



**COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT**

**MARKET CONDUCT  
EXAMINATION REPORT**

**OF**

**PROGRESSIVE CASUALTY  
INSURANCE COMPANY  
CLEVELAND, OH**

**As of: November 4, 2019  
Issued: December 20, 2019**

**BUREAU OF MARKET ACTIONS  
PROPERTY AND CASUALTY DIVISION**

VERIFICATION

Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

Nanette R. Soliday  
(Examiner Name), Examiner-in-Charge

Sworn to and Subscribed Before me

This 4<sup>th</sup> Day of November , 2019

Jean A. Cuaz  
Notary Public

COMMONWEALTH OF PENNSYLVANIA  
NOTARIAL SEAL  
Jean A. Cuaz, Notary Public  
City of Harrisburg, Dauphin County  
My Commission Expires Feb. 26, 2021  
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

**PROGRESSIVE CASUALTY INSURANCE COMPANY**  
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BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 28<sup>th</sup> day of March, 2018, in accordance with Section 905(c) of the Pennsylvania Insurance Department Act, Act of May 17, 1921, P.L. 789, as amended, P.S. § 323.5, I hereby designate Christopher R. Monahan, Deputy Insurance Commissioner, to consider and review all documents relating to the market conduct examination of any company and person who is the subject of a market conduct examination and to have all powers set forth in said statute including the power to enter an Order based on the review of said documents. This designation of authority shall continue in effect until otherwise terminated by a later Order of the Insurance Commissioner.



Jessica K. Altman  
Jessica K. Altman  
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:  
: :  
PROGRESSIVE CASUALTY : 40 P.S. §1171.5(a)(11)  
INSURANCE COMPANY : :  
6300 Wilson Mills Road : 31 Pa. Code §§62.3, 62.3 (e)(4),  
Mayfield Village, OH 44143 : 62.3 (e)(7), 69.52(b), 146.5(d), 146.6 and  
: 146.7(a)(1)  
: :  
: 75 Pa. C.S. §1716  
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Respondent : Docket No. MC19-12-002

CONSENT ORDER

And now, this 20<sup>th</sup> day of December, 2019, this Order

is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S. §101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter and agrees that this Consent Order shall have the full force and effect of an order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

### FINDINGS OF FACT

3. The Insurance Department finds true and correct each of the following Findings of Fact:

- (a) Respondent is Progressive Casualty Insurance Company, and maintains its address at 6300 Wilson Mills Road, Mayfield Village, OH 44143
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the period from January 1, 2018 to December 31, 2018.
- (c) On November 4, 2019 the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) Respondent provided to the Insurance Department a response to the Examination Report on December 4, 2019.

- (e) The Market Conduct Examination of the Respondent revealed the violations of the following:
- (i.) 40 P.S. §1171.5(a)(11), requires a company to maintain a complete record of all the complaints it has received during the preceding four years;
  - (ii.) 31 Pa. Code §62.3, requires that an appraisal shall meet all applicable standards per statute;
  - (iii.) 31 Pa. Code §62.3(e)(4), requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value;
  - (iv.) 31 Pa. Code §62.3(e)(7), states the appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion;
  - (v.) 31 Pa. Code §69.52(b), requires an insurer to pay medical bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill;

- (vi.) 31 Pa. Code §146.5(d), states that an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer;
- (vii.) 31 Pa. Code §146.6, states that if an investigation cannot be completed within thirty (30) days, and every forty-five (45) days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected;
- (viii.) 31 Pa. Code §146.7(a)(1), requires within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer;
- (ix.) 75 Pa. C.S. §1716, states that benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in

an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time expended.

#### CONCLUSIONS OF LAW

4. In accord with the above Findings of Fact and applicable provisions of law, the Insurance Department makes the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
- (b) Respondent's violation of 40 P.S. §1171.5(a)(11) is punishable by the following, under Section 9 of the Unfair Insurance Practices Act (40 P.S. §1171.9):
  - (i) cease and desist from engaging in the prohibited activity;
  - (ii) suspension or revocation of the license(s) of Respondent.
- (c) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:

- (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).
  
- (d) Respondent's violations of 31 Pa. Code §§146.5(d), 146.6 and 146.7(a)(1) are punishable under Sections 1 through 5 and Section 9 of the Unfair Insurance Practices Act (40 P.S. §§1171.1 – 1171.5 and 1171.9
  - (i) Cease and desist from engaging in the prohibited activity
  - (ii) Suspension or revocation of the license(s) of Respondent.
  
- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 40 P.S. §§1171.1 – 1171.5, the Commissioner may, under (40 P.S. §§1171.10, 1171.11) file an action in which the Commonwealth Court may impose the following civil penalties:
  - (i) for each method of competition, act or practice which the company knew or should have known was in violation of the law, a penalty of not more than five thousand dollars (\$5,000.00);
  - (ii) for each method of competition, act or practice which the company did not know nor reasonably should have known was in violation of the law, a penalty of not more than one thousand dollars (\$1,000.00).

## ORDER

5. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay Ten Thousand Dollars (\$10,000.00) in settlement of all violations contained in the Report.
- (c) Payment of this matter shall be made to the Commonwealth of Pennsylvania. Payment should be directed to Crystal B. Welsh, Pennsylvania Insurance Department, Office of Market Regulation, RE: Bureau of Market Actions, 1209 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.
- (d) Respondent shall file an affidavit stating under oath that it will provide each of its directors, at the next scheduled directors meeting, a copy of the adopted Report and related Orders. Such affidavit shall be submitted within thirty (30) days of the date of this Order.

(e) Respondent shall comply with all recommendations contained in the attached Report.

6. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein may pursue any and all legal remedies available, including but not limited to the following: The Insurance Department may enforce the provisions of this Order in the Commonwealth Court of Pennsylvania or in any other court of law or equity having jurisdiction; or the Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

7. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

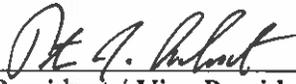
8. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

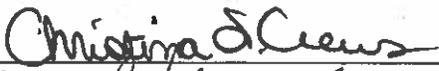
9. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

10. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

11. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violations of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: PROGRESSIVE CASUALTY  
INSURANCE COMPANY  
Respondent

  
\_\_\_\_\_  
President / Vice President

  
\_\_\_\_\_  
Secretary / Treasurer Assistant Secretary

  
\_\_\_\_\_  
CHRISTOPHER R. MONAHAN  
Deputy Insurance Commissioner  
Commonwealth of Pennsylvania

## **I. INTRODUCTION**

The Market Conduct Examination was conducted at the claims office of Progressive Casualty Insurance Company, hereinafter referred to as “Company”, located in Camp Hill, Pennsylvania from April 1, 2019, through April 5, 2019. Subsequent review and follow-up were conducted in the office of the Pennsylvania Insurance Department.

Pennsylvania Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review those areas of concern in order to determine the potential impact upon Company operations or future compliance. A violation is any instance of Company activity that does not comply with an insurance statute or regulation. Violations contained in the Report may result in imposition of penalties.

In certain areas of review listed in this Report, the examiners will refer to “error ratio.” This error ratio is calculated by dividing the number of policies with violations by the total number of policies reviewed. For example, if 100 policies are reviewed and it is determined that there are 20 violations on 10 policies, the error ratio would be 10%.

Throughout the course of the examination, Company officials were provided with status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company personnel to discuss the various types of violations identified during the examination and review written summaries provided on the violations found.

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged.

The following examiners participated in this examination and in preparation of this Report.

**Paul Towsen, MCM  
Market Conduct Division Chief  
Pennsylvania Insurance Department**

**Nanette Soliday  
Market Conduct Examiner  
Pennsylvania Insurance Department**

**Vern Schmidt  
Market Conduct Examiner  
Pennsylvania Insurance Department**

**Joshua Gotwalt  
Market Conduct Examiner  
Pennsylvania Insurance Department**

## **II. SCOPE OF EXAMINATION**

The Market Conduct Examination was conducted on Progressive Casualty Insurance Company, at the claims office located in Camp Hill, Pennsylvania. The examination was conducted pursuant to Sections 903 and 904 (40 P.S. §§323.3 and 323.4) of the Insurance Department Act of 1921 and covered the experience period of January 1, 2018, through December 31, 2018, unless otherwise noted. The purpose of the examination was to determine the Company's compliance with Pennsylvania insurance laws and regulations.

The examination focused on Company operations in the following areas:

1. Private Passenger Automobile
  - Underwriting – Appropriate and timely notices of nonrenewal, midterm cancellations, 60-day cancellations, declinations, and rescissions.
2. Assigned Risk
  - Underwriting – Appropriate and timely notices of nonrenewals and midterm cancellations.
3. Claims
4. Underwriting Practices and Procedures
5. Forms
6. Complaints
7. Data Integrity

### **III. COMPANY HISTORY**

Progressive Casualty Insurance Company (“PCIC”) is a wholly-owned subsidiary of Drive Insurance Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PCIC was incorporated in the State of Ohio in November of 1956 for the purpose of transacting insurance business, except life insurance, in various classes of insurance as set forth in the insurance laws. PCIC is a property and casualty insurer and is part of The Progressive Insurance Group, which consists of 75 companies, of which 43 are insurance companies. PCIC is currently licensed in all 50 states. PCIC is currently transacting the following lines of business: Homeowners Multiple Peril, Inland Marine, Medical Professional Liability, Other Liability, Private Passenger Auto No-Fault, Other Private Passenger Auto Liability, Private Passenger Auto Physical Damage, Commercial Auto No-Fault, Other Commercial Auto Liability, Commercial Auto Physical Damage and Surety.

### **LICENSING**

Progressive Casualty Insurance Company’s last Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2019. The Company is licensed in all fifty states and the District of Columbia. The Company’s 2017 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as \$6,955,108. Premium volume related to the areas of this review were: Private Passenger Automobile Direct Written Premium was reported as Private Passenger Auto No-Fault (Personal Injury Protection) \$643,525; Other Private Passenger Auto Liability \$3,425,700; and Private Passenger Auto Physical Damage \$2,854,487.

#### **IV. UNDERWRITING PRACTICES AND PROCEDURES**

As part of the examination, the Company was requested to supply manuals, underwriting guides, bulletins, directives or other forms of underwriting procedure communications for each line of business being reviewed. Underwriting guides and supplements were furnished for private passenger automobile. The purpose of this review was to identify any inconsistencies which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature. There were no violations.

## **V. UNDERWRITING**

### **A. Private Passenger Automobile**

#### **1. 60-Day Cancellations**

A 60-day cancellation is considered to be any policy, which was cancelled within the first 60 days of the inception date of the policy.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. These files were also reviewed for compliance with Act 68, Section 2002(c)(3) (40 P.S. §991.2002(c)(3)), which requires an insurer who cancels a policy of automobile insurance in the first 60 days, to supply the insured with a written statement of the reason for cancellation.

The Company did not report any private passenger automobile 60-day cancellations for the experience period.

#### **2. Mid-term Cancellations**

A mid-term cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 338 private passenger automobile policies which were cancelled during the experience period, 50 files were selected for review.

All 50 files requested were received and reviewed. There were no violations.

The following concern was noted.

**CONCERN:** The Company is sending a Notice of Cancellation with no address and phone number to contact Assigned Risk. The Company should add the telephone number and address of Assigned Risk to the Notice of Cancellation so the insured can contact Assigned Risk if needed.

### 3. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

The Company did not report any private passenger automobile nonrenewals for the experience period.

### 4. Declinations

A declination is any application that is received by the Company and was declined to be written.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited.

The Company did not report any private passenger automobile declinations for the experience period.

#### 5. Rescissions

A rescission is any policy which was void ab initio by the Company.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited. The review also determines compliance with the rescission requirements established by the Supreme Court of Pennsylvania in *Erie Insurance Exchange v. Lake*.

The Company did not report any private passenger automobile rescissions for the experience period.

### **B. Assigned Risk**

#### 1. Mid-term Cancellations

A mid-term cancellation is any policy that terminates at any time other than the normal twelve-month policy anniversary date.

The primary purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006

(40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 151 private passenger automobile assigned risk policies which were cancelled midterm during the experience period, 50 files were selected for review. All 50 files requested were received and reviewed. There were no violations.

## 2. Nonrenewals

A nonrenewal is considered to be any policy that was not renewed, for a specific reason, at the normal twelve-month policy anniversary date.

The purpose of the review was to determine compliance with Act 68, Section 2003 (40 P.S. §991.2003), which establishes conditions under which action by the insurer is prohibited, and Section 2006 (40 P.S. §991.2006), which establishes the requirements which must be met regarding the form and conditions of the cancellation notice.

From the universe of 46 private passenger automobile assigned risk policies which were non-renewed during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. There were no violations.

## VI. CLAIMS

The Company was requested to provide copies of all established written claim handling procedures utilized during the experience period. Written claim handling procedures were received and reviewed for any inconsistencies, which could be considered discriminatory, specifically prohibited by statute or regulation, or unusual in nature.

The Claims review consisted of the following areas of review:

- A. Automobile Property Damage Claims
- B. Automobile Comprehensive Claims
- C. Automobile Collision Claims
- D. Automobile Total Loss Claims
- E. Automobile First Party Medical Claims
- F. Automobile First Party Medical Claims Referred to a PRO

The primary purpose of the review was to determine compliance with 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices. The files were also reviewed to determine compliance with Act 205, Section 4 (40 P.S. §1171.4) and Section 5(a)(10)(vi) of the Unfair Insurance Practices Act (40 P.S. §1171.5(a)(10)(vi)).

### **A. Automobile Property Damage Claims**

From the universe of 366 private passenger automobile property damage claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. The 27 violations noted were based on 25 files, resulting in an error ratio of 50%.

The following findings were made:

*17 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 17 claim files noted.

*10 Violations 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the ten claim files.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder/claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder/claimant indicating the file is being closed with no payment.

**B. Automobile Comprehensive Claims**

From the universe of 212 private passenger automobile comprehensive claims reported during the experience period, 40 files were selected for review. All 40 files selected were received and reviewed. The 19 violations noted was based on 16 files, resulting in an error ratio of 40%.

The following findings were made:

*14 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 14 claim files noted.

*5 Violations 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the five claim files noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder/claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder/claimant indicating the file is being closed with no payment.

**C. Automobile Collision Claims**

From the universe of 371 private passenger automobile collision claims reported during the experience period, 50 files were selected for review.

All 50 files selected were received and reviewed. The 33 violations noted were based on 33 files, resulting in an error ratio of 66%.

The following findings were made:

*32 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 32 claim files noted.

*1 Violation 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the claim file noted.

The following concern was noted:

**CONCERN:** In some files reviewed, the Company did not issue the policyholder/claimant a written notice indicating it was closing the file without payment. The Company should, in all cases of claims closed without payment, issue a written notice to the policyholder/claimant indicating the file is being closed with no payment.

#### **D. Automobile Total Loss Claims**

From the universe of 126 private passenger automobile total loss claims reported during the experience period, 30 files were selected for review. All 30 files were received and reviewed. The 33 violations noted were based on 29 files, resulting in an error ratio of 97%.

The following findings were made:

*25 Violations 31 Pa. Code §62.3*

An appraisal shall meet all applicable standards per statute. The Company failed to provide an appraisal that meets all applicable standards per statute for the 25 claim files noted.

*1 Violation 31 Pa. Code §62.3(e)(4)*

Requires that applicable sales tax on the replacement cost of a motor vehicle shall be included as part of the replacement value. The file noted did not have sales tax included in the replacement value of the vehicle.

*1 Violation 31 Pa. Code §62.3(e)(7)*

The appraiser is responsible for ensuring that a copy of the total loss evaluation report be sent within 5 working days to the consumer by the appraiser after the appraisal is completed. If a settlement offer is extended before the consumer receives the total loss evaluation report, the consumer shall be advised of the total loss evaluation report's contents and of the consumer's right to be sent a copy within 5 days after its completion. The Company failed to provide a

copy of the total loss evaluation to the insured within 5 working days for the claim file noted.

*5 Violations 31 Pa. Code §146.6*

Every insurer shall complete investigation of a claim within 30 days after notification of claim, unless the investigation cannot reasonably be completed within the time. If the investigation cannot be completed within 30 days, and every 45 days thereafter, the insurer shall provide the claimant with a reasonable written explanation for the delay and state when a decision on the claim may be expected. The Company did not provide timely status letters for the five claim files noted.

*1 Violation 31 Pa. Code §146.7(a)(1)*

Acceptance or denial of a claim shall comply with the following: Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first-party claimant shall be advised of the acceptance or denial of the claim by the insurer. The Company failed to provide acceptance or denial of the claim within 15 working days for the claim file noted.

**E. Automobile First Party Medical Claims**

From the universe of 118 private passenger automobile first party medical claims reported during the experience period, 35 claim files were selected for review. All 35 files requested were received and reviewed. The 12 violations noted were based on 11 files, resulting in an error ratio of 31%.

The following findings were made:

*2 Violations 31 Pa. Code §69.52(b)*

Requires an insurer to pay bills for care that are not referred to a Peer Review Organization within 30 days after the insurer receives sufficient documentation supporting the bill. The Company failed to pay medical bills within 30 days for the two claim files noted.

*9 Violations 31 Pa. Code §146.5(d)*

Requires an insurer, upon receiving notification of a claim, shall provide within ten working days necessary claim forms, instructions and reasonable assistance so that first-party claimants can comply with policy conditions and reasonable requirements of the insurer. The Company did not provide the necessary claim forms to the claimant within ten working days for the nine claim files noted.

*1 Violation 75 Pa. C.S. §1716*

Payment of Benefits. Benefits are overdue if not paid within 30 days after the insurer receives reasonable proof of the amount of benefits. If reasonable proof is not supplied as to all benefits, the portion supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Overdue benefits shall bear interest at the rate of 12% per annum from the date the benefits become due. In the event the insurer is found to have acted in an unreasonable manner in refusing to pay the benefits when due, the insurer shall pay, in addition to the benefits owed and the interest thereon, a reasonable attorney fee based upon actual time

expended. The Company failed to pay interest on a medical bill that was not paid within 30 days on the claim file noted.

**F. Automobile First Party Medical Claims Referred to a PRO**

The universe of 5 automobile first party medical claims that were referred to a peer review organization by the Company were selected for review. All 5 files were received and reviewed. The Company was also asked to provide a copy of all peer review contracts in place during the experience period. There were no violations.

## **VII. FORMS**

Throughout the course of the examination, all underwriting files were reviewed to identify the policy forms used in order to verify compliance with the Insurance Company Law, Section 354 (40 P.S. §477b), Approval of Policies, Contracts, etc., Prohibiting the Use Thereof Unless Approved. During the experience period of the examination, Section 354 provided that it shall be unlawful for any insurance company to issue, sell, or dispose of any policy contract or certificate covering fire, marine, title and all forms of casualty insurance or use applications, riders, or endorsements in connection therewith, until the forms have been submitted to and formally approved by the Insurance Commissioner. All underwriting and claim files were also reviewed to verify compliance with 75 Pa. C.S. §1822, which requires all insurers to provide an insurance fraud notice on all applications for insurance, all claims forms and all renewals of coverage and 18 Pa. C.S. §4117(k)(1), which requires all insurers to provide an insurance fraud notice on all applications for insurance and all claim forms. There were no violations.

### VIII. CONSUMER COMPLAINTS

The Company was requested to identify all consumer complaints received during the experience period and provide copies of their consumer complaint logs for the preceding four years. The Company identified three consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of three complaint files was selected for review. All three files requested were received and reviewed.

The purpose of the review was to determine compliance with the Unfair Insurance Practices Act, (40 P.S. §§1171.1 – 1171.5). Section 5(a)(11) of the Act (40 P.S. §1171.5(a)(11)), requires a company to maintain a complete record of all complaints received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. The individual complaint files were reviewed for the relevancy to applicable statutes and to verify compliance with 31 Pa. Code §146.5(b)(c).

The following findings were made:

#### *5 Violations 40 P.S. §1171.5(a)(11)*

Failure of any person to maintain a complete record of all the complaints which it has received during the preceding four years. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this paragraph, “complaint” means any written communication primarily expressing a grievance. The complaint logs for 2015 - 2018 do not indicate the total number of

complaints and the time it took to process each complaint. The Company failed to maintain a complete record of all complaints received by the Company from the Department during 2018.

The following synopsis reflects the nature of the 3 complaints that were received.

1	Cancellation/Nonrenewal	33.33%
1	Claims Related	33.33%
1	Agency Conduct	33.33%
<hr/>		<hr/>
3		100%

## **IX. DATA INTEGRITY**

As part of the examination, the Company was sent a preliminary examination packet in accordance with NAIC uniformity standards and provided specific information relative to the exam. The purpose of the packet was to provide certain basic examination information, identify preliminary requirements and to provide specific requirements for requested data call information. Once the Company provided all requested information and data contained within the data call, the Department reviewed and validated the data to ensure its accuracy and completeness to determine compliance with Insurance Department Act of 1921, Section 904(b) (40 P.S. §323.4(b)). There were no violations

## **X. RECOMMENDATIONS**

The recommendations made below identify corrective measures the Department finds necessary as a result of the number of some violations, or the nature and severity of other statutory or regulatory violations, noted in the Report.

1. The Company must review 31 Pa. Code §62.3 with its claim staff to ensure all appraisal requirements are met so the violations noted in the Report do not occur in the future.
2. The Company must review 31 Pa. Code §62.3 (e)(4) with its claim staff to ensure sales tax is included in the replacement value of the vehicle so the violations noted in the Report do not occur in the future.
3. The Company must review 31 Pa. Code §62.3 (e)(7) with its claim staff to ensure a copy of the total loss evaluation is provided to the insured within 5 working days so the violations noted in the Report do not occur in the future.
4. The Company must review 31 Pa. Code §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.
5. The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to acknowledgement, status letters and acceptance and denials, as noted in the Report do not occur in the future.

6. The Company must review 40 P.S. §1171.5(a)(11) to ensure that a complete complaint log is maintained.
  
7. The Company must review 75 Pa. C.S. §1716 with its claim staff to ensure that interest is paid on first party medical when the bills are not paid within 30 days of receipt.

**XI. COMPANY RESPONSE**

## XI. COMPANY RESPONSE



December 4, 2019

Progressive Casualty Insurance Company ("Progressive") submits the following responses to the above report. Progressive thanks the Department for its time and cooperation throughout this examination.

1. *The Company must review 31 Pa. Code §62.3 with its claim staff to ensure all appraisal requirements are met so the violations noted in the Report do not occur in the future.*

**Company Response:**

Progressive has already taken steps to update our appraisal forms for compliance with 31 Pa Code §62.3.

2. *The Company must review 31 Pa. Code §62.3 (e)(4) with its claim staff to ensure sales tax is included in the replacement value of the vehicle so the violations noted in the Report do not occur in the future.*

**Company Response:**

Progressive will reinforce compliance with our claims staff through recommunication of the requirements for 31 Pa. Code §62.3(e)(4).

3. *The Company must review 31 Pa. Code §62.3 (e)(7) with its claim staff to ensure a copy of the total loss evaluation is provided to the insured within 5 working days so the violations noted in the Report do not occur in the future.*

**Company Response:**

Progressive will reinforce compliance with our claims staff through recommunication of the requirements for 31 Pa. Code §62.3(e)(7).

4. *The Company must review 31 Pa. Code §69.52(b) with its claim staff to ensure that first party medical bills are paid within 30 days.*

**Company Response:**

Progressive will reinforce compliance with our claims staff through recommunication of the requirements for 31 Pa. Code §69.52(b).

5. *The Company should review and revise internal control procedures to ensure compliance with the claims handling requirements of 31 Pa. Code, Chapter 146, Unfair Claims Settlement Practices so that the violations relating to acknowledgement, status letters and acceptance and*

*denials, as noted in the Report do not occur in the future.*

**Company Response:**

Progressive has already taken steps to revise our internal procedures based on the Department's recommendations with regards to 31 Pa. Code §146.5(d).

- 6. The Company must review 40 P.S. §1171.S(a)(11) to ensure that a complete complaint log is maintained.*

**Company Response:**

Progressive will review our current complaint log and make any adjustments as necessary.

- 7. The Company must review 75 Pa.C.S. §1716 with its claim staff to ensure that proper interest is paid on first party medical bills when the bills are not paid within 30 days of receipt.*

**Company Response:**

Progressive will reinforce compliance with our claims staff through recommunication of the requirements for 75 Pa.C.S. §1716.