



KANSAS INSURANCE DEPARTMENT

Vicki Schmidt, Commissioner

MEMORANDUM

TO: Parties Interested in Market Conduct Process
FROM: Vicki Schmidt, Commissioner of Insurance
RE: Market Conduct Process

The below outline describes the Kansas Insurance Department's Market Conduct process.

How does the Kansas Insurance Department regulate companies?

In addition to the important financial solvency oversight work the Department does, the Department also regulates the interactions between insurance companies and their insureds.

1. Consumers can file complaints or inquiries with the consumer assistance division.
 - a. Complaints or inquiries are independently investigated on a case-by-case basis
 - b. Department review is guided by K.S.A. 40-2404 and K.A.R. 40-1-34
 - c. Department action may include:
 - i. Referral to another agency with jurisdiction
 - ii. Resolution between company and consumer
 - iii. Response, no actionable violation of Kansas law
 - iv. Review by Market Conduct staff

2. Market Regulation Oversight
 - a. Note: All information received during regulation is confidential. See, K.S.A. 40-222(k)(7)
 - i. All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this act including analysis by the commissioner pertaining to either the financial condition or the market regulation of a company must be given confidential treatment and are not subject to subpoena and may not be made public by the commissioner or any other person, except to the extent otherwise specifically provided in K.S.A. 45-215 et seq., and amendments thereto
 - ii. The Department interprets this to include both called exams and continuum actions.
 - b. How do we go from single complaint to a Market Conduct review?
 - i. Something egregious in the company's response
 - ii. Something in the response suggests the issue is not isolated to that claim or policy, i.e., pattern (more than one)

- iii. The Department has received multiple complaints on the same issue (either simultaneous or over a period of six months to a year)
 - c. What does the Market Conduct process entail?
 - i. The Market Conduct review consists of two categories: continuum actions and called exams.
3. Market Conduct Continuum Actions
- a. Continuum actions are at the Department's expense.
 - b. Continuum actions are confidential pursuant to statute, outlined above.
 - c. Initially, the Department does an internal analysis of the issue, ranging from looking at statistics and complaint databases, to sampling files already in the Department's possession.
 - d. Based on that review, or the perceived seriousness or potential wide-ranging impact of the complaint/inquiry that triggered the market conduct review, the Department may initiate an informal review with the company, consisting of interrogatories to ask questions to get a better understanding of the company's handling of the specific types of claims involved.
 - e. Based on the response to the interrogatories, additional issues may be identified and investigated.
 - f. Possible results include:
 - i. No action.
 - ii. Request for corrective action via a confidential management letter.
 - iii. Consent order (public record).
 - iv. Calling a Market Conduct exam.
4. Market Conduct Examinations
- a. Called Exam's are charged to the company.
 - b. A formal or called market conduct examination follows the NAIC's Market Regulation Handbook. The process is governed by K.S.A. 40-222.
 - c. With a formal market conduct examination, the company has hearing and appeal rights.
 - d. Possible results include:
 - a. No action.
 - b. A request for corrective action via a confidential management letter.
 - c. A request for corrective action via a confidential management letter and/or a public exam report and consent or final order.