pennsylvania
INSURANCE DEPARTMENT

COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT

MARKET CONDUCT
EXAMINATION REPORT

OF

PROGRESSIVE DIRECT 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 Holiday
(Examiner Name), Examiner-in-Charge

Sworn to and Subscribed Before me
This 4th 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 DIRECT INSURANCE COMPANY

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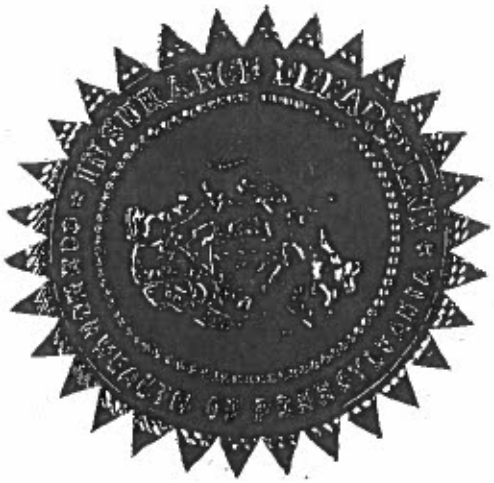
BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 28th 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
Insurance Commissioner

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE:	:	VIOLATIONS:
	:	
PROGRESSIVE DIRECT INSURANCE COMPANY 6300 Wilson Mills Road Mayfield Village, OH 44143	:	40 P.S. §991.2006(2)
	:	
	:	40 P.S. §1171.5(a)(11)
	:	
	:	31 Pa. Code §§62.3, 62.3(e)(4), 62.3 (e)(7), 69.22(c), 69.52(b), 146.5(d), 146.6 and 146.7(a)(1)
	:	
	:	75 Pa. C.S. §1161(a)(b)
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	:	
Respondent	:	Docket No. MC19-12-003

CONSENT ORDER

And now, this 20th 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 Direct 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 ("Examination Report").

(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. §991.2006(2), prohibits a cancellation or refusal to renew from being effective unless the insurer delivers or mails a written notice of the cancellation or refusal to renew, which will include the date, not less than 60 days after the date of mailing or delivery, on which the cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for reasons set forth in Sections 2004(1) and (2), however, the effective date may be 15 days from the date of mailing or delivery

(ii.) 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;

(iii.) 31 Pa. Code §62.3, requires that an appraisal shall meet all applicable standards per statute;

(iv.) 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;

(v.) 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;

(vi.) 31 Pa. Code §69.22(c), requires the insurer, when an insured's first-party limits have been exhausted, to provide notice to the provider and the insured within 30 days of the receipt of the provider's bill;

(vii.) 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;

(viii.) 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;

(ix.) 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;

(x.) 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;

(xi.) 75 Pa. C.S. §1161(a)(b), states that an insurer who owns, possesses or transfers a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the Department for a certificate of salvage for that vehicle. An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to this person to whom the vehicle is transferred. Except as provided in section 1163, the transferee shall immediately present the assigned certificate of title to the department with an application for a certificate of salvage upon a form furnished and prescribed by the department.

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) Violation of 40 P.S. §991.2006(2) (relating to motor vehicles) of 40 P.S. is punishable by the following, under Section 991.2013: Any individual or insurer who violates any of the provisions of this article may be sentenced to pay a fine not to exceed five thousand dollars ($5,000).

(c) 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.

(d) 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).

(e) 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.

(f) 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 DIRECT INSURANCE COMPANY
Respondent

~~President / Vice President~~ Assistant 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 Direct 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 Direct 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. Claims

3. Complaints

4. Underwriting Practices and Procedures

5. Forms

6. Data Integrity

III. COMPANY HISTORY

Progressive Direct Insurance Company ("PRDRT") is a wholly-owned subsidiary of Progressive Direct Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PRDRT was incorporated in the State of Ohio in September of 1986 for the purpose of transacting insurance business, except life insurance, in various classes of insurance as set forth in the insurance laws. The Company's name changed from Halcyon Insurance Company to Progressive Halcyon Insurance Company effective August 28, 2000. The Company's name changed from Progressive Halcyon Insurance Company to Progressive Direct Insurance Company effective March 13, 2006. PRDRT is a property and casualty insurer and is part of The Progressive Insurance Group, which consists of 75 companies, 43 of which are insurance companies. The Progressive Insurance Group also has majority ownership of ARX Holding Corp. and its subsidiaries.

LICENSING

Progressive Direct 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 states except Texas. The Company's 2017 annual statement reflects Direct Written Premium for all lines of business in the Commonwealth of Pennsylvania as $25,505,338. 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) $1,456,161; Other Private Passenger Auto Liability $12,402,451; and Private Passenger Auto Physical Damage $11,487,300.

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 1,202 private passenger automobile policies which were cancelled during the experience period, 50 files were selected for review. All 50 files 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 universe of four private passenger automobile policies which were nonrenewed during the experience period were selected for review. All four files requested were received and reviewed. The 2 violations noted were based on 2 files, resulting in an error ratio of 50%.

The following findings were made:

2 Violations 40 P.S. §991.2006(2)

Proper notification of intention to cancel. A cancellation or refusal to renew by an insurer of a policy of automobile insurance shall not be effective unless the insurer delivers or mails to the named insured at the address shown in the policy a written notice of the cancellation or refusal to renew. The notice shall: (2) State the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation or refusal to renew shall become effective. When the policy is being cancelled or not renewed for the reasons set forth in Section 2004(1) and (2). However, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company did not provide the proper number of days notice for the two files noted.

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.

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.

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 1,403 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 22 violations noted were based on 18 files, resulting in an error ratio of 36%.

The following findings were made:

16 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 16 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.

1 Violation 31 Pa. Code §146.7(a)(1)

Standards for prompt, fair and equitable settlements applicable to insurers. (a) Acceptance or denial of a claim shall comply with the following: (1) 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. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

The Company failed to deny the claim in writing for the 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.

B. Automobile Comprehensive Claims

From the universe of 1,276 private passenger automobile comprehensive claims reported during the experience period, 45 files were selected for review. All 45 files selected were received and reviewed. The 18 violations noted was based on 18 files, resulting in an error ratio of 40%.

The following findings were made:

16 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 16 claim files noted.

2 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 two claim files noted.

C. Automobile Collision Claims

From the universe of 2,076 private passenger automobile collision claims reported during the experience period, 75 files were selected for review. All 75 files selected were received and reviewed. The 43 violations noted were based on 41 files, resulting in an error ratio of 55%.

The following findings were made:

39 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 39 claim files noted.

2 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 two claim files noted.

2 Violations 31 Pa. Code §146.7(a)(1)

Standards for prompt, fair and equitable settlements applicable to insurers. (a) Acceptance or denial of a claim shall comply with the following: (1) 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. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to provide acceptance or denial of the claim within 15 working days for the two 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.

D. Automobile Total Loss Claims

From the universe of 597 private passenger automobile total loss claims reported during the experience period, 35 files were selected for review. All 35 files were received and reviewed. The 36 violations noted were based on 29 files, resulting in an error ratio of 83%.

The following findings were made:

29 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 29 claim files noted.

2 Violations 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 Company did not have sales tax included in the replacement value of the vehicle on the two claim files noted.

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.

2 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 two claim files noted.

2 Violations 75 Pa. C.S. §1161(a)(b)

A person, including an insurer or self who owns, possesses or transfer a vehicle located or registered in the Commonwealth which qualifies as a salvage vehicle shall make application to the department for a certificate of salvage for that vehicle. An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in section 1163, the transferee shall immediately present the assigned certificate of title to the department or an authorized agent of the department with an application for a certificate of salvage upon a form furnished and prescribed by the department. An insurer as defined in section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. The Company failed to secure the Pennsylvania certificate of salvage when replacement value is paid for the two 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.

E. Automobile First Party Medical Claims

From the universe of 415 private passenger automobile first party medical claims reported during the experience period, 40 claim files were selected for review. All 40 files requested were received and reviewed. The 13 violations noted were based on 11 files, resulting in an error ratio of 28%.

The following findings were made:

2 Violations 31 Pa. Code §69.22(c)

Billing procedures. (c) If an insured's first-party limits have been exhausted, the insurer shall, within 30 days of the receipt of the provider's bill, provide notice to the provider and the insured that the first-party limits have been exhausted. The Company failed to provide notice to provider that first-party benefits were exhausted for the two claim files noted.

1 Violation 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 claim file 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 10 working days for the nine claim files noted.

1 Violation 31 Pa. Code §146.7(a)(1)

Standards for prompt, fair and equitable settlements applicable to insurers. (a) Acceptance or denial of a claim shall comply with the following: (1) 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. An insurer may not deny a claim on the grounds of a specific policy provision, condition or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial shall be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. The Company failed to deny the claim in writing for the file noted.

F. Automobile First Party Medical Claims Referred to a PRO

The universe of 6 automobile first party medical claims that were referred to a peer review organization by the Company were selected for review. All 6 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.

The following concern was noted:

CONCERN: The Company should use the fraud warning under 18 Pa. C.S. §4117(k) (1), "Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information or conceals for the purpose of misleading, information concerning any fact material thereto commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.", on all claim forms. The Company was using the fraud warning under 75 Pa. C.S. §1822 on the following claim form: Application for Benefits.

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 eight consumer complaints received during the experience period and provided all consumer complaint logs requested. The universe of eight complaint files was selected for review. All eight 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 statues 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.

6	Claims Related	75%
2	Billing	25%
8		100%

The following concern was noted:

CONCERN: In one of the eight complaints reviewed, the Company received an inquiry or complaint from the consumer and did not respond to the consumer within 10 working days. The company should respond to a consumer complaint or inquiry that is not related to claims within 10 working days.

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 §69.22(c) with its claim staff to ensure that a notice is sent to the provider that first-party benefits were exhausted.

5. 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.

6. 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.

7. The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.3(a) so that violations noted in the Report do not occur in the future.

8. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §991.2006 so that the violations noted in the Report do not occur in the future.

9. The Company must review 40 P.S. §1171.5(a)(11) to ensure that a complete complaint log is maintained.

10. The Company must review 75 Pa C.S. §1161(a)(b) to ensure that violations regarding providing the required certificate of salvage, as noted in the Report, do not occur in the future.

XI. COMPANY RESPONSE

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PROGRESSIVE

December 4, 2019

Progressive Direct 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 §69.22(c) with its claim staff to ensure that a notice is sent to the provider that first-party benefits were exhausted.*

   Company Response:

   Progressive continues to respectfully disagree with these violations. The code does not prescribe that the notice to the provider take the form of a separate notice, nor does it specify the type of notice that's required to comply with the statute. Additionally, the code does not define what constitutes a "notice," thus, it is reasonable to rely on a common language definition of the term, such as Black's Law Dictionary.

Black's Law Dictionary defines notice as: 1. Legal notification required by law or agreement, or imparted by operation of law as a result of some fact (such as the recording of an instrument); definite legal cognizance, actual or constructive, of an existing right or title <under the lease, the tenant must give the landlord written notice 30 days before vacating the premises>. • A person has notice of a fact or condition if that person (1) has actual knowledge of it; (2) has received information about it; (3) has reason to know about it; (4) knows about a related fact; or (5) is considered as having been able to ascertain it by checking an official filing or recording. 2. The condition of being so notified, whether or not actual awareness exists <all prospective buyers were on notice of the judgment lien>. Cf. knowledge. 3. A written or printed announcement <the notice of sale was posted on the courthouse bulletin board>. (11th ed., 2019)

When considering this dictionary definition, the Company's Explanation of Benefits provides the provider with the necessary information that the benefits have been exhausted. The reader of the Explanation of Benefit can ascertain that the benefits have been exhausted by referencing the endnote code. Thus, the Company's Explanation of Benefits complies with the statutorily required notice to the provider.

5. *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).

6. *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).

7. *The Company must reinforce its internal data controls to ensure that all records and documents are maintained in accordance with 40 P.S. §323.4(a), so that violations noted in the Report do not occur in the future.*

Company Response:

Progressive will review its internal data controls and make any adjustments as necessary.

8. *The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §991.2006 so that the violations noted in the Report do not occur in the future.*

Company Response:

Progressive has already initiated a project to provide the address and phone number for Assigned Risk on our cancellation forms.

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

Company Response:

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

10. *The Company must review 75 Pa C.S. §1161(a)(b) to ensure that violations regarding providing the required certificate of salvage, as 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 75 Pa C.S. §1161(a)(b).