additional cost to the first party claimant other than as stated in the policy and shall make reasonable efforts to assure repairs are completed within a reasonable period of time. Giving the insured names of repair shops in response to a request from the insured shall not constitute designating a specific repair shop. This Paragraph is not intended to and does not create a duty on the insurer to pay for any alleged diminution in value of the automobile.

(7) The insurer shall provide reasonable notice to an insured prior to termination of payment for automobile storage charges and documentation of the denial as required by Rule 482-1-125-. 04. Such insurer shall provide reasonable time for the insured to remove the vehicle from storage prior to the termination of payment.

(8)(a) Betterment deductions are allowable only if the deductions meet both of the following:

1. Reflect a measurable decrease in market value attributable to the poorer condition of, or prior damage to, the vehicle.
2. Reflect the general overall condition of the vehicle, considering its age, for:

(i) Wear and tear or rust.

(ii) Missing parts limited to no more of a deduction than the replacement costs of such part or parts.

(b) Any such deductions set forth in Subparagraph 2 of Subparagraph (a) must be measurable, itemized, specified as to dollar amount and documented in the claim file.

(c) No insurer shall require the insured or claimant to supply parts for replacement.

(9) An insurer's proposed use of replacement crash parts shall comply with Section 32-17A-1, et seq., Code of Ala. 1975.

(10) No insurer shall deny or fail to adjust an otherwise valid third-party claim because of the failure of the insured to cooperate unless the insurer proves the lack of cooperation is material, substantial, and to the prejudice of the insurer.

Author: Commissioner of Insurance

Statutory Authority: Code of Ala. 1975, §§27-2-17, 27-1-17, 27-1-19, 27-12-21, 27-12-24, 27-14-8, 27-14-11, 27-14-9.

History: New Rule: May 27, 2003; effective June 9, 2003. Filed with LRS May 30, 2003. Rule is not subject to the Alabama Administrative Procedure Act. **Amended:** Filed July 2, 2004; effective August 1, 2004.