

BEFORE ALLAN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

*In the Matter of:*

**STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY**

Administrative Proceeding No. 21-MC-THP-02000

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING  
REPORT OF MARKET CONDUCT COMPLIANCE EXAMINATION  
AND DIRECTING CORRECTIVE ACTION AND ASSESSING A PENALTY

NOW COMES, Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, “Commissioner”), who, after consideration of the *Report of Market Conduct Compliance Examination* (hereinafter, the “*Examination Report*”) of State Farm Mutual Automobile Insurance Company (hereinafter, “State Farm”) for the examination period ending October 31, 2021, made the following findings of fact and conclusions of law and order.

FINDINGS OF FACT

1. This Targeted Market Conduct Examination was instituted as a result of the Final Order entered in Administrative Proceeding 20-THP-02072 which adopted the Report of the Hearing Examiner dated August 21, 2021. The Hearing Examiner found that State Farm technically violated W.Va. Code § 33-11-4(9)(b) and W.Va. Code R. § 114-14-5.3.

2. The primary purpose of this targeted examination was to determine State Farm’s compliance with West Virginia Insurance laws relating to treatment of third-party claimants and to determine if any of the violations found in Administrative Proceeding 20-THP-02072 occurred with such frequency as to constitute a general business practice. Examination information

contained in the *Examination Report* should serve only these purposes. The conclusions and findings of the *Examination Report* are public record.

3. On or about April 19, 2022, the examiner filed the *Examination Report* with the Commissioner, pursuant to *W. Va. Code* §33-2-9.

4. A true copy of the *Examination Report* was provided to State Farm and State Farm was notified, pursuant to *W.Va. Code* §33-2-9(j)(2), that it had ten (10) days after receipt of the *Examination Report* to file a submission or rebuttal with the Commissioner.

5. A total of ten (10) standards were reviewed during this targeted examination. The exam discovered one (1) area where State was non-compliant with West Virginia law.

6. The Commissioner reviewed the *Examination Report* and considered State Farm's submissions, if any, prior to issuing these findings of fact, conclusions of law and order.

#### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the subject matter and the parties to this proceeding.

2. This proceeding is conducted pursuant to and in accordance with *W. Va. Code* §33-2-9.

3. The Commissioner is charged with the responsibility of verifying State Farm's continued compliance with West Virginia law.

4. State Farm was compliant or predominantly compliant with nine (9) of ten (10) standards tested. With respect to the violations that were the subject of Administrative Proceeding 20-THP-02072 (*W.Va. Code* § 33-11-4(9)(b), *W.Va. Code R.* § 114-14-5.3), State Farm was

predominantly compliant, having only one failure. Therefore, the Commissioner concludes that the violations in said administrative proceeding did not occur with such frequency as to constitute a general business practice.

5. As detailed in the *Examination Report*, State Farm failed to comply with provisions of West Virginia law as follows:

- Standard G9 – State Farm in its denial letters failed to inform claimants of the option to contact the Insurance Commissioner’s Office and failed to provide the Commissioner’s mailing address, telephone number and web address as required by W.Va. Code R. § 114-14-6.17.

6. The Commissioner has determined that State Farm should be assessed a penalty for violating the aforementioned standard.

ORDER

Pursuant to *W.Va. Code* §33-2-9(j)(3)(A), following the review of the *Examination Report*, the examination work papers, and State Farm’s response thereto, it is **ORDERED** as follows:

1. The referenced and attached *Examination Report* is hereby **ADOPTED** and **APPROVED** and by this reference, incorporated herein and made a part hereof;
2. State Farm shall endeavor to comply with the recommendations contained in the *Examination Report*;
3. State Farm shall continue to monitor its compliance with applicable West Virginia law.

4. State Farm shall specifically cure the violations and deficiencies identified in the *Examination Report* to bring itself into compliance and conformity with West Virginia law, as set forth hereinabove, to the extent such has not already been completed and/or accomplished;

5. State Farm shall file a Corrective Action Plan (CAP), subject to the approval of the Commissioner, which said CAP shall detail State Farm's changes to its procedures and/or internal policies to ensure compliance with West Virginia law and shall further incorporate all recommendations of the Commissioner's examiners and address all violations specifically cited in the *Examination Report*;


6. The CAP shall be submitted to the Commissioner for his approval within 30 days of the date this order is entered;

7. State Farm shall make reasonable changes to the CAP if and as directed by the Commissioner within 30 days of its receipt of the Commissioner's changes to, or disapproval of, the CAP;

8. State Farm shall, within 90 days of its receipt of notice from the Commissioner of his final approval thereof, implement the CAP; and

9. State Farm shall pay an administrative penalty in the amount of Two Thousand Dollars (\$2,000.00) for its non-compliance with West Virginia law as set forth hereinabove, the assessment of which penalty is in lieu of any other regulatory penalty and shall be remitted within 30 calendar days of the date this order is entered.

Entered this 9<sup>th</sup> day of May, 2022.

  
Allan L. McVey  
CPCU, ARM, AAI, AAM, AIS  
Insurance Commissioner

# Report of Market Conduct Compliance Examination

As of October 31, 2021



**State Farm Mutual Automobile Insurance Company  
One State Farm Plaza, A3  
Bloomington, IL 61710**

**NAIC COMPANY CODE: 25178  
Examination Number: 21-MC-THP-02000**

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April 19, 2022

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25305

Dear Commissioner McVey:

Pursuant to your instructions and in accordance with West Virginia Code § 33-2-9, a Market Conduct examination has been made for the period of 01/01/2018 through 10/31/2021 on

**State Farm Mutual Automobile Insurance Company**  
**One State Farm Plaza, A3**  
**Bloomington, IL 61710**

hereinafter referred to as the "Company". The following report of the findings of this examination is herewith respectfully submitted.



## **PURPOSE AND SCOPE OF THE EXAMINATION**

Market conduct examiners with the West Virginia Offices of the Insurance Commissioner (WVOIC) reviewed certain business practices of State Farm Mutual Automobile Insurance Company. W. Va. Code §33-2-9 empowers the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the WVOIC.

The purpose of this targeted examination was to determine the Company's compliance with West Virginia insurance laws relating to treatment of third-party claimants. Examination information contained in this report should serve only this purpose. The conclusions and findings of this examination are public record.

The basic business areas that were reviewed and tested under this examination were:

- Claims Practices

## **EXECUTIVE SUMMARY**

The examination began December 17, 2021, and concluded on March 30, 2022. The examination was called as a result of the Final Order entered in Administrative Proceeding No. 20-THP-02072. The Administrative Order concluded that the Company was non-compliant with the following sections of the Unfair Claims Settlement Act by violating W.Va. Code § 33-11-4(9)(b) (failing to acknowledge and to act reasonably promptly upon communications with respect to claims arising under insurance policies) and W. Va. Code R. § 114-14-5.3 (failing to respond to communications from a claimant within (15) working days, which reasonably suggest that a response is expected).

W. Va. Code §§ 33-11-4a(e) and (f) imply that, upon any finding that a company committed an unfair claims settlement practice with respect to a third-party claimant, the Commissioner determines whether the practice occurred with such frequency as to be construed as a general business practice of the Company. In this case, the Commissioner determined that the most efficient way to make this determination was through a targeted Market Conduct Examination. The examination primarily focused on third-party claims handling with attention to the Company's claims investigatory actions (Standard G2), duty after an investigation (Standard G3) and timely response to communications (Standard G4). Other standards from the Company Operations/Management and Claims Section of the Market Regulation Handbook were also included within this examination report which are further explained later in the report.

During the course of the exam, the Insurance Commissioner's office received an inquiry from a consumer regarding the company's claims handling practices. The inquiry in question fell outside the review period of this Market Conduct examination and was not investigated or included in the course of this exam. At the direction of the Insurance Commissioner, however, the said inquiry was to be noted as a comment in this exam report.

A total of ten (10) standards were reviewed for compliance during this examination. Of those ten (10) standards, the Company was compliant or predominantly compliant in seven (7) and non-compliant in one (1) standard (G9).

The targeted market examination revealed the following violation of the W. Va. Code or Regulations cited in Administrative Proceeding 20-THP-02072:

**G4** – The Company did not respond to communications from a claimant that reasonably suggest that a response is expected within fifteen (15) working days on one (1) denied claim as required by W.Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3. As only a single violation was noted, the Company is found to be predominantly compliant with this standard and the examiner is unable to determine the practice occurred with such frequency as to be construed as a general business practice.

## **HISTORY AND PROFILE**

State Farm Mutual Automobile Insurance Company is a mutual insurance company organized under the insurance laws of the State of Illinois and is licensed in all fifty states and the District of Columbia. The Company was incorporated on March 29, 1922 and commenced business on June 7, 1922. The company writes property and casualty and health insurance policies.

State Farm Mutual is the parent company of an insurance holding company system under Illinois law and currently has several property and casualty affiliates as well as life insurance affiliates. State Farm Fire and Casualty Company is wholly owned by State Farm Mutual.

The Company's West Virginia written premium reported for 2021 was \$315,040,911 with a market share of 24.475% specific to its private passenger auto line of business.

## **METHODOLOGY**

The examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and West Virginia's applicable statutes and regulations. This is a report by test of Company compliance with selected Standards contained in the National Association of Insurance Commissioners' (NAIC) *2020 Market Regulation Handbook* ("Handbook") and Standards approved by the West Virginia Offices of the Insurance Commissioner ("WVOIC") which are based on applicable West Virginia statutes and administrative rules, as referenced herein. Testing is based on guidelines contained in the Handbook. All tests applied are included in this report.

The examiners used the NAIC standards of 7% error ratio on claims tests (93% compliance rate) and 10% error ratio on all other tests (90% compliance rate) to determine whether an apparent pattern or practice of being compliant, predominantly compliant, or non-compliant existed for any given test. The review was limited to third-party claims. The examiner reviewed a sampled population of twenty-five (25) paid claim files and twenty-five (25) denied/closed without payment (CWOP) claim files for compliance.

Tests designed to measure the level of compliance with West Virginia statutes, rules and regulations were applied to the files. Each area of the examination has specific elements that were tested and are listed below. As this was a third-party, targeted examination, not all standards and areas were reviewed. The examiners may not have discovered every unacceptable or non-compliant activity in which the Company is engaged. The failure to identify, comment on, or criticize specific practices does not constitute an acceptance of the practices by the West Virginia Offices of the Insurance Commissioner or its' designee. A compliance table follows containing results of each area of review with the compliance percentage for the Company and final examination results.

## STANDARDS & REVIEW ELEMENTS

**A7. RECORDS: Records are adequate, accessible, consistent and orderly and comply with state record retention and provided timely.** (NAIC Market Regulation Handbook Chapter 20, § A Standard 7)

- Are the records adequate and accessible? [W. Va. § 33-11-4 and W. Va. Code R. §§ 114-14-3 & 15-4]

**A9. RECORDS: The Company cooperates on a timely basis with the examiners performing the examination.** (NAIC Market Regulation Handbook Chapter 20, § A Standard 9)

- Did the Company provide records and cooperate with examiners on a timely basis? [W. Va. § 33-2-9 and W. Va. Code R. § 114-15-1 et seq.]

**G1. CLAIMS: Initial contact by the Company with the claimant is within the required timeframe.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 1)

- Was the claimant contacted within 15 working days (or mandated emergency order timeframe) from the date of the loss notice required by W.Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.1?

**G2. CLAIMS: Timely investigations are made.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 2)

- Did the investigation commence within fifteen (15) working days of any claim filed as required by W. Va. Code § 33-11-4(9)(c) and W. Va. Code R. § 114-14-6.2.a?
- Did the Company promptly conduct and diligently pursue a thorough, fair and objective investigation and not unreasonably delay resolution by persisting in seeking information not reasonably required for or material to the resolution of the claim dispute as required by W. Va. Code R. §114-14-6.1?
- Is the investigation continuing more than 30 calendar days? If so, was a notice of necessary delay sent within 15 working days after the 30 calendar days AND if the investigation continued, were subsequent notices of necessary delay sent with 45 calendar days as required by W. Va. Code R. § 114-14-6.7?

**G3. CLAIMS: Claims are resolved in a timely manner.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 3)

- Did the Company affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed as required by W. Va. Code § 33-11-4(9)(e)?
- Did the Company deny the claim or make a written offer within ten (10) working days of completing its investigation as required by W. Va. Code R. § 114-14-6.3?
- Did the Company pay any amount agreed upon within (15) working days as required by W. Va. Code R. §114-14-6.11?

**G4. CLAIMS: The regulated entity responds to claim correspondence in a timely manner.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 4)

- Did the Company reply within fifteen (15) working days to pertinent communications from a claimant which reasonably suggests that a response is needed as required by W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3?

**G5. CLAIMS: Claim files are adequately documented.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 5)

- Do the files 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 as required by W. Va. Code R. §§ 114-14-3, 114-15-4.2a & 114-15-4.4?
- Are the communications properly dated?

**G6. CLAIMS: Claims are properly handled according with policy provisions and applicable statutes, rules and regulations.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 6)

- Did the Company attempt in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear as required by W. Va. Code § 33-11-4(9)(f) and W. Va. Code R. §§ 114-14-6.4 & 6.10?
- Was coverage checked for proper application of deductible or appropriate exclusionary language as required by W. Va. Code § 33-11-4(9)(a)?
- Is the claimant who is neither an attorney or represented by an attorney given written notice of that statute of limitation as required by W. Va. Code R. § 114-14-6.12?
- Does the Company ensure where liability and damages are reasonably clear, that no person recommends that third-party claimants make claim under their own policies solely to avoid paying claims under an insurer's insurance policy or insurance contract as required by W. Va. Code § 33-11-4(9)(m) and W. Va. Code R. § 114-14-6.13?
- Does the Company ensure they do not require a claimant to travel unreasonably as required by W. Va. Code R. § 114-14-6.14?
- Does the Company ensure that claim proceeds are not used to pay premiums under another policy unless the insured consents as required by W. Va. Code R. § 114-14-6.16?
- Does the Company ensure, if it furnishes to the claimant the names of one or more conveniently located motor vehicle repair shop that will perform the repairs, that it doesn't require the claimant to use a particular repair shop or location to obtain the repairs as required by W. Va. Code R. § 114-14-6.18?
- Did the Company adopt and communicate to all its claims agents written standards for prompt investigation and processing of claims in accordance with W. Va. Code R. § 114-14-8 (effective 4/24/2006)?

**G9. DENIED/CWOP CLAIMS: Claims are handled in accordance with policy provisions and state law.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 9)

- Did the Company attempt in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear as required by W. Va. Code § 33-11-4(9)(f) and W. Va. Code R. §§ 114-14-6.4 & 6.10?
- Is the denial based upon specific policy provisions or exclusions, if so, is the reason included in the denial as required by W. Va. Code § 114-14-6.5?
- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation as required by W. Va. Code § 33-11-4(9)(n)?
- Does the company refuse to pay claims without conducting a reasonable investigation based upon all available information as required by W. Va. Code § 33-11-4(9)(d) and W. Va. Code R. § 114-14-6.3?
- Does the Company provide the claimant not represented by an attorney a written notice that the claimant's rights may be affected by a statute of limitations to third-party claimants not less than sixty (60) days before the time limit expires as required by W. Va. Code R. § 114-14-6.12?
- Does the company refrain from recommending that a third-party claimant make claim under their own policies to avoid paying claims under an insurer's

insurance policy or insurance contract as required by W. Va. Code R. § 114-14-6.13?

- Is the claimant given the option of contacting the Commissioner's Office and provided with its mailing address, telephone number, and web site address as required by W. Va. Code R. § 114-14-6.17?

**G10. CLAIMS: Cancelled checks and drafts reflect appropriate claim handling practices. Payments are handled correctly.** (NAIC Market Regulation Handbook Chapter 20, § G Standard 10)

- Do the checks include the correct payee and are they for the correct amount?
- Do payment checks indicate the payment is "final" when such is not the case?
- Do checks or drafts purport to release the insurer from total liability when such is not the case?

**COMPLIANCE TABLE**

<u>Review Section</u>	<u># Pass</u>	<u># Fail</u>	<u>Minimum Standard Compliance %</u>	<u>Compliance Result %</u>	<u>Examination Result</u>		
					<u>Compliant</u>	<u>Predominantly Compliant</u>	<u>Non-Compliant</u>
A7	N/A	N/A	N/A	N/A			
A9	N/A	N/A	N/A	N/A			
G1	50	0	93	100	X		
G2	50	1	93	98		X	
G3	50	2	93	96		X	
G4	50	1	93	98		X	
G5	50	0	93	100	X		
G6	50	0	93	100	X		
G9	25	5	93	80			X
G10	25	0	93	100	X		

## OBSERVATIONS

**A7** – Records were adequate, accessible, consistent and orderly and comply with state record retention and provided.

**A9** – Company's representatives were cooperative and responded timely to the examiner's request for preliminary claims data. However, the examiner identified an issue regarding the denied/CWOP (closed without pay) claim data. Upon review, the examiner found that the majority of the claims in the sampled population the company provided, were in fact, determined to be paid claims. The Company explained that their claims system does not have a denied indicator to accurately separate paid from denied claims; thus, causing a delay in the claims review process.

**G1** – All claim files reviewed indicated the claimant was contacted within 15 working days (or mandated emergency order timeframe) from the date of the loss notice.

**G2** – On one (1) denied claim the company did not issue a notice of necessary delay letter as required by W. Va. Code R. § 114-14-6.7. The file indicates the claim was originally denied and the Company subsequently filed for arbitration, which was ultimately found in the claimant's favor. While the arbitration decision was pending, the Company received a letter of representation from the claimant's attorney dated 6/25/2020. The Company responded to the letter of representation timely on 7/7/2020. However, the next claim communication sent to the claimant's attorney was a delay/status letter dated 10/14/2020.

**G3** – On two (2) denied claims the company did not send a denial within ten (10) working days of completing its investigation as required by W. Va. Code R. § 114-14-6.3 *Duty after investigation*. It should be noted that in response to the examiner's inquiry the company took corrective action and issued claim denial letters in both claims.

**G4** - On the same claim file (noted above under Standard G2) the Company failed to respond within fifteen (15) working days to pertinent communications from a claimant which reasonably suggests that a response is needed as required by W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. § 114-14-5.3. On 11/4/2020, the company received a demand letter from the claimant's attorney. The next communication sent from the company was a claim delay/status letter dated 3/1/2021.

**G5** – One (1) denied claim was found to have two (2) denial letters in the claim file. One letter included the contact information for the Insurance Commissioner's Office and one

did not. In response to the examiner's inquiry, the company advised that the denial letter that *did not* include the Insurance Commissioner's contact information was a draft and was not mailed to the claimant. The examiner, however, did not see where this was documented in the claim file. Although not considered a violation, W. Va. Code R. §§ 114-14-3 (*File and Record Documentation*) requires files 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.

**G6** - The Company complied with policy provisions applicable statutes, rules and regulations under this standard.

**G9** – On five (5) denied claims that required a denial letter, the Company failed to give claimants the option of contacting the Insurance Commissioner's Office, providing claimants with its mailing address, telephone number, and web site address as required by W. Va. Code R. § 114-14-6.17.

**G10** – All claim file payments were handled appropriately.



## RECOMMENDATIONS

**A9** – The Company should consider enhancing their claims system to allow for the accurate segmentation of paid claims and denied claims as a way to reduce potential delays in the claims review process and other related Market Conduct activities.

**G2** - The Company should ensure to issue claim delay letters timely in accordance with W. Va. Code R. § 114-14-6.7.

**G3**- The Company should ensure that either a denial or a written offer is made on a claim within ten (10) working days of completing its investigation in accordance with W. Va. Code R. § 114-14-6.3.

**G4** – The Company should ensure to provide a timely reply to pertinent communications from a claimant which reasonably suggest that a response is needed in accordance with W. Va. Code R. § 114-14-5.3.

**G5** – The Company should ensure that claim files are adequately documented in accordance with W. Va. Code R. §§ 114-14-3.

**G9** – The Company should ensure that claimants are given the option of contacting the Insurance Commissioner's Office, providing claimants with its mailing address, telephone number, and web site address as required by W. Va. Code R. § 114-14-6.17.

## EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT

The examiner would like to acknowledge the cooperation and assistance extended by the Company during the examination.



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Letha G. Tate, AIE, ALMI, AIRC, MCM  
Examiner-in-Charge

**EXAMINER'S AFFIDAVIT AS TO STANDARDS AND PROCEDURES USED IN EXAMINATION**

State of West Virginia

County of Kanawha

I, Letha G. Tate, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of State Farm Mutual Automobile Insurance Company.
2. I have reviewed the examination work papers and examination report, and the examination of State Farm Mutual Automobile Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

  
\_\_\_\_\_  
Letha G. Tate, AIE, ALMI, AIRC, MCM

Subscribed and sworn before me by Letha G. Tate on this 17<sup>th</sup> day of April 2022.

  
\_\_\_\_\_  
Notary Public

My commission expires: 10-11-2024

