

Public Comment Submission

Subject: Rulemaking Rvw Standard Claims Handling WSR 25-113-1115 for R2025-05

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Date: 7/4/2025

Dear Review Committee:

Dear Review Committee,

Thank you for the opportunity to contribute feedback regarding the review and potential revision of Washington State's Minimum Claims Handling Standards.

This is my first time participating in this type of public comment. While I'm deeply honored to be included in the conversation, I'll admit I wasn't entirely sure how much detail would be appropriate. I initially submitted my commentary, then withdrew it out of concern that it may fall outside the intended scope of the inquiry. However, after further reflection, I believe the issues outlined below are imperative to any meaningful evaluation of fair and ethical claims handling practices—and cannot be left unsaid.

Introduction

COVID-19 fundamentally reshaped the insurance industry. What began as healthy skepticism toward automation and AI-led claims handling has evolved into full-scale dependence on these systems. Many now make critical settlement decisions with little to no human oversight and are often programmed in ways that advance insurer interests over those of the policyholder. Compounding the issue is the growing use of third-party vendors—frequently improperly trained—who operate with clear conflicts of interest in the claims process. This shift has also contributed to the declining training and qualifications of in-house adjusters, whose roles are increasingly outsourced or diluted by automated tools.

With over 20 years of experience in insurance, claims handling, and automotive repair, I've witnessed firsthand the mounting challenges policyholders face during the claim process. While claim handling standards have deteriorated significantly over the past five years, one of the most urgent concerns is the declining quality and safety of post-loss vehicle repairs. As modern vehicles become more advanced—essentially computers on wheels—small missteps in the repair process can lead to catastrophic consequences. A single missed calibration, improper weld, or undetected structural flaw could spell the difference between life and death.

Calling this an “urgent concern” is putting it mildly. Repair centers, particularly those operated by large Multi-Shop Operators (MSOs), are under increasing pressure to follow insurer cost-control directives—often at the expense of manufacturer safety protocols. In my professional opinion, any repair agreement that allows an insurer to direct or influence the repair process presents a clear and immediate conflict of interest.

Even more concerning is the fact that insurers are now encouraging untrained policyholders to photograph and submit damage themselves for remote evaluation. The implications of this practice—from missed structural damage to missed ADAS (Advanced Driver Assistance System) damage—should be enough to cause sleepless nights for anyone truly concerned with safety.

To make matters worse, some insurers now delegate total loss evaluations repair centers that are wholly unqualified to make them, and are often forced to complete them at no cost further compromising any intent toward a quality result. Many of these shops operate under contractual agreements that penalize them financially if specific cost thresholds aren't met. Some are even instructed to withhold or obscure critical information in estimates and disclosures. All of this unfolds with virtually no formal oversight or quality assurance of repair practices, leaving Washington drivers exposed not only to unsafe repairs but also to inaccurate valuations and settlement outcomes that are far from fair or transparent. These unsafe vehicles don't just affect the individual who owns them—they affect everyone else sharing the road.

In light of these serious and systemic challenges, I respectfully submit the following two key suggestions for consideration in the upcoming rule revisions:

1. Formal Recognition of Public Adjusters in WAC 284.30

Recommendation:

Amend WAC 284.30 to formally recognize licensed Public Adjusters as regulated representatives for insureds, authorized to advocate on the consumer's behalf throughout the claims process, including investigation, documentation, and complaint submission.

Why It Matters:

With increasing automation, policyholders are left without a knowledgeable point of contact. They are expected to navigate complex claims processes alone, often without understanding their rights or how to challenge decisions. Many only learn of their options after experiencing unfair claim practices.

Proposed Solution: Third-Party Advocate (TPA) Model

Establish a Third-Party Advocate (TPA) system under OIC oversight:

- Public Adjusters would be registered with the OIC as eligible TPAs for consumer complaints.
- Once a complaint is filed, an investigation fee will be assessed against the insurer, and a TPA may be assigned to investigate and document findings.
- TPA findings would still be submitted to the OIC even in the event of a claim settlement, and the insurer may still be subject to regulatory review or financial penalties regardless of post-complaint resolution.

- This prevents the current tactic used by many insurers: quickly offering better terms to consumers solely to encourage them to withdraw the complaint and halt regulatory scrutiny.
- A portion of complaint-related investigation fee paid by carriers would fund TPA fees and OIC overhead, creating a self-sustaining oversight system.

This approach would help shift the claims landscape back to good faith handling before complaints arise, rather than rewarding reactionary appeasement.

2. Regulation of Repair Facility and Insurer Relationships

Recommendation:

Classify as a conflict of interest or implement clear boundaries and disclosure requirements in contracts between insurers and repair facilities - particularly in Direct Repair Program (DRP) arrangements. Implement regular review of any contracts or agreements established.

Key Areas of Concern:

A. Anti-Competitive Contracts & Market Distortion

- DRP contracts often contain cost-control incentives that can undermine repair quality and consumer safety. One example includes requiring a national repair chain to maintain annual repair averages at least 1% below competitor pricing or face financial penalties to the insurer. While this appears minor, the scale of business translates to millions in pressured cost-cutting.
- Common tactics include:
 - Requiring repair operations to be performed without charge, which are then not listed on the invoice provided to consumers.
 - Transferring insurer responsibilities (such as loss investigation or related damage evaluation) onto repair shop staff to avoid carrier labor costs.
- These practices unfairly burden independent shops that follow OEM procedures and create false pricing baselines labeled as "industry standard" by insurers, redefining market practices based on contract-driven cost suppression.

B. Undisclosed Discounts, Dual Invoicing & Insurer Audits

- Some TPAs or insurers instruct shops to issue two invoices: one with the full consumer price and a second discounted version for insurance reimbursement. Consumers are unaware of these discounts, creating transparency issues.
- Worse, when the insurer makes changes to the shop estimate (sometimes long after the repair has been completed) or requires shops to perform procedures without charge due to insurer contract requirements, these operations are often removed entirely from the final invoice. This not only misrepresents the work completed but misrepresents the perception of ethical repairers whose repair orders reflect actual labor and materials – none of which is disclosed to consumers.

C. Insurer Control Over Repair Scope

- Insurers and TPAs regularly revise submitted estimates, remove operations, and send modified estimates back to the shop with instructions to proceed. In these cases, repair shops are forced to comply with insurer-directed work that may contradict OEM or licensed repair professional guidance.
- On numerous occasions, I have witnessed shops being pressured to complete unsafe or manufacturer-violating repairs to remain in good standing with the DRP network to effectuate a lower cost claim outcome.

Suggested Regulatory Additions:

- Prohibit estimate modifications that override published OEM repair procedures.
 - Mandate full disclosure of all insurer-repair facility contracts or agreements that affect labor, pricing, or parts along with clearly posted signage in the repair center notifying the consumer of the insurer/repair center partnership.
 - Require that all operations performed be listed on the final invoice, even if waived due to contract obligations, with a \$0 charge notation.
 - Clarify that final repair authority lies with the licensed repair professional, not the insurer or their TPA.
 - Add language to WAC 284.30.390: *"An insurer shall not reduce payment or require a consumer to pay the difference in repair cost solely because the chosen repair facility is not part of the insurer's direct repair program, where cost differences arise from contractually waived or discounted procedures."*
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Additional Recommendations (Summary)

- Expand RCW 48.30.015 to include representative fees, not just attorneys.
 - Clarify WAC 284.30.370 to require disclosure of all steps and timeframes in the investigation process.
 - Track repeated violations with a strike policy and escalating penalties.
 - Require consumer rebuttal rights before liability decisions are finalized.
 - Collaborate with Repair Manufacturers and Repair Education authorities to develop repair center oversight committee and guidelines for safe/quality vehicle repair.
 - Add sanctions / consequences to repair shop RCW's in the event of faulty repair work.
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It is my belief that fair claim handling cannot exist without meaningful financial enforcement. Current practices benefit carriers and MSO's at the expense of consumers and small businesses. The potential for profit in cutting corners has far outweighed the risk of regulatory repercussion.

We have to create a climate where doing the right thing is more rewarding than gaming the system.

Formal implementation and expansion of the Public Adjuster role, stronger repair center relationship oversight, and transparent consumer advocacy mechanisms are not radical ideas—they are necessary in ensuring the integrity of Washington's insurance marketplace, roadway safety, and consumer rights.

Thank you again for the opportunity to provide input on this essential regulatory review. I am happy to provide additional materials or suggestions as needed.

Sincerely,

Melissa Murray

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