

REFERENCE TITLE: **chiropractors; copayments**

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

## **SB 1152**

Introduced by

Senators Gray L, Blendu, Gray C, Hale, Miranda, O'Halleran, Rios;  
Representatives Anderson, Mason, Miranda B, Pearce, Schapira, Weiers JP;  
Senators Allen, Flake, Garcia, Johnson, Soltero; Representatives Alvarez,  
Barnes, Barto, Bradley, Brown, Burges, Burns J, Cajero Bedford, Campbell  
CH, Campbell CL, Clark, DeSimone, Farley, Gallardo, Garcia M, Hershberger,  
Lopes, Lopez, Lujan, McClure, McGuire, McLain, Murphy, Pancrazi, Rios P,  
Thrasher, Tobin, Weiers J

**AN ACT**

**AMENDING SECTION 20-461, ARIZONA REVISED STATUTES; RELATING TO CHIROPRACTIC  
COPAYMENTS, COINSURANCE OR DEDUCTIBLES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-461, Arizona Revised Statutes, is amended to  
3 read:

4 20-461. Unfair claim settlement practices

5 A. A person shall not commit or perform with such a frequency to  
6 indicate as a general business practice any of the following:

7 1. Misrepresenting pertinent facts or insurance policy provisions  
8 relating to coverages at issue.

9 2. Failing to acknowledge and act reasonably and promptly upon  
10 communications with respect to claims arising under an insurance policy.

11 3. Failing to adopt and implement reasonable standards for the prompt  
12 investigation of claims arising under an insurance policy.

13 4. Refusing to pay claims without conducting a reasonable  
14 investigation based upon all available information.

15 5. Failing to affirm or deny coverage of claims within a reasonable  
16 time after proof of loss statements have been completed.

17 6. Not attempting in good faith to effectuate prompt, fair and  
18 equitable settlements of claims in which liability has become reasonably  
19 clear.

20 7. As a property or casualty insurer, failing to recognize a valid  
21 assignment of a claim. The property or casualty insurer shall have the  
22 rights consistent with the provisions of its insurance policy to receive  
23 notice of loss or claim and to all defenses it may have to the loss or claim,  
24 but not otherwise to restrict an assignment of a loss or claim after a loss  
25 has occurred.

26 8. Compelling insureds to institute litigation to recover amounts due  
27 under an insurance policy by offering substantially less than the amounts  
28 ultimately recovered in actions brought by the insureds.

29 9. Attempting to settle a claim for less than the amount to which a  
30 reasonable person would have believed he was entitled by reference to written  
31 or printed advertising material accompanying or made part of an application.

32 10. Attempting to settle claims on the basis of an application ~~which~~  
33 ~~THAT~~ was altered without notice to, or knowledge or consent of, the insured.

34 11. Making claims payments to insureds or beneficiaries not accompanied  
35 by a statement setting forth the coverage under which the payments are being  
36 made.

37 12. Making known to insureds or claimants a policy of appealing from  
38 arbitration awards in favor of insureds or claimants for the purpose of  
39 compelling them to accept settlements or compromises less than the amount  
40 awarded in arbitration.

41 13. Delaying the investigation or payment of claims by requiring an  
42 insured, a claimant or the physician of either to submit a preliminary claim  
43 report and then requiring the subsequent submission of formal proof of loss  
44 forms, both of which submissions contain substantially the same information.

1 14. Failing to promptly settle claims if liability has become  
2 reasonably clear under one portion of the insurance policy coverage in order  
3 to influence settlements under other portions of the insurance policy  
4 coverage.

5 15. Failing to promptly provide a reasonable explanation of the basis  
6 in the insurance policy relative to the facts or applicable law for denial of  
7 a claim or for the offer of a compromise settlement.

8 16. Attempting to settle claims for the replacement of any  
9 nonmechanical sheet metal or plastic part ~~which~~ THAT generally constitutes  
10 the exterior of a motor vehicle, including inner and outer panels, with an  
11 aftermarket crash part ~~which~~ THAT is not made by or for the manufacturer of  
12 an insured's motor vehicle unless the part meets the specifications of  
13 section 44-1292 and unless the consumer is advised in a written notice  
14 attached to or printed on a repair estimate ~~which~~ THAT:

15 (a) Clearly identifies each part.

16 (b) Contains the following information in ten point or larger type:

17 This estimate has been prepared based on the use of replacement  
18 parts supplied by a source other than the manufacturer of your  
19 motor vehicle. Warranties applicable to these replacement parts  
20 are provided by the manufacturer or distributor of these parts  
21 rather than the manufacturer of your vehicle.

22 17. As an insurer subject to section 20-826, 20-1342, 20-1402 or  
23 20-1404, or as an insurer of the same type as those subject to section  
24 20-826, 20-1342, 20-1402 or 20-1404 that issues policies, contracts, plans,  
25 coverages or evidences of coverage for delivery in this state, failing to pay  
26 charges for reasonable and necessary services provided by any physician  
27 licensed pursuant to title 32, chapter 8, 13 or 17, if the services are  
28 within the lawful scope of practice of the physician and the insurance  
29 coverage includes diagnosis and treatment of the condition or complaint,  
30 regardless of the nomenclature used to describe the condition, complaint or  
31 service.

32 18. Failing to comply with chapter 15 of this title.

33 19. Denying liability for a claim under a motor vehicle liability  
34 policy in effect at the time of an accident without having substantial facts  
35 based on reasonable investigation to justify the denial for damages or  
36 injuries that are a result of the accident and that were caused by the  
37 insured if the denial is based solely on a medical condition that could  
38 affect the insured's driving ability.

39 B. Nothing in subsection A, paragraph 17 of this section shall be  
40 construed to prohibit the application of deductibles, coinsurance, preferred  
41 provider organization requirements, cost containment measures or quality  
42 assurance measures if they are equally applied to all types of physicians  
43 referred to in this section, and if any limitation or condition placed upon  
44 payment to or upon services, diagnosis or treatment by any physician covered  
45 by this section is equally applied to all physicians referred to in

1 subsection A, paragraph ~~16~~ 17 of this section, without discrimination to the  
2 usual and customary procedures of any type of physician. A determination  
3 under this section of discrimination to the usual and customary procedures of  
4 any type of physician shall not be based on whether an insurer applies  
5 medical necessity review to a particular type of service or treatment.

6 C. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A HOSPITAL,  
7 MEDICAL, DENTAL OR OPTOMETRIC SERVICE CORPORATION OR A DISABILITY INSURER  
8 THAT ISSUES DISABILITY INSURANCE OR GROUP OR BLANKET DISABILITY INSURANCE  
9 SHALL NOT IMPOSE AS A LIMITATION ON TREATMENT OR LEVEL OF COVERAGE A  
10 COPAYMENT, COINSURANCE OR DEDUCTIBLE AMOUNT THAT IS CHARGED TO THE INSURED  
11 FOR CHIROPRACTIC SERVICES AND THAT IS HIGHER THAN THE COPAYMENT, COINSURANCE  
12 OR DEDUCTIBLE AMOUNT THAT IS CHARGED TO THE INSURED FOR THE SERVICES OF A  
13 PRIMARY CARE PHYSICIAN.

14 ~~C.~~ D. In prescribing rules to implement this section, the director  
15 shall follow, to the extent appropriate, the national association of  
16 insurance commissioners unfair claims settlement practices model regulation.

17 ~~D.~~ E. Nothing contained in this section is intended to provide any  
18 private right or cause of action to or on behalf of any insured or uninsured  
19 resident or nonresident of this state. It is, however, the specific intent  
20 of this section to provide solely an administrative remedy to the director  
21 for any violation of this section or rule related to this section.

22 ~~E.~~ F. The director shall deposit, pursuant to sections 35-146 and  
23 35-147, all civil penalties collected pursuant to this article in the state  
24 general fund.