

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of the
**KANSAS AUTOMOBILE
ASSIGNED CLAIMS PLAN**

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Docket No. 3752-MC

ORDER

Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Sandy Praeger, the duly elected, qualified and serving Commissioner of Insurance hereby adopts the Kansas Insurance's Department's Report of Market Conduct Examination of the Kansas Automobile Assigned Claims Plan, as of June 30, 2006 (attached herein as Attachment A) by incorporating the same in its entirety with specific findings stated below. This Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Policy Reasons

It is the stated policy of the State of Kansas that whenever the Commissioner of Insurance deems it necessary, an examination of the affairs and financial condition of any insurance company in the process of organization, applying for admission, or doing business in the State of Kansas can be undertaken. In all cases, such an examination must occur once every five years. Through the examination process, the insurance consuming public will be served and protected.

Findings of Fact

1. The Commissioner of Insurance ("Commissioner") has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department ("KID") conducted a targeted Market Conduct Examination on the Kansas Automobile Assigned Claims Plan's ("KAACP") Personal Injury Protection ("PIP") closed claims from January 1, 2001 through June 30, 2006 to determine compliance with applicable statutes, regulations and bulletins of the State of Kansas.

3. Although Kansas statutes do not require such an examination, KID and KAACP agreed a periodic review of the claims handled is in the best interest of Kansas citizens and provides an opportunity to review company and KAACP procedures.
4. On or about September 14, 2007, the Examiner-in-Charge provided KAACP with a draft of the Market Conduct Examination conducted by KID on the KAACP for the period of January 1, 2001 through June 30, 2006.
5. KAACP timely responded with written comments regarding the draft report on September 18, 2007. The September 18, 2007 letter is attached herein as Attachment B.
6. The Commissioner has since fully reviewed said Kansas report which is adopted herein as Attachment A.

Applicable Law

7. K.S.A. 40-222 states, in pertinent part:
 - (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, an examination of the affairs and financial condition of any insurance company in the process of organization, or applying for admission or doing business in this state.
 - (b) *Also See K.S.A. 40-222(b) through (k)*

Conclusion of Law

Based upon the Findings of Fact enumerated in Paragraph #1 through #6 and the Applicable Law above:

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

8. The Kansas Insurance Department's Report of Market Conduct Examination of the Kansas Automobile Assigned Claims Plan is herein adopted in its entirety.
9. The Commissioner shall retain jurisdiction over this matter to issue any further Orders deemed appropriate or to take any further action deemed necessary.

NOTICE OF RIGHTS

Kansas Automobile Assigned Claims Plan ("KAACP") is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If KAACP desires a hearing, the company must file a written request for a hearing with:

In the Matter of the
Kansas Automobile
Assigned Claims Plan
Docket No. 3752-MC

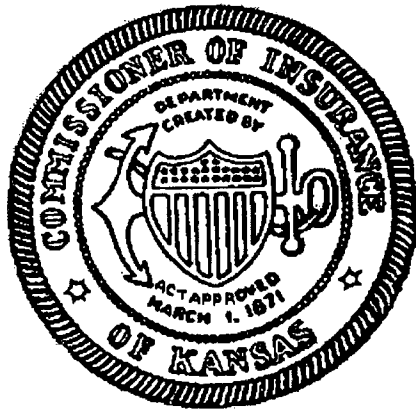
John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If KAACP requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same.

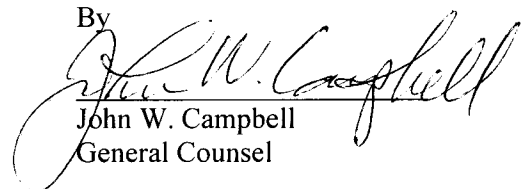
If a hearing is not requested in the time and manner stated above, this Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event that KAACP files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612


IT IS SO ORDERED THIS 27th DAY OF October, 2007, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.




Sandy Praeger
Commissioner of Insurance

By

John W. Campbell
General Counsel

Prepared and Submitted By:


Zachary J.C. Anshutz
Staff Attorney

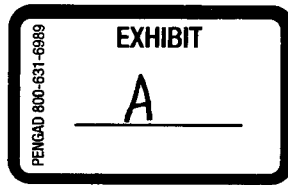
CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Order and Notice of Rights on this 9th day of Oct., 2007, by causing the same to be deposited in the United States Mail, postage prepaid, addressed to the following:

Mr. Gary Domer, Manager
KAACP, KAIP
2930 SW Wanamaker Drive
Suite 4
P.O. Box 4087
Topeka, KS 66604-0087



Zachary J.C. Anshutz
Staff Attorney



REPORT OF MARKET CONDUCT EXAMINATION

**KANSAS AUTOMOBILE ASSIGNED CLAIMS PLAN
2930 SW WANAMAKER DRIVE
SUITE 4
TOPEKA, KS 66604-0087**

AS OF

JUNE 30, 2006

BY

KANSAS INSURANCE DEPARTMENT

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July 12, 2007

Honorable Sandy Praeger
Insurance Commissioner
Kansas Insurance Department
420 SW Ninth Street
Topeka, KS 66612-1678

Dear Commissioner Praeger:

In accordance with your respective authorization, and pursuant to K.S.A. 40-222, a market conduct examination has been conducted on the business affairs of:

Kansas Automobile Assigned Claims Plan

2930 SW Wanamaker Drive
Suite 4.
Topeka, KS 66604-0087

Hereafter referred to as KAACP or “the Plan”, and the following report of such examination is respectfully submitted,

Lyle Behrens, CPCU, CIE, ARM
Market Conduct Supervisor

PURPOSE AND SCOPE OF REVIEW

A targeted market conduct examination of the Kansas Automobile Assigned Claims Plan (KAACP) on its Personal Injury Protection (PIP) claims processing was conducted on closed claims from January 1, 2001 – June 30, 2006, to determine compliance with applicable statutes, regulations and bulletins of the state of Kansas. Although Kansas statutes do not require such an examination, we agree with KAACP that a periodic review of the claims handled by these Kansas companies is in the best interests of Kansas citizens and provides an opportunity to review company and KAACP procedures.

The examination was conducted utilizing the guidelines and procedures recommended in the NAIC Market Regulation Handbook 2006 (Handbook). The exam team selected sixty-seven files from the three domestic insurers who process these claims to verify the Plan's procedures and practices as measured against certain applicable claims standards. An acceptable tolerance standard of 7% as stated in the Handbook was used for claim procedures. The report is written by test rather than by exception which means all standard tests are described and all results are reported.

The examination included, but was not **limited to the following:**

PIP CLAIMS

PIP Claim Processing

Timeliness and Accuracy of PIP Claim Payments

Proper Maintenance of PIP Claim Files

Proper Maintenance of PIP Claim Register

EXECUTIVE SUMMARY

The Kansas Insurance Department (KID) performed a targeted market conduct examination of the Personal Injury Protection (PIP) claims paid by the Kansas Automobile Assigned Claims Plan (KAACP) from January 1, 2001 – June 30, 2006. The report is written by test and violations are listed within each category.

Although Kansas statutes do not require such an examination, we agree with KAACP that a periodic review of the claims handled by these Kansas companies is in the best interests of Kansas citizens and provides an opportunity to review company and KAACP procedures.

Three Kansas domestic automobile insurers process claims for the Plan for two years on a rotating schedule. Farmers Alliance Mutual Insurance Company (2001, 2006), Farmers Insurance Company, Inc. (2002, 2003) and Farm Bureau Mutual Insurance Company (2004, 2005), shared the claims processing responsibilities during the exam period. The exam team selected sixty-seven files from these three automobile insurers to verify the Plan's procedures and practices in claims processing. Denied and paid claims were combined in the sample databases rather than examined separately. Meetings were held with the KAACP staff at the Plan's office in Topeka, KS, and phone conversations were conducted with the three Claims Managers to discuss the claim procedures and any questions that arose during the claims review.

Violations of Kansas statutes and regulations are included within each standard and recommendations to improve Company operations and compliance with KID requirements are listed below and under each applicable standard.

The company passed all tests, and in terms of delivering good service to its applicants, the examiners were impressed with the overall positive and professional performance by the KAACP staff, management and board. The exam team made recommendations on the following issues.

LIST OF RECOMMENDATIONS

General Recommendations

1. The initial claim information in all files maintained by one company needs to include a received date stamp on each page. It appears that the cover letter from KAACP is date stamped upon receipt but is then separated and redistributed within the claim file which makes it difficult to follow the sequence of events during the resolution of the claim.
2. The claims log maintained by one company needs complete detail on each claim. Critical data such a receipt date, amount paid or denied and resolution date were missing on a majority of the entries. This information should have been kept up to date as each claim was resolved, not upon the request by KID to review the log.
3. Open files should be reviewed on a more regular basis by all three companies. The examiners noticed a tendency to wait for long periods of time (in excess of 30-45 days) without reminders when requesting information from medical providers, employers or attorneys. This causes files to remain open after the company's two-year payment period and in some cases unnecessary delays in resolving a claim.

DESK EXAMINATION/ON-SITE EXAMINATION

PLAN OVERVIEW

The Kansas Automobile Assigned Claims Plan was created under K.S.A. 40-3116 to organize and maintain an assigned claims plan to provide that any person, who suffers injury in this state may obtain personal injury protection benefits through such plan if: ... (1) Personal injury protection benefits are not available to the injured person, ... (2) Motor vehicle liability insurance or self-insurance applicable to the injury cannot be identified; ... (3) Personal injury protection benefits applicable to the injury are inadequate to provide the contracted-for benefits because of financial inability of an insurer or self-insurer to fulfill its obligation...

A governing committee represented by nine members from foreign and domestic companies, independent agents and the general public meets three times a year to review and prescribe operating rules for the Plan as required by K.A.R. 40-3-35.

Plan Agreements

Three Kansas domestic automobile insurers process claims for the Plan for two years on a rotating schedule. Farm Bureau Mutual Insurance Company, Farmers Alliance Mutual Insurance Company and Farmers Insurance Company, Inc. shared the claims processing responsibilities during the exam period.

Prior Market Conduct Examination Report

In 2000, KID conducted a market conduct examination of the PIP claims paid from 1/1/1994 through 3/31/1999. The recommendations listed in that report were considered in the current examination. An improvement in paying claims within 30 days and in verifying that claims were filed within the two-year time frame is noted by the examiners.

CLAIMS PROCESSING

Company Claim Handling Procedures

A PIP claim is reported to KAACP and then forwarded to the domestic automobile insurer currently processing claims. The insurer designates a person to handle these specific claims with the claimant, their representatives and any other agencies involved. Claims are handled according to company procedures and in particular according to statutes regarding PIP claims. Each company maintains a claim register and submits reports to KAACP. A claim file is maintained with all documentation pertinent to the claim including checks sent, dates of all communications, copies of all correspondence and the resolution of the claim.

KAACP prepares a report three times a year for the Governing Committee and also consults with the companies on any claim processing situations that arise.

Tests for Claims

Standard 1

The initial contact by the company with the claimant is within the required time frame. K.A.R. 40-1-34 Section 6(a) & (d)

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	0	100%

The company passed Standard 1.

Standard 2

Timely investigations are conducted. K.A.R. 40-1-34 Sections 7 & 8(c)

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	2	97%

Two files did not notify the claimant that more time or information was needed to complete the investigation per K.A.R. 40-1-34, Section 8(c).

Recommendation:

The initial claim information in all files maintained by one company needs to include a received date stamp on each page.

The company passed Standard 2.

Standard 3

Claims are resolved in a timely manner. K.A.R. 40-1-34 Section 8 (a) & (c); K.S.A. 40-3110

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	2	97%

The company did not send a denial letter within 15 working days of receipt of proof of loss per K.A.R. 40-1-34 Section 8(a).

The company passed Standard 3.

Standard 4

The company responds to claim correspondence in a timely manner. K.A.R. 40-1-34 Section 6 (a) & (d)

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	0	100%

The company passed Standard 4.

Standard 5

Claim files are adequately documented. K.A.R.40-1-34 Sections 4, 6(a) & K.A.R. 40-1-34 Section 8 (b)

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	1	99%

One file does not contain sufficient notes and work papers to adequately reconstruct the events of the claim file as required by K.A.R. 40-1-34, Section 4.

Recommendation:

Open files should be reviewed on a more regular basis by all three companies.

The company passed Standard 5.

Standard 6

Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations. K.A.R. 40-1-34 Sections 5(a), 8, & 9, K.S.A. 40-3101-3121, K.S.A. 40-2,126.

<u>Type</u>	<u>Sample</u>	<u>Violations</u>	<u>%Pass</u>
PIP	67	0	100%

The company passed Standard 6.

Standard 9

Company claim forms are appropriate for the type of product.

The application forms were up to date and signed by the claimant in a timely manner.

The company passed Standard 9.

General Recommendation:

The claims log maintained by one company needed complete detail on each claim.

SUMMARIZATION

Only claims standards that typically pertain to processing PIP claims were used during this targeted examination. Reservation of rights, excess loss letters, deductible reimbursement upon subrogation recovery reserves were noted and followed by the examiners if presented during a claim.

CONCLUSION

I would like to acknowledge the cooperation and courtesy extended to the examination team by Gary Domer, Manager, and Kathy Andler, Administrative Assistant.

The following examiners of the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

Market Conduct Division

Mary Lou Maritt
Examiner-In-Charge

Tate Flott
Market Conduct Examiner

Respectfully submitted,

Mary Lou Maritt
Examiner-In-Charge

I, Mary Lou Maritt , being duly sworn do hereby state and depose: That I was the examiner in charge of the foregoing market conduct examination of the Kansas Automobile Assigned Claims Plan. The examination was performed in accordance with the provisions of K.S.A. 40-222 and other applicable laws and is hereby filed with the Kansas Insurance Department this the 23rd day of February, 2007.

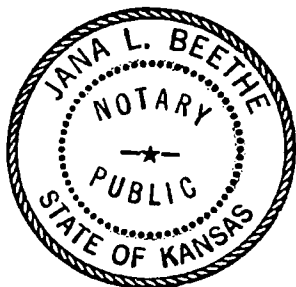
Affiant saith not further.

Mary Lou Maritt
Examiner in Charge

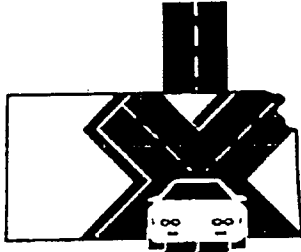
State of Kansas)

County of Shawnee)

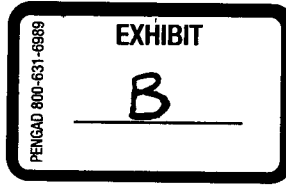
Signed and sworn to before me on 2/23/07 By Mary Lou Maritt



Jana L. Beebe
Signature of Notary
2-8-11
Date Commission Expires



KANSAS
AUTOMOBILE
ASSIGNED CLAIMS
PLAN



*PLEASE
SCAN &
E-MAIL
TO ME
2423 9/27*

September 18, 2007

The Honorable Sandy Praeger
Commissioner of Insurance
420 SW 9th Street
Topeka, KS 66612

Attention: Mary Lou Maritt:

RE: Kansas Automobile Assigned Claims Plan Audit

Dear Commissioner Praeger

This will acknowledge receipt of your letter dated September 14, 2007 concerning the captioned matter.

We have reviewed the report and have found it to be acceptable as written and any recommendation contained within the report will be addressed with the servicing companies. In addition, upon receipt of the final order, I will present that order to the KAACP Governing Committee for review. Upon completion of their review I will provide them with affidavits to complete in accordance with K.S.A. 40-222.

As to the audit itself, I would like to compliment the auditors on the professional manner in which the audit was conducted. They should be complimented on how well they represented the Commissioner and Kansas Insurance Department.

If you should be in need of any further information, please do not hesitate to contact the undersigned.

Sincerely,

Gary L. Dornier, CIE
Plan Manager

785-273-6300

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Wanamaker Drive
Suite 4
P.O. Box 4087
Topeka, Kansas
66604-0087