

The Florida Department of Financial Services has changed its policy on responding to Civil Remedy Notices ("CRN") under Florida Statute 624.155. Traditionally, an insurer responded to a CRN by mailing a letter to the Department, with a copy to the insured or his counsel. According to a recent e-mail from the Department, and confirmed by several telephone conferences with the Department, **the CRN Web site is now the appropriate and only way to file a CRN, and to respond to a CRN.**

Carlton Fields, P.A. represents many insurers that engage it to analyze their claims denials, to provide opinions on the claims, and to prepare their responses to CRNs. Carlton Fields welcomes these engagements. Alternatively, an insurer may itself respond following the procedure outlined in this alert.

By posting the insurer's response on the CRN Web site, it becomes a public record. In order to promote confidentiality, and limit posting personal information about the insured, the insurer's response where a claim denial is the subject of the CRN can be limited to:

This is ABC Insurance Company's response to CRN #123456 filed by John Jones. After reviewing the Notice, ABC conducted a thorough review of its decision to deny the claim subject of the Notice. It is ABC's position that its denial of the claim at issue was correct and it denies that it has violated the statute(s) as alleged in the Notice. A detailed analysis of its decision has been delivered to the insured (or his counsel) and a copy will be sent to the Department if requested.

Responses to CRNs involving subjects other than claim denials can be worded appropriately.

A CRN is a prerequisite to a first party bad faith claim against an insurer. Insurers are reminded that the failure to respond to a CRN within 60 days of its acceptance by the Department (the Web site shows the CRN's filing acceptance date), results in a rebuttable presumption of the insurer's bad faith.

This publication is not intended as, and does not represent, legal advice and should not be relied upon to take the place of such advice. Since factual situations will vary, please feel free to contact a member of the firm for specific interpretation and advice if you have a question regarding the impact of the information contained herein. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.

We have been advised by the Department that it routinely prints and mails a copy of the CRN to the insurer. We caution, however, that the 60 day response time runs from the CRN's filing acceptance date, not the date it is received by the insurer. If the insurer receives a response so late that a thorough analysis is not possible, the insurer should nonetheless respond within the 60 days and then supplement its response later.

### To file a response to a CRN:

1. Log onto the Web site at <https://apps.fldfs.com/CivilRemedy/>.
2. Double click "Subscription."
3. Click "Create User Account."
4. Enter your e-mail address and other requested information and click on "Create User."
5. The Department will send a password to your e-mail address. (Once you have a password, the above steps need not be repeated.)
6. Log on to the Web site with your e-mail address and password.
7. Click on the link to existing filings.
8. Enter into the relevant CRN by entering the CRN file number at the top of the blank CRN and then click "Search" at the bottom of the blank CRN. Your CRN should appear.
9. Click on "Add Information" at the top of the CRN, type or paste your response into the box, and click "Submit." Your response will now appear as part of the CRN.
10. Mail a copy of your detailed analysis to the insured or his counsel.

For more information about Carlton Fields' Insurance Litigation and Regulation Practice Group, please visit our Web site at [www.carltonfields.com/insurance](http://www.carltonfields.com/insurance).