



**COMMONWEALTH OF PENNSYLVANIA
INSURANCE DEPARTMENT**

MARKET CONDUCT
EXAMINATION REPORT

OF

Bristol West Insurance Company
INDEPENDENCE, OH

As of: February 5, 2019
Issued: March 21, 2019

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

VERIFICATION

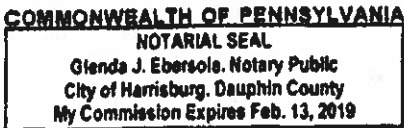
Having been duly sworn, I hereby verify that the statements made in the within document are true and correct to the best of my knowledge, information and belief. I understand that false statements made herein are subject to the penalties of 18 Pa. C.S. §4903 (relating to false swearing).

Ryan O. Sellers
Ryan O. Sellers, APIR, Examiner-In-Charge

Sworn to and Subscribed Before me

This 4th Day of February 2019

Glenda J. Ebersole
Notary Public



BRISTOL WEST INSURANCE COMPANY
TABLE OF CONTENTS

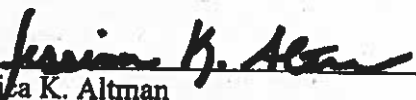
Order	
I.	Introduction 1
II.	Scope of Examination 3
III.	Company History/Licensing 4
IV.	Underwriting Practices and Procedures 5
V.	Underwriting
	A. Private Passenger Automobile 6
VI.	Rating
	A. Private Passenger Automobile 17
VII.	Claims
	A. Automobile Property Damage Claims. 28
	B. Automobile Comprehensive Claims. 30
	C. Automobile Collision Claims 31
	D. Automobile Total Loss Claims 32
	E. Automobile First Party Medical Claims. 33
	F. Automobile First Party Medical Claims Referred to a PRO. . . 34
VIII.	Forms 35

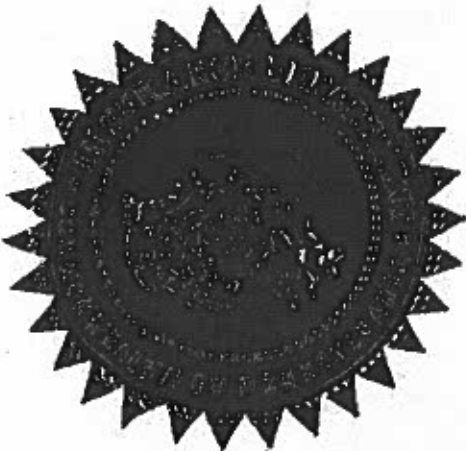
IX.	Complaints	37
X.	Data Integrity	41
XI.	Recommendations	44
XII.	Company Response	48

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

ORDER

AND NOW, this 18th 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:
	:	
BRISTOL WEST	:	40 P.S. §§323.3(a) and 323.4(b)
INSURANCE COMPANY	:	
5990 West Creek Road	:	40 P.S. §§991.2001, 991.2002(c)(3)
Independence, OH 44131	:	991.2004, 991.2006(2) and 991.2008(b)
	:	
	:	40 P.S. §1184(a)&(h)
	:	
	:	18 Pa. C.S. §4117(k)(1)
	:	
	:	31 Pa. Code §§62.3, 69.52(e), 146.5(d)
	:	146.6 and 146.7(a)(1)
	:	
	:	75 Pa. C.S. §§1705(a)(4), 1731(b)&(c)
	:	1738(d)(1)&2(e), 1791.1(a), 1793(b)
	:	1793(c) and 1799.3(f)
	:	
	:	
Respondent.	:	Docket No. MC19-02-011

CONSENT ORDER

AND NOW, this 21st day of March, 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 Bristol West Insurance Company, and maintains its address at 5990 West Creek Road, Independence, OH 44131.
- (b) A market conduct examination of Respondent was conducted by the Insurance Department covering the experience period from January 1, 2017 through December 31, 2017.
- (c) On February 5, 2019, the Insurance Department issued a Market Conduct Examination Report to Respondent.
- (d) A response to the Examination Report was provided by Respondent on March 7, 2019.

(e) The Market Conduct Examination of Respondent revealed violations of the following:

- (i) 40 P.S. §323.3(a), requires every company subject to examination to keep all books, records, accounts, papers, documents and any computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the Department may require in order that its representatives may readily ascertain whether the company has complied with the laws of this Commonwealth;
- (ii) 40 P.S. §323.4(b), requires every company or person from whom information is sought, its officers, directors and agents must provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined;
- (iii) 40 P.S. §991.2001 defines "Nonpayment of premium" as failure of the named insured to discharge when due any obligation in connection with the payment of premiums on a policy or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension or credit.

- (iv) 40 P.S. §991.2002(c)(3), requires that an insurer supply the insured with a written statement of the reason for cancellation;
- (v) 40 P.S. §991.2004, states no insurer shall cancel a policy of automobile insurance except for (a) nonpayment of premium, (b) suspension or revocation of the named insured's driver license or motor vehicle registration or a (c) determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer;
- (vi) 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;
- (vii) 40 P.S. §991.2008(b), requires any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of

such reasons, the applicant may request in writing to the Commissioner that he review the action of the insurer in refusing to write a policy for the applicant;

- (viii) 40 P.S. §1184(a)&(h), requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan which it proposes to use in this Commonwealth and prohibits an insurer from making or issuing a contract or policy with rates other than those approved;
- (ix) 18 Pa. C.S. §4117(k)(l), states 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;
- (x) 31 Pa. Code §62.3, requires that an appraisal shall meet all applicable standards per statute;
- (xi) 31 Pa. Code §69.52(e), requires an insurer to provide copies of the Peer Review Organization's written analysis to the provider and the insured within 5 days of receipt;

- (xii) 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;
- (xiii) 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;
- (xiv) 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;
- (xv) 75 Pa. C.S. §1705(a)(4), requires every insurer, prior to the first issuance of a private passenger motor vehicle liability insurance policy to provide each applicant with the notice required by paragraph (1). A policy may not be issued until the applicant has been provided an opportunity to elect a tort option. The notice shall be standardized form as adopted by the Commissioner;

- (xvi) 75 Pa. C.S. §1731(b)&(c), requires that the named insured shall be informed that uninsured and underinsured motorist coverage may be rejected by signing a written rejection form;
- (xvii) 75 Pa. C.S. §1738(d)(1)&(2)(e), requires the named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms;
- (xviii) 75 Pa. C.S. §1791.1(a), requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverages or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages;

- (xix) 75 Pa. C.S. §1793(b), requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage;
- (xx) 75 Pa .C.S. §1793(c), states when an insurer cancels a motor vehicle insurance policy within the first 60 days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due;
- (xxi) 75 Pa. C.S. §1799.3(f), states if requested by the applicant, an agent for an insurer shall submit an application for automobile insurance to the insurer or provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the Commissioner. An applicant receiving a notice of reasons under this subsection may obtain review by the Commissioner pursuant to the Automobile Insurance Policy Act. If either the applicant or insurer is aggrieved by the Commissioner's review, the Commissioner may, in his discretion and for cause shown, hold a

hearing pursuant to the Automobile Insurance Policy Act. No insurer shall take any action, overt or otherwise, against any agent or broker for complying with this subsection;

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) Violations of 40 P.S. §§991.2001, 991.2002(c)(3), 991.2004, 991.2006(2) and 991.2008(b) (relating to motor vehicles) of 40 P.S. are 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) Violations of Section 4 of the Casualty and Surety Rate Regulatory Act, No. 246 (40 P.S. §1184(a)&(h) are punishable under Section 16 of the Act:
 - (i) imposition of a civil penalty not to exceed \$50 for each violation or not more than \$500 for each such willful violation;

- (ii) suspension of the license of any insurer which fails to comply with an Order of the Commissioner within the time limited by such Order, or any extension thereof which the Commissioner may grant.

- (d) Respondent's violations of 31 Pa. Code §§146.5(d), 146.6 and 146.7(a)(1) are punishable under 40 P.S. §1771.9:
 - (1) An order to cease and desist.
 - (2) License suspension or revocation.

- (e) In addition to any penalties imposed by the Commissioner for Respondent's violations of 31 Pa. Code §§146.5(d), 146.6 and 146.7(a)(1), 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:
 - (1) An injunction.
 - (2) 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) for each violation but not to exceed an aggregate penalty of fifty thousand dollars (\$50,000) in any six month period.
 - (3) 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) for each

violation but not to exceed an aggregate penalty of ten thousand dollars (\$10,000) in any six month period.

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 One hundred twenty-five Thousand Dollars (\$125,000.00) 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 April Phelps, Insurance Department, Bureau of Market Actions, 1227 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: BRISTOL WEST INSURANCE COMPANY
Respondent



President / Vice President



Secretary / Treasurer



CHRISTOPHER R. MONAHAN
Deputy Insurance Commissioner
Commonwealth of Pennsylvania

I. INTRODUCTION

The Market Conduct Examination was conducted at the office of Bristol West Insurance Company, hereinafter referred to as “Company”, located in Independence, Ohio, from October 15, 2018, through October 19, 2018. Prior and subsequent review and follow-up was 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.

**Kelly Krakowski, MCM
Market Conduct Division Chief
Pennsylvania Insurance Department**

**Ryan Sellers, APIR
Market Conduct Examiner
Pennsylvania Insurance Department**

**Paul Towsen
Market Conduct Examiner
Pennsylvania Insurance Department**

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

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

II. SCOPE OF EXAMINATION

The Market Conduct Examination was conducted on Bristol West Insurance Company, at their office located in Independence, Ohio. 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, 2017, through December 31, 2017, 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.
 - Rating – Proper use of all classification and rating plans and procedures.
2. Claims
3. Forms
4. Complaints
5. Data Integrity

III. COMPANY HISTORY

Bristol West Insurance Company is a wholly-owned subsidiary of Bristol West Holding, Incorporated, which is an Ohio domiciled insurer. Bristol West Holding, Incorporated, is an indirect owned subsidiary of Farmers Insurance Exchange, Truck Insurance Exchange, and Fire Insurance Exchange is a Delaware corporation. Bristol West Insurance Company was incorporated on February 9, 1968, and was authorized to commence business on June 10, 1968.

LICENSING

Bristol West Insurance Company's Certificate of Authority to write business in the Commonwealth was last issued on April 1, 2018. The Company is licensed in thirty-seven 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 \$39,378,197. 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) \$4,702,364; Other Private Passenger Auto Liability \$21,844,562; and Private Passenger Auto Physical Damage \$12,831,271.

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 private passenger automobile. 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.

No violations were noted.

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(b)(3) (40 P.S. §991.2002(b)(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.

From the universe of 5,033 private passenger automobile policies that were cancelled within the first 60 days of new business, 100 files were selected for review. All 100 files requested were received and reviewed. Nine files were identified as mid-term cancellations. The 86 violations noted were based on 80 files, resulting in an error ratio of 80%.

The following findings were made:

80 Violations 40 P.S. §991.2002(c)(3)

Adjudications: Tampa v. State Farm (P91-06-01, 1991)

Gorba v. Allstate (P92-02-92, 1993)

Requires that an insurer supply the insured with a written statement of the reason for cancellation. Of the 80 violations noted, 54 files were policies cancelled within the first 60 days

of new business inception date and issued at least one notice that did not comply with the required 15 days notice. The Company issued a notice of cancellation following an insured request for the remaining 26 files noted.

5 Violations 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company did not provide a request for review by the Commissioner for the five files noted.

1 Violation 75 Pa. C.S. §1793(c)

When an insurer cancels a motor vehicle insurance policy within the first 60-days of new business, the insurer shall within 30 days of canceling the policy return to the insured all premiums paid under the policy less any proration for the period the policy was in effect. Premiums are overdue if not paid to the insured within 30 days after canceling the policy. Overdue return premiums shall bear interest at the rate of 12% per annum from the date the return premium became due. The Company failed to return unearned premium within 30 days of canceling the policy and failed to pay the proper

amount of interest on the overdue returned premium for the file noted.

The following concerns were 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.

CONCERN: The Company is sending a Notice of Cancellation with an opportunity for the insured to resolve the matter being used as the reason for cancellation. However, there is no clear direction for how the insured may resolve the matter. Below is an example of the text on a Notice of Cancellation:

However, you may have the opportunity to resolve this matter and remain insured with BRISTOL WEST INSURANCE COMPANY by providing:

APPL SIGN NOT RECIEVED POLICY CANCELLED

The Company should provide a clear indication of the matter to be resolved and what steps the insured should take to resolve the matter.

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 10,056 private passenger automobile policies which were cancelled midterm, 75 files were selected for review. All 75 files requested were received and reviewed. Of the 75 files reviewed, one file was identified as a nonrenewal. The 62 violations noted were based on 60 files, resulting in an error ratio of 80%.

The following findings were made:

4 Violations 40 P.S. §991.2004

Adjudication: Nationwide Insurance v. Ancona (PH94-07-005, 1997)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. Also, an insurer can only rescind coverage after the first sixty days of the policy when fraud could not reasonably be detected by the insurer at the time of fraud and the insurer would not have accepted the risk if the true facts

had been known. The four files noted contained policies that were rescinded after the first 60 days of new business inception date without instances of fraud. The Company cannot rescind policies due to a dishonored first installment payment of a renewal term.

4 Violations 40 P.S. §991.2004

40 P.S. §991.2001

Adjudication: Nguyen/Old Guard (P01-01-019, 2001)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company sent a cancellation notice for nonpayment of premium when premium was not yet due for the four files noted.

54 Violations 40 P.S. §991.2006(2)

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. Of the 54 violations noted, the Company failed to provide 15

days mailing notice prior to the cancellation effective date for four of the files noted. The Company issued a cancellation notice following an insured request for the remaining 50 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 so the insured can contact 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.

From the universe of 1,012 private passenger automobile policies which were nonrenewed during the experience period, 100 files were selected for review. All 100 files requested were received and reviewed. Eight files were identified as midterm cancellations. The 40 violations noted were based on 39 files, resulting in an error ratio of 39%.

The following findings were made:

8 Violations 40 P.S. §991.2004

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The eight files noted were cancelled for other than permitted reasons.

7 Violations 40 P.S. §991.2006(2)

Requires an insurer to deliver or mail to the named insured a cancellation notice and state the date, not less than sixty (60) days after the date of the mailing or delivery, on which cancellation shall become effective. When the policy is being cancelled for the nonpayment of premium, the effective date may be fifteen (15) days from the date of mailing or delivery. The Company failed to provide the proper number of days' notice required.

25 Violations 40 P.S. §991.2004

Adjudication: Nationwide Insurance v. Ancona (PH94-07-005, 1997)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. Also, an insurer can only rescind coverage after the first sixty days of the policy when fraud could not reasonably be detected by the insurer at the time of fraud and the insurer would not have accepted the risk if the true facts had been known. The 25 files noted contained policies that were rescinded after the first 60 days of new business inception date without instances of fraud. The Company cannot rescind policies due to a dishonored first installment payment of a renewal term.

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.

From the universe of 6,413 declinations for private passenger automobile insurance, 50 files were selected for review. All 50 files requested were received and reviewed. The 2,185 violations noted were based on the universe of 6,413 files, resulting in an error ratio of 34%.

The following findings were made:

General Violation 40 P.S. §323.3(a)

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person has complied with the laws of the Commonwealth. The Company failed to retain a complete record of declined applicants; specifically, those not determined by third party reports.

General Violation 40 P.S. §323.3(a)

Requires every company or person subject to examination in accordance with this act must keep all books, records, accounts, papers, documents and any or all computer or other recordings relating to its property, assets, business and affairs in such manner and for such time periods as the department, in its discretion, may require in order that its authorized representatives may readily verify the financial condition of the company or person has complied with the laws of the

Commonwealth. The Company could not identify the applicants that went through a comparative rater and were later declined for coverage by the Company.

2,185 Violations 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in refusing to write a policy for the applicant. The Company did not provide a written notice of refusal to write for the 2,185 files noted.

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*.

From the universe of 789 private passenger automobile policies which were rescinded during the experience period, 25 files were selected for review. All 25 files requested were received and reviewed. One file reviewed was

determined to be a midterm cancellation. The violation resulted in an error ratio of 4%.

The following finding was made:

1 Violation 40 P.S. §991.2004

Adjudication: Nationwide Insurance v. Ancona (PH94-07-005, 1997)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. Also, an insurer can only rescind coverage after the first sixty days of the policy when fraud could not reasonably be detected by the insurer at the time of fraud and the insurer would not have accepted the risk if the true facts had been known. The file noted was rescinded after the first 60 days of new business inception date without an instance of fraud. The Company cannot rescind a policy due to a dishonored first installment payment after more than 60 days following policy inception.

VI. RATING

A. Private Passenger Automobile

1. New Business

New business, for the purpose of this examination, is defined as policies written for the first time by the Company during the experience period.

The primary purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with all provisions of the Motor Vehicle Financial Responsibility Law (75 Pa. C.S. §§1701 – 1799.7) and Act 68, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company uses an automated system to process and issue personal automobile policies. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the

examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile Rating – New Business without Surcharges

From the universe of 16,911 private passenger automobile policies identified as new business without surcharges by the Company, 75 files were selected for review. All 75 policy files requested were received and reviewed. The 17,158 violations noted were based on the universe of 16,911 files, resulting in an error ratio of 100%.

The following findings were made:

10 Violations 75 Pa. C.S. §1705(a)(4)

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide a signed and dated limited tort form for the 10 files noted.

4 Violations 75 Pa. C.S. §1731(b)&(c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The Company failed to have a signed rejection form for uninsured and underinsured motorists coverages for the four files noted.

3 Violations 75 Pa. C.S. §1738(d)(1)&(2)(e)

The named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company failed to provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the three files noted.

115 Violations 75 Pa. C.S. §1791.1(a)

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the itemized invoice to the insured at the time of application for phone sales.

16,911 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured for the 16,911 files noted.

115 Violations 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. Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of

up to \$15,000." The Company did not provide the fraud warning at application for phone sales.

Private Passenger Automobile Rating – New Business with Surcharges

From the universe of 4,827 private passenger automobile policies identified as new business with surcharges by the Company, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 4,900 violations noted were based on the universe of 4,827 files, resulting in an error ratio of 100%.

The following findings were made:

10 Violations 75 Pa. C.S. §1705(a)(4)

Requires every insurer, prior to the issuance of a private passenger motor vehicle liability insurance policy to provide each applicant an opportunity to elect a tort option. A policy may not be issued unless the applicant has been provided an opportunity to elect a tort option. The Company failed to provide a signed and dated limited tort form for the 10 files noted.

3 Violations 75 Pa. C.S. §1731(b)&(c)

The named insured shall be informed that he may reject uninsured and underinsured motorist coverage by signing a written rejection form. The Company failed to have a signed rejection form for uninsured and underinsured motorists coverages for the three files noted.

2 Violations 75 Pa. C.S. §1738(d)(1)&(2)(e)

Requires the named insured shall be informed that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. The Company failed to provide the signed rejection form of stacked limits for uninsured and underinsured motorists coverage for the two files noted.

29 Violations 75 Pa. C.S. §1791.1(a)

Requires that at the time of application for original coverage and every renewal thereafter, an insurer must provide to an insured an itemized invoice listing the minimum motor vehicle insurance coverage levels mandated by the Commonwealth and the premium charge for the insured to purchase the minimum mandated coverages. The invoice must contain the following notice in print of no less than ten-point type: "The laws of the Commonwealth of Pennsylvania, as enacted by the General Assembly, only require you to purchase liability and first-party medical benefit coverages. Any additional coverage or coverages in excess of the limits required by law are provided only at your request as enhancements to basic coverages." The insurer shall provide the itemized invoice to the insured in conjunction with the declaration of coverage limits and premiums for the insured's existing coverages. The Company failed to provide the itemized invoice to the insured at the time of application for phone sales.

4,827 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured for the 4,827 files noted.

29 Violations 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. Warning notice on application for insurance and claim forms. Not later than May 1, 1990, all applications for insurance, renewals and claim forms shall contain a statement that clearly states in substance the following: "Any person who knowingly and with intent to injure or defraud any insurer files an application or claim containing false, incomplete or misleading information shall, upon conviction, be subject to imprisonment for up to seven years and payment of a fine of

up to \$15,000." The Company did not provide the fraud warning at application for phone sales.

2. Renewals

A renewal is considered to be any policy, which was previously written by the Company and renewed on the normal twelve-month anniversary date. The purpose of the review was to measure compliance with The Casualty and Surety Rate Regulatory Act, Section 4(a) and (h) (40 P.S. §1184(a), (h)), which requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time. Files were also reviewed to determine compliance with Act 68 of 1998, Section 2005(c) (40 P.S. §991.2005(c)), which requires insurers to provide to insureds a detailed statement of the components of a premium and shall specifically show the amount of surcharge or other additional amount that is charged as a result of a claim having been made under a policy of insurance, or as a result of any other factors.

The Company processes and issues personal automobile policies using an automated system. In order to verify the automated system, several policies were manually rated to ensure the computer had been programmed correctly. Once the computer programming had been verified, only the input data needed to be verified. By reviewing base premiums, territory assignments, rating symbols, classifications and surcharge disclosures, the examiners were able to determine compliance with the Company's filed and approved rating plans.

Private Passenger Automobile – Renewals without Surcharges

From the universe of 6,396 private passenger automobile policies identified as renewals without surcharges, 75 files were selected for review. All 75 policy files requested were received and reviewed. The 6,398 violations noted were based on the universe of 6,396 files, resulting in an error ratio of 100%.

The following findings were made:

2 Violations 40 P.S. §1184(a)&(h)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company issued two policies with an incorrect Rate Level Adjustment Factor resulting in undercharges of \$3.

6,396 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to include the number of

years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured for the 6,396 files noted.

Private Passenger Automobile – Renewals with Surcharges

From the universe of 1,271 private passenger automobile policies identified as renewals with surcharges, 50 files were selected for review. All 50 policy files requested were received and reviewed. The 1,272 violations noted were based on the universe of 1,271 files, resulting in an error ratio of 100%.

The following findings were made:

1 Violation 40 P.S. §1184(a)&(h)

Requires every insurer to file with the Insurance Commissioner every manual of classifications, rules and rates, every rating plan and every modification of any rating plan, which it proposes to use in the Commonwealth. Also, no insurer shall make or issue a contract or policy except in accordance with filings or rates, which are in effect at the time of issue. The Company issued one policy with an incorrect Rate Level Adjustment Factor resulting in an undercharge of \$1.

1,271 Violations 75 Pa. C.S. §1793(b)

Requires the insurer to provide to the insured a copy of their surcharge disclosure plan. The insurer providing the surcharge disclosure plan shall detail the provisions of the plan and the plan shall be delivered to each insured by the insurer at least once annually. Additionally, the surcharge information plan shall be given to each prospective insured at the time application is made for motor vehicle insurance coverage. The Company failed to include the number of years that a surcharge will be in effect within the surcharge disclosure plan provided to the insured for the 1,271 files noted.

VII. 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 1,970 private passenger automobile property damage liability claims reported during the experience period, 100 files were selected for review. All 100 files selected were received and reviewed. The 16 violations noted were based on 14 files, resulting in an error ratio of 14%.

The following findings were made:

3 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 three claim files noted.

12 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably 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 12 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. 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 issue

a denial letter to the claimant within 15 working days for the claim file noted.

The following concern was noted:

CONCERN: When the Company closes a claim file with no payment, it is not providing the policyholder/claimant with written notice indicating its action. The Company should provide policyholders/claimants with written notice when a claim file is being closed with no payment.

B. Automobile Comprehensive Claims

From the universe of 414 private passenger automobile comprehensive claims reported during the experience period, 35 files were selected for review. All 35 files selected were received and reviewed. The three violations noted were based on three files, resulting in an error ratio of 9%.

The following findings were made:

3 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 three claim files noted.

The following concern was noted:

CONCERN: When the Company closes a claim file with no payment, it is not providing the policyholder/claimant with written notice indicating its action. The Company should provide

policyholders/claimants with written notice when a claim file is being closed with no payment.

C. Automobile Collision Claims

From the universe of 1,614 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 eight violations noted were based on eight files, resulting in an error ratio of 11%.

The following findings were made:

4 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 for the four claim files noted.

3 Violations 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot be reasonably 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 three 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. 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 issue a denial letter to the claimant within 15 working days for the claim file noted.

The following concern was noted:

CONCERN: When the Company closes a claim file with no payment, it is not providing the policyholder/claimant with written notice indicating its action. The Company should provide policyholders/claimants with written notice when a claim file is being closed with no payment.

D. Automobile Total Loss Claims

From the universe of 705 private passenger automobile collision claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. Of the 50 files reviewed, two were settled as property damage claims and two were settled as collision claims. The 27 violations noted were based on 23 files, resulting in an error ratio of 46%.

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 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 the claim, unless such investigation cannot be reasonably 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 noted.

E. Automobile First Party Medical Claims

From the universe of 643 private passenger automobile first party medical claims reported during the experience period, 50 files were selected for review. All 50 files selected were received and reviewed. Of the 50 files, one file was identified as having no medical bills processed during the experience period. The three violations noted were based on three files, resulting in an error ratio of 6%.

The following findings were made:

3 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 three claim files noted.

F. Automobile First Party Medical Claims Referred to a PRO

From the universe of 21 private passenger automobile first party medical claims referred to a PRO reported during the experience period, 10 files were selected for review. All 10 files were received and reviewed. Three files were identified as having no medical bills referred to a PRO during the experience period. An additional three claims were selected, received and reviewed. The violation noted resulted in an error ratio of 10%.

The following finding was made:

1 Violation 31 Pa. Code §69.52(e)

A PRO shall provide a written analysis, including specific reasons for its decision, to insurers, which shall within 5 days of receipt, provide copies to providers and insureds. The Company failed to provide a copy of the PRO report to the provider within 5 days of receipt for the claim file noted.

VIII. 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.

The following findings were made:

1 Violation 18 Pa. C.S. §4117(k)(1)

All applications for insurance and all claim forms shall contain or have attached thereto the following notice: 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. The Company failed to provide the required fraud warning on a claim form.

3 Violations 75 Pa. C.S. §1799.3(f)

Requires insurers who make a determination of refusal to write to provide the applicant written notice of the reasons for refusal to write on a form supplied by the insurer and approved by the commissioner. The Company failed to use a form approved by the commissioner for the three forms submitted.

IX. 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 116 consumer complaints received during the experience period and provided all consumer complaint logs requested. From the universe of 116 complaint files, 35 files were selected for review. All 35 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:

1 Violation 31 Pa. Code §146.6

Every insurer shall complete investigation of a claim within 30 days after notification of the claim, unless such investigation cannot reasonably 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.

1 Violation 40 P.S. §991.2002(c)(3)

Adjudications: Tampa v. State Farm (P91-06-01, 1991)

Gorba v. Allstate (P92-02-92, 1993)

Requires that an insurer supply the insured with a written statement of the reason for cancellation. The file noted contained a policy cancelled within the first 60 days of new business inception date and did not contain evidence of the required 15 days notice.

11 Violations 40 P.S. §991.2004

40 P.S. §991.2001

Adjudication: Nguyen/Old Guard (P01-01-019, 2001)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. The Company sent a cancellation notice for nonpayment of premium when the premium was not yet due for the 11 files noted.

1 Violation 40 P.S. §991.2004

Adjudication: Nationwide Insurance v. Ancona (PH94-07-005, 1997)

Requires that no insurer shall cancel a policy of automobile insurance except for nonpayment of premium, suspension or revocation of the named insured's driver license or motor vehicle registration or a determination that the insured has concealed a material fact or has made a material allegation contrary to fact or has made a misrepresentation of material fact and that such concealment, allegation or misrepresentation was material to the acceptance of the risk by the insurer. Also, an insurer can only rescind coverage after the first sixty days of the policy when fraud could not reasonably be detected by the insurer at the time of fraud and the insurer would not have accepted the risk if the true facts had been known. The file contained a policy that was rescinded after the first 60 days of new business inception date without an instance of fraud. The Company cannot rescind a policy due to a dishonored first installment payment after more than 60 days following policy inception.

2 Violations 40 P.S. §991.2008(b)

Any applicant for a policy who is refused such policy by an insurer shall be given a written notice of refusal to write by the insurer. Such notice shall state the specific reason or reasons of the insurer for refusal to write a policy for the applicant. Within 30 days of the receipt of such reasons, the applicant may request in writing to the Insurance Commissioner that he review the action of the insurer in

refusing to write a policy for the applicant. The Company did not notify the applicant of their opportunity of a request for review.

The following synopsis reflects the nature of the 35 complaints that were received.

23	Cancellation/Nonpayment	66%
2	Cancellation/Insured Request	6%
5	Claims	14%
5	Miscellaneous	14%
<hr/>		<hr/>
35		100%

X. 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)). Several data integrity issues were found during the exam.

The data integrity issue of each area of review is identified below.

60-Day Cancellations

Situation: As the examiners reviewed the automobile 60-day cancellation files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile 60-day cancellations.

Finding: Of the 100 60-day cancellation files reviewed, nine files were identified as midterm cancellations.

Midterm Cancellations

Situation: As the examiners reviewed the automobile midterm cancellation files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile midterm cancellations.

Finding: Of the 75 automobile midterm cancellation files reviewed, one file was identified as a nonrenewal.

Nonrenewals

Situation: As the examiners reviewed the automobile nonrenewal files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile nonrenewals.

Finding: Of the 100 nonrenewal files reviewed, eight files were identified as midterm cancellations.

Rescissions

Situation: As the examiners reviewed the automobile rescission files of the automobile underwriting section of the exam, it was noted that not all files selected for review were automobile rescission files.

Finding: Of the 25 automobile rescission files reviewed, one file was identified as an automobile a midterm cancellation.

Total Loss Claims

Situation: As the examiners reviewed the total loss claim files of the claims section of the exam, it was noted that not all files selected for review were total loss claim files.

Finding: Of the 50 total loss files reviewed, four files was identified as being settled with no total loss.

First Party Medical Claims

Situation: As the examiners reviewed the first party medical claim files of the claims section of the exam, it was noted that not all files selected for review were first party medical claim files relevant to the experience period.

Finding: Of the 50 first party medical claim files reviewed, one file was identified as having no first party medical bills processed during the experience period.

First Party Medical Claims – Peer Review Organization

Situation: As the examiners reviewed the first party medical claims referred to a peer review organization files of the claims section of the exam, it was noted that not all files selected for review were first party medical claims referred to a peer review organization files.

Finding: Of the 10 first party medical claims referred to a peer review organization files reviewed, three files were identified as having no medical bills referred to a peer review organization during the experience period.

The following finding was made:

General Violation 40 P.S. §323.4(b)

Requires every company or person from whom information is sought must provide to the examiners timely, convenient and free access to all books, records, accounts, papers, documents and any or all computer or other recordings relating to the property, assets, business and affairs of the company being examined. The violation was the result of a failure to exercise sufficient due diligence to ensure compliance with Insurance Department Act of 1921.

XI. 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 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.
2. 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, regarding the Company not being able to identify those applicants that went through a comparative rater and were later declined for coverage by the Company, do not occur in the future.
3. 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(b), so that violations noted in the Report do not occur in the future.
4. 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 maintaining a complete claim file, status letters, denials, and providing necessary claim forms as noted in the Report do not occur in the future.

5. 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.
6. The Company must review 18 Pa. C.S. §4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all claim forms and applications, as noted in the Report, do not occur in the future.
7. The Company must review 31 Pa. Code §69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO Report in a timely manner.
8. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2002, 991.2004, 991.2006 and 991.2008, so the violations noted in the Report do not occur in the future.
9. The Company must review 75 Pa. C.S. §1799.3(f) to ensure that the Company is using a form approved by the Commissioner when issuing auto declination letters to the insured.
10. The Company must review 40 P.S. §1184 and take appropriate measures ensure the automobile rating violations listed in the report do not occur in the future.
11. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms

are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1705(a)(4) do not occur in the future.

12. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1731(b) & (c) do not occur in the future.
13. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under 75 Pa. C.S. §1738(d)(1) and (2)(e) do not occur in the future.
14. The Company must review 75 Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages are provided at the time of application as noted in the Report do not occur in the future.
15. The Company must review 75 Pa. C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan that includes the number of years a surcharge will be in effect at the time of application and every renewal thereafter, as noted in the Report, do not occur in the future.

16. The Company must review 75 Pa. C.S. §1793(c) to ensure that violations regarding the requirement to return premium within 30 days and pay the proper amount of interest, as noted in the Report, do not occur in the future.

XII. COMPANY RESPONSE

XI COMPANY RESPONSE

On behalf of Bristol West Insurance Company (the "Company"), please allow this letter to serve as our response to the Report of Examination Warrant Number 18-M31-013 which was received with your cover letter dated February 5, 2019.

We respectfully submit our responses in the order appearing in the Report under Section XI-Recommendations.

1. 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.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

2. 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, regarding the Company not being able to identify those applicants that went through a comparative rater and were later declined for coverage by the Company, do not occur in the future.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

3. 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(b), so that violations noted in the Report do not occur in the future.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

4. 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 maintaining a complete claim file, status letters, denials, and providing necessary claim forms as noted in the Report do not occur in the future.

Company Response: The Company acknowledges the exceptions noted by the Department. The Company submits it has processes and procedures in place to help ensure the requirements of 31 Pa. Code, Chapter 146 are met. The exceptions noted were inconsistent with our established practices. To help prevent further instances of such errors, the Company will communicate its established processes and procedures to the claims handlers.

5. 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: The Company acknowledges the exceptions noted by the Department. The Company submits it has processes and procedures in place to help ensure that all appraisals meet the requirements 31 Pa. Code §62.3. The exceptions noted were inconsistent with our established practices. Estimates now contain the following verbiage to comply with the requirement the appraiser sign the appraisal:

“THIS ESTIMATE / APPRAISAL HAS BEEN PREPARED BY (ADJUSTER NAME, PA LICENSE # INSERTED HERE). WHERE INDICATED AS WRITTEN BY, DAMAGE ASSESSED BY, REPAIRED BY OR OTHERWISE. THIS IS KNOWN AS A DIGITALLY SIGNED DOCUMENT OR ELECTRONIC SIGNATURE AND CONSTITUTES THAT THE APPRAISER IS THE AUTHOR OF THIS DOCUMENT.”

6. The Company must review 18 Pa. C.S. § 4117(k)(1) to ensure that violations regarding the requirement of a fraud warning on all claim forms and applications, as noted in the Report, do not occur in the future.

Company Response: The Company acknowledges the single exception noted by the Department. The employee was counselled regarding the use of the correct Pennsylvania forms that include the fraud warning.

7. The Company must review 31 Pa. Code §69.52(e) with its claim staff to ensure that the insured is provided a copy of a PRO Report in a timely manner.

Company Response: The Company acknowledges the single exception noted by the Department. The Company submits it has processes and procedures in place to help ensure that a written notification is sent to the provider within 5 days of receipt of the PRO written analysis in accordance with the requirements of 31 Pa. Code §69.52(e). The exception noted is inconsistent with our established practices and was an isolated incident. The Company will communicate its established processes and procedures to the claims handlers.

8. The Company must review and revise internal control procedures to ensure compliance with nonrenewal and cancellation notice requirements of 40 P.S. §§991.2001, 991.2002, 991.2004, 991.2006 and 991.2008, so the violations noted in the Report do not occur in the future.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

9. The Company must review 75 Pa. C.S. §1799.3(f) to ensure that the Company is using a form approved by the Commissioner when issuing auto declination letters to the insured.

Company Response: The Company agrees to ensure it uses a form approved by the Commissioner.

10. The Company must review 40 P.S. §1184 and take appropriate measures to ensure the automobile rating violations listed in the report do not occur in the future.

Company Response: The Company accepts this recommendation and implemented a system correction to fix the undercharge error prior to this examination.

11. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to elect a tort option and that signed tort option selection forms are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1705(a)(4) do not occur in the future.

Company Response: The Company acknowledges that it was not able to retrieve copies of the signed paper forms in the cited instances. The Company will reiterate to its independent producers the importance of compliance with the aforementioned statutory provisions and will monitor compliance.

12. The Company must revise its underwriting procedures to ensure that each applicant for private passenger automobile liability insurance is provided an opportunity to exercise the waiver for uninsured and underinsured motorist coverage forms are obtained and retained with the underwriting file. This is to ensure that violations noted under 75 Pa. C.S. §1731 (b) & (c) do not occur in the future.

Company Response: The Company acknowledges that it was not able to retrieve copies of the signed paper forms in the cited instances. The Company will reiterate to its independent producers the importance of compliance with the aforementioned statutory provisions and will monitor compliance.

13. The Company must revise underwriting procedures to ensure that the insured is aware that he may exercise the waiver of stacked limits for uninsured and underinsured motorist coverage by signing written rejection forms. This is to ensure that violations noted under 75 Pa. C.S. §1738(d) (l) and (2) (e) do not occur in the future.

Company Response: The Company acknowledges that it was not able to retrieve copies of the signed paper forms in the cited instances. The Company will reiterate to its independent producers the importance of compliance with the aforementioned statutory provisions and will monitor compliance.

14. The Company must review 75 Pa. C.S. §1791.1(a) violations to ensure that an itemized invoice listing minimum coverages are provided at the time of application as noted in the Report do not occur in the future.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

15. The Company must review 75 Pa. C.S. §1793(b) to ensure that violations regarding the requirement to provide the insured with a surcharge disclosure plan that includes the number of years a surcharge will be in effect at the time of application and every renewal thereafter, as noted in the Report, do not occur in the future.

Company Response: The Company acknowledges the finding. Subject to and without waiving its rights, the Company agrees to update its processes and procedures as necessary.

16. The Company must review 75 Pa. C.S. §1793(c) to ensure that violations regarding the requirement to return premium within 30 days and pay the proper amount of interest, as noted in the Report, do not occur in the future.

Company Response: The Company acknowledges the single exception noted by the Department and will implement any necessary training and controls to ensure premium is returned within 30 days and applicable interest paid. For the single exception noted, the interest payment was mailed on February 20, 2019.