

DELAWARE DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION REPORT

Progressive Direct Insurance Company
Examination Authority # 16322-16-908

Progressive Northern Insurance Company
Examination Authority # 38628-16-909

6300 Wilson Mills Road

Mayfield Village, OH 44143

As of

February 29, 2016

Trinidad Navarro
Commissioner



Delaware Department of Insurance

I, Trinidad Navarro, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of February 29, 2016 on

**Progressive Direct Insurance Company
Progressive Northern Insurance Company**

is a true and correct copy of the document filed with this Department.

Attest By:



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover.

Trinidad Navarro
Insurance Commissioner

Trinidad Navarro
Commissioner



Delaware Department of Insurance

REPORT ON EXAMINATION
OF THE
Progressive Direct Insurance Company
Progressive Northern Insurance Company
AS OF
February 29, 2016

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.

A handwritten signature in cursive script that reads "Trinidad Navarro".

Trinidad Navarro
Insurance Commissioner

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Honorable Trinidad Navarro
Insurance Commissioner
State of Delaware
841 Silver Lake Boulevard
Dover, Delaware 19904

Dear Commissioner Navarro:

In compliance with the instructions contained in Certificate of Examination Authority Numbers 16322-16-908 and 38638-16-909, and pursuant to statutory provisions including 18 Del. CODE §318-322, a market conduct examination has been conducted of the affairs and practices of:

**Progressive Direct Insurance Company
Progressive Northern Insurance Company**

The examinations were performed as of February 29, 2016. Progressive Direct Insurance Company and Progressive Northern Insurance Company hereinafter referred to as the "Company", was incorporated under the laws of Ohio and Wisconsin respectively. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

6300 Wilson Mills Road
Mayfield Village, OH 44143

The off-site examination phase and was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

EXECUTIVE SUMMARY

Progressive Direct Insurance Company was incorporated under the laws of Ohio on September 29, 1986 and commenced business on January 14, 1987.

Progressive Northern Insurance Company was incorporated under the laws of Wisconsin on August 19, 1980 and commenced business on March 8, 1981.

On their 2015 annual statements filed with the Department, Progressive Direct Insurance Company and Progressive Northern Insurance Company reported total premiums written for all states of \$3,630,938,085 of which Delaware has a market share of 1.67% or approximately \$60,663,500.

The examination focused on the Company's private auto business in the following areas of operation: Company Operations and Management (Limited Review), Complaint Handling, Underwriting and Rating, and Claims.

The following exceptions were noted:

- Claims – Paid – 1 Exception -18 Del C. §902.1.2.1.5 – Prohibited Unfair Claims Settlement Practices
 - For failure to affirm or deny coverage with 30 days or provide a reason for the inability to do so.
- Claims – Paid – 1 Exception – 18 Del. C. §903(4) – Prompt Payment of Settled Claim
 - For failure to Pay claim with 30 days from date of agreement memorialized in writing; final or by the court; or un-appealed arbitration award.
- Claims – Paid – 1 Exception – 18 Del C §2304(16)(b) – Unfair methods of competition and unfair deceptive acts or practices defined.
 - For failure to Pay claim with 30 days from date of agreement memorialized in writing; final or by the court; or un-appealed arbitration award.

SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. C. §318-322 and covered the experience period of January 1, 2015 through February 29, 2016.

The examination was a target market conduct examination of the Company's personal auto business in the following areas of operation: Company Operations and Management (Limited Review), Underwriting and Rating, Complaint Handling, and Claims. A

separate data call was announced for the examination of PIP claim payments.

Prior to finalization of this examination, the review was expanded to include a review of PIP claims received from January 1, 2015 through April 30, 2017. The PIP claims were reviewed to determine compliance with the Delaware insurance laws and regulations pertaining specifically to PIP coverages.

METHODOLOGY

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While the examiners' report on the errors found in individual files, the focus is also on general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes, random sampling was utilized to select the files reviewed during this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. Generally, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. 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 these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided 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 officials to discuss the various types of exceptions identified during the examination and review written summaries provided on the exceptions found.

COMPANY OPERATIONS AND MANAGEMENT

Company History

Progressive Direct Insurance Company ("PDIC" or "Direct") is a wholly-owned subsidiary of Progressive Direct Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PDIC was incorporated in the State of Ohio on September 29, 1986 for the purpose of transacting insurance business, except life

insurance, in various classes of insurance as set forth in the insurance laws and commenced business on January 14, 1987. PDIC is rated “A+” by A.M. Best.

PDIC is currently licensed in the 46 states.

Specifically, in Delaware, PDIC wrote Inland Marine, Other Liability, Private Passenger Auto No-Fault, Private Passenger Auto Liability and Private Passenger Auto Physical Damage. In addition, PDIC wrote the following Special Lines Products: Boat, Motor Home, Motorcycle, Snowmobile and Travel Trailer.

Progressive Northern Insurance Company (“PNIC” or “Northern”) is a wholly-owned subsidiary of Drive Insurance Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PNIC was incorporated in the State of Wisconsin on August 19, 1980 for the purpose of transacting general insurance business, except life insurance, in various classes of insurance as set forth in the insurance laws and commenced business on March 8, 1981. PNIC is rated “A+” by A.M. Best.

PNIC is currently licensed in the 40 states.

Specifically, in Delaware, PNIC wrote Inland Marine, Other Liability, Private Passenger Auto No- Fault, Private Passenger Auto Liability and Private Passenger Auto Physical Damage. In addition, PNIC wrote the following Special Lines Products: Boat, Motor Home, Motorcycle, Snowmobile and Travel Trailer.

On their 2015 annual statements filed with the Department, Progressive Direct Insurance Company and Progressive Northern Insurance Company reported total premiums written for all states of \$3,630,938,085 of which Delaware has a market share of 1.67% or approximately \$60,663,500.

Internal Audit

The Company provided a list of all internal audits conducted within the last three (3) years. Internal audits include those audits completed by an internal audit function within the company or conducted via a contracted vendor on behalf of the company.

A review of 10 different audit reports covering underwriting and claim operations and functions reveal no irregularities.

Anti-fraud and Special Investigation Units (SIU)

Anti-fraud procedures and annual reports were submitted by the Company for review. Interviews were conducted with chief Anti-Fraud and Special Investigation Unit personnel. The reviews and interview provided the examiner a more in-depth look at how the Company handles investigations.

A comparison was made between what the company has reported to the National Insurance Crime Bureau (NICB) and what the Delaware DOI has on file.

The Company was asked to submit a listing of closed SIU cases that had been referred to their fraud unit for further review. This list was compared to reported cases received by the DOI from the NICB. The examiners reviewed some cases and discussed with the Company suggestions for enhanced fraud reporting. As a result of the file review and interviews conducted, a meeting was conducted between the company's SIU/Anti-Fraud representatives and DOI members. This meeting enabled a dialog between the two entities for further understanding of Department expectations.

No inconsistencies or exceptions were noted.

Board of Directors

A review of the Company's Board of Directors agendas, minutes and attachments for all meeting held during the experience. The review took place at the Company corporate office in Mayfield Heights, OH.

All information provided appeared to be in order and no abnormalities were discovered as a result of this review. No exceptions were noted.

COMPLAINT HANDLING

The Company has written procedures on handling all types of complaints and grievances. The examiners received 34 Complaints from Progressive Direct and 6 complaints from Progressive Northern.

The complaint log was reviewed for compliance with 18 Del. C. §2304 (17). This section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaint and the time it took to process each complaint. Written complaint files involving claims were also reviewed for compliance with 18 Del. Admin. Code 902 § 1.2.1.2.

No exceptions were noted during the review.

UNDERWRITING AND RATING

New Business Rating

The examiners were provided a total universe of 9,055 policies for the two companies under review that were written as new business during the examination period. ACL

programming was used to obtain a random sampling. Examination of the underwriting and rating files was held to verify the Company's compliance with NAIC guidelines and Delaware Insurance Department bulletins and regulations.

The examiners were provided listings of policies in force for both Progressive Direct and Progressive Northern Insurance Company. The data was filtered and new business was extracted for each company. Direct had 14,988 Private Auto, 1,550 Motorcycle and 109 Motorhome new business policies in force. Northern had 4,813 Private Auto, 487 Motorcycle and 102 Motorhome new business policies in force. ACL programming was used to obtain selections for review of 116 Direct and 115 Northern new business private auto policies.

The selections for private auto were reduced to 10 randomly selected policies for each company to be tested for rating accuracy. The Company utilizes a set of rating factors that includes prior insurance, education, and occupation. The prior insurance is based on whether there was a lapse in the applicant's insurance record or if there was no prior insurance at all. Education is broken down into 7 categories. An education rating of 1 is having no high school diploma or GED, 4 is having some college and 7 represents having done graduate work or possessing a graduate degree. Occupation is divided into three classifications. An example of class 1 would be a desk clerk or security guard, class 2 could be a federal agent or IT manager and class 3 would include actuaries and attorneys. Occupation and education are combined into 31 different classes and then assigned a rating factor based on the prior insurance assignment.

The Company has been advised the number of policies being sample is less than would have been recommended by NAIC standards due to the complexity of the rating process. The Company agreed that should there be any exceptions noted additional policies would be tested.

The examiners were able to test and verify the rating of personal automobile policies in accordance with the Company's file and approved rates.

No exceptions were noted during review.

Renewal Business Rating

The examiners were provided listings of policies in force for both Progressive Direct and Progressive Northern Insurance Company. The data was filtered and renewal business was extracted for each company. Direct had 49,224 Private Auto, 4,015 Motorcycle and 237 Motorhome renewal policies in force. Northern had 23,632 Private Auto, 3,340 Motorcycle and 379 Motorhome renewal policies in force. ACL programming was used to obtain selections for review of 116 Direct and 116 Northern renewal private auto policies.

The selections for private auto were reduced to 10 randomly selected policies for each company to be tested for rating accuracy. The Company agreed that should there be any

exceptions noted, additional policies would be tested. The rate testing resulted in no exceptions noted.

The examiners were able to test and verify the rating of private auto policies in accordance with the Company's file and approved rates.

No exceptions were noted during the review.

Non-renewals

The Company identified a total universe of 117 Progressive Direct non-renewals and 42 Progressive Northern non-renewals issued during the examination period. Of the total universe, the examiners reviewed 87 files. The files were reviewed for compliance with 18 Del. C §§ 3904 and 3905. The files were also reviewed for compliance with standards from Chapter 17 of the NAIC Market Regulation Handbook.

No exceptions were noted during the review.

Cancellations

The Company identified a total universe of 3,564 Progressive Direct cancellations and 1,625 Progressive Northern cancellation issued during the examination period. Of the total universe, the examiners reviewed 106 files from Progressive Direct and 91 files from Progressive Northern. The files review where randomly chosen through the use of ACL. All files were reviewed for compliance with 18 Del. C. §§ 3904 and 3905. The files were also reviewed for compliance with standards from Chapter 17 of the NAIC Market Regulation Handbook.

No exceptions were noted during the review.

Forms

A listing of all forms used for underwriting, rating and claims was submitted by the Company for review. During the course of the review, forms were examined for their content and their approval for use by the DOI.

No exceptions were noted.

CLAIMS

Paid Claims

The Company identified 7,475 paid claims from Progressive Direct and 3,904 paid claims from Progressive Northern during the experience period of January 1, 2015 through February 29, 2016. In an effort to streamline the examination process, the examiners

reviewed a random combined sample of 55 claim files from each company with the provision that if inconsistencies were discovered, additional files would be called for review. The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with the NAIC standards from Chapter 16 and 17 of the NAIC Market Regulation Handbook.

The following exceptions were noted:

1 Exception - 18 Del. Admin Code 902.1.2.1.5 - Prohibited Unfair Claim Settlement Practices

1.2.1.5 Failing to affirm or deny coverage or a claim or advise the person presenting the claim, in writing, or other proper legal manner, of the reason for the inability to do so, within 30 days after proof of loss statements have been received by the insurer.

The Company failed to promptly pay, affirm, deny, or provide a reason for the inability to make a claim decision within 30 days of receipt of proof of loss. Payment was not made until 111 days after receipt of proof of loss.

Recommendation: The Company shall revise its claim handling procedures to ensure claims are confirmed or denied within 30 days after receipt of proof of loss in accordance with 18 Del. Admin. Code §902.1.2.1.5 Prohibited Unfair Claim Settlement Practices.

1 Exception - 18 Del. C. 903(4) - Prompt Payment of Settled Claims – 4.0 Prompt Payment.

For the purpose of this regulation prompt payment is defined as remittance of the check within 30 days from: the date of agreement, memorialized in writing; final order by the court; or un-appealed arbitration award.

The Company failed to promptly pay, affirm, deny, or provide a reason for the inability to make a claim decision within 30 days of receipt of proof of loss. Payment was not made until 111 days after receipt of proof of loss.

Recommendation: The Company shall revise its claim handling procedures to ensure that payment of claims within 30 days from the date of agreement memorialized in writing in accordance with 18 Del C §903(4) – Prompt Payment of Settled Claim

1 Exception - 18 Del. C. § 2304 (16)(e) - Unfair methods of competition and unfair or deceptive acts or practices defined.

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:

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

The Company failed to promptly pay, affirm, deny, or provide a reason for the inability to make a claim decision within 30 days of receipt of proof of loss. Payment was not made until 111 days after receipt of proof of loss.

Recommendation: The Company shall revise its claim handling procedures to ensure the affirmation or denial of coverage is completed within a reasonable time after receipt of proof of loss in accordance with 18 Del. C. §2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined.

Claims Closed without Payment and Denied

The Company identified 4,774 Progressive Direct claims and 2,268 claims from Progressive Northern that were with denied or closed without payment during the experience period of January 1, 2015 through February 29, 2016. In an effort to streamline the examination process, the examiners reviewed a random combined sample of 75 claim files from each company with the provision that if inconsistencies were discovered, additional files would be called for review. The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with NAIC standards from Chapter 16 and 17 of the NAIC Market Regulation Handbook.

No exceptions were noted during the review.

PIP Claims – Paid Claims

The Company identified 2,575 combined paid personal injury protection (PIP) claims that were filed with the Company during the experience period of July 1, 2015 through April 30, 2017. The examiners requested a random sample of 108 files be reviewed. The files were reviewed for compliance with 18 Del. C. §§ 902, 903, and 18 Del. C. § 2304. The files were also reviewed for compliance with NAIC standards from Chapter 16 and 17 of the NAIC Market Regulation Handbook.

In an effort to streamline and expedite the examination process the exam team reviewed 78 claim files. Having found no issues from the initial 78 claim files, the remaining 40 files of the sample were deemed compliant.

CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report.

1. It is recommended that the Company revise its claim handling procedures to ensure to promptly pay, affirm, deny, or provide a reason for the inability to make a claim decision within 30 days of receipt of proof of loss in accordance with 18 Del. Admin. Code § 902.1.2.1.5 Prohibited Unfair Claim Settlement Practices. (Claims Paid)
2. It is recommended that the Company revise its claim handling procedures to ensure that payment of claims within 30 days from the date of agreement memorialized in writing in accordance with 18 Del C §903(4) – Prompt Payment of Settled Claim (Claims Paid)
3. It is recommended the Company revise its claim handling procedures to ensure the affirmation or denial of coverage is completed within a reasonable time after receipt of proof of loss in accordance with 18 Del. C §2304(16)(e) Unfair methods of competition and unfair or deceptive acts or practices defined. (Claims Paid)

The examiners would like to express their appreciation for the cooperation and considerations the Company and its representatives have shown the throughout the course of this examination. With their outstanding service, this exam was completed in a timely fashion.

The examination conducted by Shelly Schuman, James Myers, Linda Armstrong, Steve Misenheimer, and Jack Rucidlo is respectfully submitted.

A handwritten signature in black ink, appearing to read "James R. Myers", is centered on a light blue rectangular background.

James R Myers, AMCM
Examiner-in-Charge