

# **MARKET CONDUCT EXAMINATION REPORT**

## **PROGRESSIVE DIRECT INSURANCE COMPANY**

NAIC # 16322; Group #155  
6300 Wilson Mills Rd  
Mayfield Village, OH 44143

## **PROGRESSIVE NORTHWESTERN INSURANCE COMPANY**

NAIC #42919; Group #155  
6300 Wilson Mills Rd  
Mayfield Village, OH 44143

ETS # KS057-M9

As of

December 31, 2010



**KANSAS INSURANCE DEPARTMENT**

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

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:

Progressive Direct Insurance Company  
NAIC # 16322  
6300 Wilson Mills Rd  
Mayfield Village, OH 44143

Progressive Northwestern Insurance Company  
NAIC #42919  
6300 Wilson Mills Rd  
Mayfield Village, OH 44143

Hereafter referred to as “PRDRT”, and “PNWIC”, respectively, or the “Company” or “Companies”, the following report of such examination is respectfully submitted,

Stacy Rinehart, FLMI, MCM, CIE, AIRC  
Market Conduct Manager  
Examiner-in-Charge

## **PURPOSE AND SCOPE OF REVIEW**

A targeted market conduct examination of Progressive Direct Insurance Company (PRDRT) and Progressive Northwestern Insurance Company (PNWIC), also referred to as the “Company” or “Companies”, was conducted pursuant to, but not limited to K.S.A. 40-222.

The Kansas Insurance Department (KID) reviewed the Companies’ operations and management, complaint handling, and claims processing relating to automobile insurance. The complaint review was performed at KID based on electronic files the Company provided. The claim review was performed at the Company’s Topeka, Kansas claim office. The review was conducted according to the guidelines and procedures recommended in the NAIC Market Regulation Handbook 2010 (MRH). The exam team utilized the standards and tests recommended in the Handbook which allows an error tolerance of 7% for claims procedures and 10% for all other categories. This examination report is written by test rather than by exception, which means all standards that were used are described and the results indicated. Applicable statutes and regulations cited throughout the report may be found in Appendix A.

Due to the scope of this exam, not all NAIC standards were tested. Therefore, the reader will notice gaps in the numbering of those standards throughout the report. Additionally, silence on any NAIC standard or Company practice does not imply KID acceptance or endorsement of such practices.

The examination included a review of complaint and claim samples for the exam period of January 1, 2009 through December 31, 2010. Interrogatories were submitted to the Companies prior to the file review segment of the examination, and written responses were provided. The examination included, but was not limited to company operations and management, history and profile, prior market conduct examination reports, fines and penalties, Certificates of Authority, internal audit procedures, complaint handling, and claim processing.

## **EXECUTIVE SUMMARY**

A targeted market conduct examination of Progressive Direct Insurance Company (PRDRT) and Progressive Northwestern Insurance Company (PNWIC), also referred to as the “Company” or “Companies”, was conducted pursuant to, but not limited to K.S.A. 40-222. The examination period was from January 1, 2009 through December 31, 2010. The primary focus of the exam was operations and management, complaint handling, and claim processing related to automobile insurance.

There were two violations found with regards to complaint handling, both relating to the files not being adequately date stamped. Overall the Company was timely in responding to Kansas Insurance Department complaints as well as following their internal guideline for responding to direct consumer complaints. However, the internal guideline is based on the date the complaint is logged into the system, not necessarily the date it is actually received by the Company. While there were no statutory violations, this practice should be updated to base the response timelines on the date the complaint is actually received by the Company.

Regarding claim handling, the Company did not fail any standards. Overall the claim files tested appeared to be in compliance with both regulatory requirements as well as Company procedures.

### **Recommendations**

#### **COMPLAINT HANDLING**

1. The Company must ensure consistency in date-stamping when complaints are initially received.
2. The Company should ensure they track the day they actually receive complaint correspondence, and use that date to determine when responses are due.

## DESK EXAMINATION/ON-SITE EXAMINATION

### OPERATIONS AND MANAGEMENT

#### I. History and Profile

##### **Progressive Direct Insurance Company**

Progressive Direct Insurance Company (“PRDRT”) is a wholly-owned subsidiary of Progressive Direct Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PRDRT was incorporated in the State of Ohio 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. Prior to March 13, 2006 Progressive Direct Insurance Company was named Progressive Halcyon Insurance Company, which was Halcyon Insurance Company prior to August 28, 2000.

##### **Progressive Northwestern Insurance Company**

Progressive Northwestern Insurance Company (“PNWIC”) is a wholly-owned subsidiary of Drive Insurance Holdings, Inc., whose ultimate parent is The Progressive Corporation, an insurance holding company. PNWIC was incorporated in the State of Washington on September 24, 1982 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 September 26, 1983. PNWIC redomesticated to Ohio on December 21, 2004.

##### Written Premium in Kansas

	<b>2010</b>	<b>2009</b>
Progressive Direct Insurance Company	\$51,914,125	\$45,143,301
Progressive Northwestern Insurance Company	\$82,433,309	\$73,321,158

#### II. Prior Market Conduct Examination Reports

The KID examination team requested a copy of all market conduct exams completed within the last three years. The Company provided a copy of one exam report that was completed on PRDRT. The report provided did not reveal any areas that warranted additional inspection beyond the scope of this targeted examination. There were no exams completed on PNWIC during the time period

#### III. Fines and/or Penalties

The KID examination team reviewed the actions from other states regarding fines and penalties for the last five years and found nothing that warranted additional inspection beyond the scope of this targeted examination.

#### **IV. Tests for Company Operations and Management**

##### **Standard 1**

The regulated entity has an up-to-date, valid internal or external audit program.

The Company provided their claims and underwriting audit procedures, as well as audit reports from 2009 and 2010. There are no items of concern.

Result: Pass

Recommendation: None

##### **Standard 7**

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

The Company maintained adequate records as required and provided items to the exam team as requested.

Result: Pass

Recommendation: None

##### **Standard 8**

The regulated entity is licensed for the lines of business that are being written.

The Kansas Certificates of Authority was reviewed and were in compliance with Kansas law.

Result: Pass

Recommendation: None

##### **Standard 9**

The regulated entity cooperates on a timely basis with examiners performing the examinations.

The Company provided the exam team with the necessary documents and responses in a timely fashion.

Result: Pass

Recommendation: None

## COMPLAINT HANDLING

### I. Complaint Processing

#### Complaint Procedures

Progressive defines a consumer complaint as any written communication expressing a grievance, dissatisfaction, or an alleged violation of a statute or regulation where the communication reasonably suggests that a response is expected.

Progressive's Consumer Relations Team is responsible for handling all complaints received by the company. The team's responsibility is to facilitate accurate, timely, and brand-appropriate responses to written or e-mail consumer and Department of Insurance complaints for all areas of the company.

All written complaints are forwarded to the Consumer Relations Department when the Company receives them. From there, the Customer Response Coordinators (CRC) will research and enter the complaints into the Complaint Database. At the time of entry a Business Contact (person responsible for responding) is assigned to the complaint. The Business Contact reviews the complaint and composes a response. Once the response is completed, the Business Contact will forward the response back to the Consumer Relations Department. Upon receipt of the response, the Customer Response Liaison (CRL) will review it for completion and accuracy and, when necessary, forward it to Corporate Legal for review. Once the response is reviewed, the CRL will forward the response to the Consumer/COI/BBB.

### II. Tests for Complaint Handling

The examiners reviewed a sample which contained 64 complaints received by the Company from the Kansas Insurance Department as well as 12 complaints received by the Company directly from consumers. The "Number of Errors" included in the samples below are defined as the total number of claims in the sample which contained errors.

#### **Standard 1**

All complaints are recorded in the required format on the company complaint register.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	76	0	100%

Result: Pass

Recommendation: None

#### **Standard 2**

The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders.



Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	76	0	100%

Result: Pass

Recommendation: None

**Standard 3**

The regulated entity takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	76	2	97%

Two complaint files either did not contain a date stamp or it was otherwise not visible. It was undetermined as to when the Company actually received the complaints; therefore these files are in violation of K.A.R. 40-1-34, Section 4 for not having adequate file documentation.

Result: Pass

Recommendation: The Company must ensure consistency in date-stamping when complaints are initially received.

**Standard 4**

The time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Complaints	76	0	100%

While there were no violations of Kansas law noted, the date used by the Company in determining when the response was due was not always the date the complaint was received by the Company, but was the date the complaint was logged into the system. This has the potential to create untimely responses relevant to regulatory requirements.

Result: Pass

Recommendation: The Company should ensure they track the day they actually receive complaint correspondence, and use that date to determine when responses are due.

## **CLAIM HANDLING**

### **I. Claim Processing**

The Company's claims procedures are divided into three steps, as indicated below.

Phase One - Loss Reporting and Assignment. Once the claim is reported by one of the loss parties, it is triaged to the local branch best suited to handle the loss from the Companies' corporate loss department. Many factors play into those decisions, but party or vehicle location are the primary decision points. Once the claim reaches Kansas, the Loss Assignor assigns the claim based on representative level skill and availability. Triage is based on complexity, with injuries first and then all other factors.

Phase Two - Initial Claims Investigation. The File Owner reviews the reported loss information to understand the basics of the claim. The File Owner reviews and determines what is needed to confirm coverage, investigates any issues with coverage as well as investigates liability. Contacts are made to each relevant party for statements. Those statements will center on serving customers as well as investigating the needed issues surrounding coverage and liability. When coverage issues arise, the Company would reserve their rights when coverage cannot be confirmed within the first day(s) of the loss. When an issue is identified that could affect whether the loss will be covered, the insured person is put on notice through reservation of rights. Coverage issues that cause denial are communicated to the appropriate parties. Liability decisions are communicated with the appropriate parties.

Phase Three - Damages. The File Owners also work with our customers to determine the repair location of choice. If the customer has decided on a repair facility and is willing to make an appointment for repairs, the Company works with the customer to reach the repair facility personnel to set the appointment. If the customer is undecided or not willing to set the appointment, Drive-In locations are offered in many cities across the state. Those locations can be provided. The Company also offers each customer the option to utilize the Progressive Service Center located in Kansas City or one of the Network locations across the state for repairable vehicles. In the event their vehicle is determined to be a total loss, we utilize the Mitchell Work Center Total Loss package to determine the vehicle value.

### **II. Tests for Claims Handling**

The examiners reviewed one claim sample of 108 claims processed during the exam period. The "Number of Errors" included in the samples below are defined as the total number of claims in the sample which contained errors.

#### **General Claim Standards**

##### **Standard 1**

The initial contact by the regulated entity with the claimant is within the required time frame.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 2**

Timely investigations are conducted.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 3**

Claims are resolved in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	108	1	99%

One PIP claim did not have the full amount paid within 30 days as required by K.S.A. 40-3110(b).

Result: Pass

Recommendation: None

**Standard 4**

The regulated entity responds to claim correspondence in a timely manner.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 5**

Claim files are adequately documented.

Sample Type	Sample Size	Number of Errors	Percent Compliance
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 6**

Claims are properly handled in accordance with policy provisions and applicable statutes (including HIPAA), rules and regulations.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 9**

Denied and closed-without-payment claims are handled in accordance with policy provisions and state law.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Claims	108	0	100%

Result: Pass

Recommendation: None

**Standard 11**

Claim handling practices do not compel claimants to institute litigation, in cases of clear liability and coverage, to recover amounts due under policies by offering substantially less than is due under the policy.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Claims	108	0	100%

Result: Pass

Recommendation: None

## P&C Specific Claim Standards

### **Standard 1**

Regulated entity uses the reservations of rights and excess of loss letters, when appropriate.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Claims	108	0	100%

Result: Pass

Recommendation: None

### **Standard 2**

Deductible reimbursement to insureds upon subrogation recovery is made in a timely and accurate manner.

<b>Sample Type</b>	<b>Sample Size</b>	<b>Number of Errors</b>	<b>Percent Compliance</b>
Claims	108	0	100%

Result: Pass

Recommendation: None

## **SUMMARIZATION**

This examination was conducted to review the operations and management, complaint handling, and claim handling of the Companies. As tested against the standards set forth in the 2010 MRH, there were no individual standards failed. The main issue requiring recommendations pertains to complaint handling and the dates used in setting response guidelines. Overall the complaint handling responses were timely. However, as the Company practice appears to be based on the date the correspondence is logged into the system, which is not always the actual date received. This creates a potential for delayed communication. The following recommendations are noted for improved customer service.

### **Recommendations**

#### **COMPLAINT HANDLING**

1. The Company must ensure consistency in date-stamping when complaints are initially received.
2. The Company should ensure they track the day they actually receive complaint correspondence, and use that date to determine when responses are due.

## CONCLUSION

I would like to acknowledge the cooperation and courtesy extended to the examination team by the Progressive staff. The following examiners from the Office of the Commissioner of Insurance in the State of Kansas participated in the review:

### Market Conduct Division

Stacy Rinehart  
Market Conduct Manager

Mary Lou Maritt  
Market Conduct Examiner

Amber Whitlock  
Market Conduct Examiner

Claudia Perney  
Market Conduct Examiner

Respectfully submitted,



Stacy Rinehart, FLMI, MCM, CIE, AIRC  
Market Conduct Manager  
Examiner-In-Charge

## APPENDIX A

### **Related Kansas Insurance Statutes and Administrative Regulations**

#### **K.S.A. 40-222. Examinations**

- (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, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.
- (b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.
- (c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.
- (g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

#### **K.S.A. 40-3110. Same; primary status of benefits, exception; when payable; time limitation on claims; overdue payments.**

- (a) Except for benefits payable under any workmen's compensation law, which shall be credited against the personal injury protection benefits provided by subsection (f) of K.S.A. 40-3107, personal injury protection benefits due from an insurer or self-insurer under this act shall be primary and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued in compliance with this act. An insurer or self-insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the insurer's



policy of motor vehicle liability insurance affords the coverage required by this act. No claim for personal injury protection benefits may be made after two (2) years from the date of the injury.

(b) Personal injury protection benefits payable under this act shall be overdue if not paid within thirty (30) days after the insurer or self-insurer is furnished written notice of the fact of a covered loss and of the amount of same, except that disability benefits payable under this act shall be paid not less than every two (2) weeks after such notice. If such written notice is not furnished as to the entire claim, any partial amounts supported by written notice is overdue if not paid within thirty (30) days after such written notice is furnished. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within thirty (30) days after such written notice is so furnished: *Provided*, That no such payment shall be deemed overdue where the insurer or self-insurer has reasonable proof to establish that it is not responsible for the payment, notwithstanding that written notice has been furnished. For the purpose of calculating the extent to which any personal injury protection benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery. All overdue payments shall bear simple interest at the rate of eighteen percent (18%) per annum.

#### **K.A.R. 40-1-34, Section 4. File and Record Documentation**

The insurer's claim files shall be subject to examination by the (Commissioner) or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed.