

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

In the Matter of:

WEST VIRGINIA NATIONAL AUTO INSURANCE COMPANY

Administrative Proceeding No. 23-IC-02066

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER ADOPTING
REPORT OF MARKET CONDUCT EXAMINATION

NOW COMES, Allan L. McVey, Insurance Commissioner of the State of West Virginia (hereinafter, “Commissioner”), who, after consideration of the *Report of Market Conduct Examination* (hereinafter, the “*Examination Report*”) of West Virginia National Auto Insurance Company (hereinafter, “WV National”) for the examination period ending December 31, 2022, made the following findings of fact and conclusions of law and order.

FINDINGS OF FACT

1. The market conduct examination was a comprehensive examination focusing on standards contained in the *Market Regulation Handbook*. The examination was conducted in accordance with W. Va. Code §33-2-9(c) by examiners duly appointed by the Commissioner and covered the period of January 1, 2020 through December 31, 2022.

2. On or about March 19, 2024, the examiner filed with the Commissioner, pursuant to W. Va. Code §33-2-9, the *Examination Report*.

3. A true copy of the *Examination Report* was provided to WV National and WV National 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.

4. As set forth in the *Examination Report*, the examination focused on the methods used by WV National to manage its operations for each of the areas examined, including whether and how WV National complies with West Virginia's statutory and regulatory law.

5. The exam did not discover any instances where WV National was non-compliant with West Virginia law.

6. The Commissioner reviewed the *Examination Report* and considered WV National submissions 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 WV National's continued compliance with West Virginia law.

4. As detailed in the *Examination Report*, WV National was compliant or predominantly compliant with all thirty (30) standards reviewed.

ORDER

Pursuant to W.Va. Code §33-2-9(j)(3)(A), following the review of the *Examination Report*, the examination work papers, and WV National'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; and
2. WV National shall continue to monitor its compliance with applicable West Virginia law.

Entered this 18th day of April, 2024.



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

Report of Market Conduct Examination

As of December 31st, 2022



**West Virginia National Auto Insurance Company
330 Scott Ave., Suite 2
Morgantown, WV 26508**

**NAIC COMPANY CODE 10911
Examination Number 23-IC-02066**

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March 19, 2024

The Honorable Allan L. McVey, CPCU, ARM, AAI, AAM, AIS
West Virginia Insurance Commissioner
900 Pennsylvania Avenue
Charleston, West Virginia 25302

Dear Commissioner McVey:

Pursuant to your instructions and in accordance with W.Va. Code §33-2-9, a Market Conduct examination has been made for the period of January 1, 2020 through December 31, 2022 on the business affairs of

West Virginia National Auto Insurance Company
330 Scott Ave., Suite 2
Morgantown, WV 26508

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

COMPLIANCE WITH PREVIOUS EXAMINATION RECOMMENDATIONS

The West Virginia Office of the Insurance Commissioner (WVOIC) previously conducted a comprehensive market conduct examination of the Company as of April 30th, 2019.

The April 30th, 2019 examination findings included:

- **Finding A1:** The Company did not comply with § 33-20-4 (k) of the W. Va. Code in twelve (12) instances when it used an unfiled rating rule to determine the loss free discount applied to these policies.
- **Finding A2:** The Company did not comply with § 33-20-4 (k) of the W. Va. Code when it issued two hundred twenty-four (224) policies, that were incorrectly assessed a surcharge of three (3) points on the policy for a texting while driving violation instead of two (2) points as allowed in its filed and approved rating plan.
- **Finding B1:** In twelve (12) instances the Company engaged in an unfair trade practice as defined by W. Va. Code § 33-11-4 (7) (c) when it used an unfiled and arbitrary thirty (30) day standard for allowing retention of loss free months for the purpose of the loss free discount at renewal.
- **Finding B2:** The Company engaged in an unfair trade practice as defined by W. Va. Code § 33-11-4 (7) (c) when it unfairly assessed three (3) surcharge points on two hundred twenty-four (224) policies that should have only been assessed two (2) surcharge points under the Company's filed and approved rating rules.

These previous findings were addressed, no subsequent failures were found.

PURPOSE AND SCOPE OF THE EXAMINATION

Market conduct examiners with the WVOIC reviewed certain business practices of the Company. The period covered by the examination was January 1, 2020 through December 31, 2022. 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. West Virginia laws, regulations, and bulletins cited may be found at: <https://www.wvinsurance.gov/Legal-Authority>. "W.Va. Code" as used herein refers to the West Virginia Code Annotated. "W.Va. Code R." as used herein refers to the West Virginia Code of State Rules.

The purpose of this market conduct examination was to determine the Company's compliance with West Virginia laws and is part of a combined examination being performed in conjunction with our Financial Conditions Division. Separate reports will be issued accordingly. This examination is not intended to duplicate a review of the Company's Operations and Management but rather establish an understanding of the examinee and except for the standards specifically mentioned in this report, will rely on the results obtained by our Financial Conditions Division (Reference Numbers: 10911-WV-2022-5). The conclusions and findings of this market conduct examination are public record.

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

- Complaint Handling
- Producer Licensing
- Policyholder Service

- Underwriting and Rating
- Claims

EXECUTIVE SUMMARY

The examination fieldwork began November 20th, 2023 and concluded on March 5th, 2024. The entirety of the examination was performed remotely, with the Company providing examiner access to their Real Vision Software system which houses their underwriting/policy and claim files. Any additional records required for the review not housed in the Company's system were provided in PDF format upon request. A total of thirty (30) standards were reviewed during this examination. Of these thirty (30) standards, the Company was compliant in twenty-four (24), predominantly compliant in five (5) standards, and one (1) standard was N/A.

The areas of interest, where the Company was found predominantly compliant, are listed below:

- **D2. PRODUCER LICENSING** - The Company accepted one (1) application from a producer who was not properly appointed within fifteen (15) days of the policy submission as required by W. Va. Code §33-12-18(b).
- **F7. UNDERWRITING AND RATING** - The twenty-five (25) non-renewal notices reviewed informed the insured of the specific reason for non-renewal and the possible eligibility for insurance through the WV assigned risk plan; however, failed to advise the insured of their right to request a hearing as required by W.Va. Code §33-6A-4(d) and W. Va. Code R. § 114-3-2.
- **G2. CLAIMS** - One (1) paid claim file had an interruption in delay letters being sent to the claimant for a period of four (4) months in violation of W. Va. Code R. § 114-14-6.7.
- **G7. CLAIMS** - One (1) denied claim notice omitted the claimant's option of contacting the Commissioner and the Commissioner's contact information as mandated by W. Va. Code R. § 114-14-6.17.
- **G8. CLAIMS** - One (1) subrogation demand supplement was not paid in a timely manner as required by W. Va. Code R. §114-14-6.11. There was no consumer harm in this instance, the payment owed was to the other carrier involved in this claim.

Various predominantly compliant practices were identified. The Company is directed to take immediate corrective action to demonstrate its ability and intention to conduct business according to the West Virginia insurance laws and regulations. When applicable, corrective action for other jurisdictions should be addressed. 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 Company practices does not constitute an acceptance of the practices by the WVOIC or its' designee.

HISTORY AND PROFILE

West Virginia National Auto Insurance Company was incorporated on April 29, 1998, and commenced business on June 1, 1998. The Company is a 100% owned subsidiary of WVA National Company, L.L.C. (Parent), a West Virginia Limited Liability Company. The Company is domiciled in the state of West Virginia. The Company markets its products through independent agents located throughout the state of West Virginia. The Company has no branch offices. All Underwriting, Claims and Administrative functions are currently handled in the home office.

On September 3, 2004, the WVOIC authorized the Company to write fire insurance. In December 2011, due to a lack of growth and poor underwriting results, the Company stopped writing new property business, but it continued to renew its in-force policies until March 31, 2012. The Company was responsible for all claims on policies effective up to this date. The WVOIC approved the Company's withdrawal plan on January 25, 2012. There are no outstanding claims from these policies.

In order to grow and diversify its core non-standard auto book of business, the Company expanded into the neighboring state of Virginia. The Company was authorized by the state of Virginia on March 30, 2010, and wrote its first Virginia policy on April 27, 2010. On February 8, 2016, the Company voluntarily consented to the suspension of its license in Virginia because its surplus had fallen below the minimum required amount for Virginia. There are no outstanding claims from these policies.

According to the NAIC 2022 Market Analysis – Market Share Report, West Virginia National Auto Insurance Company had \$4,003,430 in direct written private passenger auto premiums and a Market Share of 0.302% in the state of West Virginia.

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) *2022 Market Regulation Handbook* (Handbook) and Standards approved by the 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.

Tests designed to measure the level of compliance with West Virginia's statutes, rules and regulations were applied to the files. Each area of the examination has specific elements that were tested and are listed below.

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 or not an apparent pattern or practice of being compliant or non-compliant existed for any given test. Except as otherwise noted, tests were conducted via random sample taken from a given population where applicable. In the results tables a "pass" response indicated compliance and a "fail" response indicates a failure to comply. The results of each test applied to a sample are reported separately.

STANDARD & REVIEW ELEMENTS

A1. OPERATIONS AND MANAGEMENT: Records are adequate, accessible, consistent and orderly and comply with state record retention. (2022 NAIC Market Regulation Handbook Chapter 20, § A Standard 7)

- Are the records adequate and accessible? [W. Va. Code §33-2-9 and W. Va. Code R. §114-15-4]

A2. OPERATIONS AND MANAGEMENT: The Company cooperates on a timely basis with examiners performing the examinations. (2022 NAIC Market Regulation Handbook Chapter 20, § A Standard 9)

- Did the Company provide records and cooperate with examiners on a timely basis? [W. Va. Code §33-2-9 and W. Va. Code R. §114-15-4.9(a)]

B1. COMPLAINTS: All complaints are recorded in the required format on the regulated entity's complaint register. (2022 NAIC Market Regulation Handbook Chapter 20, § B Standard 1)

- Is the Company recording all complaints, both directly from the consumer as well as the Commissioner's office, in a regulated complaint register? [W. Va. Code §33-11-4(10) and W. Va. Code R. 114-15-4.6, 7 and 8]

B2. COMPLAINTS: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders. (2022 NAIC Market Regulation Handbook Chapter 20, § B Standard 2)

- Does the Company have adequate complaint handling procedures in place Per W. Va. Code §33-11-4(10)?

B3. COMPLAINTS: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations. (2022 NAIC Market Regulation Handbook Chapter 20, § B Standard 4)

- Is the Company responding to complaints within fifteen (15) Working days as required by W. Va. Code R. 114-14-5.2?

D1. PRODUCER LICENSING: Regulated entity records of licensed and appointed (if applicable) producers and in jurisdictions where applicable, licensed company or contracted independent adjusters agree with department of insurance records. (2022 NAIC Market Regulation Handbook Chapter 20, § D Standard 1)

- Are the agents properly licensed and appointed per W.Va. Code §33-12-3 and W.Va. Code §33-12-18?

D2. PRODUCER LICENSING: The producers are properly licensed and appointed and have appropriate continuing education (if required by state law) in the jurisdiction where the application was taken. (2022 NAIC Market Regulation Handbook Chapter 20, § D Standard 2)

- Are the producers properly appointed for business solicited in West Virginia? [W. Va. Code §33-12-3(d) and W. Va. Code §33-12-18]
- Does the Company appoint the producer within fifteen (15) days of the date the producer submits their first application to the Company? [W. Va. Code §33-12-18(b)]
- Are all applications signed by properly licensed and appointed agents? [W. Va. Code §33-12-3]
- Are the producers current with their continuing education? [W. Va. Code §33-12-8]

D3. PRODUCER LICENSING: Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable. (2022 NAIC Market Regulation Handbook Chapter 20, § D Standard 3)

- Does the Company notify the Commissioner's Office (Online or via form as prescribed by the WVOIC) within thirty (30) days of terminating the producer's authority? [W. Va. Code §33-12-25 et seq.]
- Is the producer notified simultaneously? [W. Va. Code §33-12-25(d)]
- Does the Company notify the Commissioner's Office if the termination is for cause? [W. Va. Code §33-12-25(a)]

D4. PRODUCER LICENSING: Records of terminated producers adequately document reasons for termination. (2022 NAIC Market Regulation Handbook Chapter 20, § D Standard 5)

- Do company records document reason for producer termination? [W. Va. Code §33-12-25(a) & (b)]

E1. POLICYHOLDER SERVICE: Premium notices and billing notices are sent out with an adequate amount of advance notice. (2022 NAIC Market Regulation Handbook Chapter 20, § E Standard 1)

- Were renewal billing notices sent out in accordance with company procedure?
- Were premium notices sent out for endorsements sent timely, not at policy expiration?

E2. POLICYHOLDER SERVICE: Policy issuance and insured requested cancellations are timely. (2022 NAIC Market Regulation Handbook Chapter 20, § E Standard 2)

- Was the policy issued timely?
- Were insured requested cancellations processed timely and without excessive paperwork required?

E3. POLICYHOLDER SERVICE: Unearned premiums are correctly calculated and returned to the appropriate party in a timely manner and in accordance with applicable statutes, rules and regulations. (2022 NAIC Market Regulation Handbook Chapter 20, § E Standard 7)

- Are unearned premiums calculated correctly and returned to the appropriate party?
- Is the Company following filed and approved rates/rules and underwriting guidelines when calculating unearned premiums?

F1. UNDERWRITING AND RATING: The rates charged for the policy coverage are in accordance with filed rates (if applicable) or the Company rating plan. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 1)

- Was the premium calculated correctly? [W. Va. Code §33-20-3 & W. Va. Code §33-20-4]
- Were the Company's own underwriting guidelines followed for proper rating?

F2. UNDERWRITING AND RATING: All mandated disclosures are documented and in accordance with applicable statutes, rules and regulations. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 2)

- Were quotations reasonable and accurate?
- Does the Company properly notify/ disclose to the policyholders on the application, that they may be eligible for standard or preferred policies? [W. Va. Code §33-6-31c(b) and W. Va. Code R. § 114-37-4]
- Does the Company use proper forms for making the offer of optional limits of uninsured and underinsured motor vehicle coverage? [W. Va. Code §33-6-31d]

F3. UNDERWRITING AND RATING: The Company does not permit illegal rebating, commission-cutting, or inducements. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 3)

- Was there any form of unfair discrimination found in the form of illegal rebating, commission-cutting, or other illegal inducements? [W. Va. Code §33-11-4(8)]

F4. UNDERWRITING AND RATING: The Company underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations, and Company guidelines in the selection of risks. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 4)

- Do the Company's underwriting guidelines conform to any applicable statutes, rules and regulations? [W. Va. Code §33-11-4(7)(c)]
- Is the Company following its underwriting guidelines to ensure compliance regarding unfair discrimination?
- Any inconsistent underwriting practices?

F5. UNDERWRITING AND RATING: All forms, including policies, contracts, riders, amendments, endorsement forms and certificates are filed with the insurance department, if applicable. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 5)

- Have all the forms and endorsements been filed with the Commissioner? [W. Va. Code §33-6-8]
- Does the Company file all forms and endorsements through the System for Electronic Rate and Form Filing? [Informational Letter 163]

F6. UNDERWRITING AND RATING: Policies, contracts, riders, amendments and endorsements are issued or renewed accurately, timely and completely. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 6) Issued policies checked under Standard E2.

- Are renewals and endorsements issued timely and according to company procedures?

F7. UNDERWRITING AND RATING: Cancellation/non-renewal, discontinuance and declination notices comply with policy and contract provisions, state laws and the regulated entity's guidelines. (2022 NAIC Market Regulation Handbook Chapter 20, § F Standard 8)

- Were company-initiated cancellations and non-renewals within applicable statutes and policy provisions? [W.Va. Code §33-6A-1 et seq.]
- Does the notice contain the specific reason for cancellation/ non-renewal? [W.Va. Code §§33-6A-3, 33-6A-4, and W. Va. Code R. § 114-3-2]
- Does the non-renewal notice advise the insured of possible eligibility for insurance through the West Virginia assigned risk plan? [W.Va. Code §33-6A-4(d)]
- Does the non-renewal notice advise the insured that non-renewal of the policy for any reason is subject to a hearing and review by the insurance commissioner? [W.Va. Code §33-6A-4(d) and W. Va. Code R. § 114-3-2.]

F8. UNDERWRITING AND RATING: Underwriting, rating, and classification are based on adequate information developed at or near inception of the coverage rather than near expiration or following a claim. (2022 NAIC Market Regulation Handbook Chapter 21, § F Standard 8)

- Was the underwriting of the policy based on the information obtained at or near inception of coverage rather than after a claim was submitted? [W.Va. Code §33-11-4(7)(c)]

F9. UNDERWRITING AND RATING: The Company does not engage in collusive or anti-competitive underwriting practices. (2022 NAIC Market Regulation Handbook Chapter 21, § F Standard 13)

- Is there any unlawful pricing or other prohibited anti-competitive acts or practices? [W. Va. Code §33-11-3 and W. Va. Code §33-11-4]
- Has the Company entered into any agreements with other West Virginia companies to divide the market within West Virginia by territory? [W. Va. Code §33-11-3 and W. Va. Code §33-11-4]

F10. UNDERWRITING AND RATING: Cancellation/non-renewal notices comply with policy provisions and state laws, including the amount of advance notice provided to the insured and other parties to the contract. (2022 NAIC Market Regulation Handbook Chapter 21, § F Standard 16)

- Was the policyholder given thirty (30) days advance notice for company-initiated cancellation? [W.Va. Code §33-6A-3]
- Was the policyholder given fourteen (14) days advance notice for non-pay cancellation? [W.Va. Code §33-6A-1(c)]
- Was the policyholder given forty-five (45) days advance notice for company-initiated non-renewal? [W.Va. Code §33-6A-4]
- Was the lienholder/ loss payee given the same advanced notice as the policyholder? [W.Va. Code §33-6A-1a]

G1. CLAIMS: Initial contact by the Company with the claimant is within the required time frame. (2022 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 conducted. (2022 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 investigation continue for 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 within 45 calendar days as required by W. Va. Code R. § 114-14-6.7?

G3. CLAIMS: Claims are resolved in a timely manner. (2022 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?

G4. CLAIMS: The regulated entity responds to claims correspondence in a timely manner. (2022 NAIC Market Regulation Handbook Chapter 20, § G Standard 4)

- Did the company reply to pertinent communications from a claimant when a response is reasonably expected within fifteen (15) working days per W. Va. Code § 33-11-4(9)(b) and W. Va. Code R. §114-14-5.3?

G5. CLAIMS: Claim files are adequately documented. (2022 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? [W. Va. Code §33-11-4(9) et. seq, W. Va. Code R. §§ 114-14-3, 114-15-4.2 &4.4]

G6. CLAIMS: Claims are properly handled according with policy provisions and applicable statutes, rules and regulations. (2022 NAIC Market Regulation Handbook Chapter 20, § G Standard 6)

- Is the Company following the standards for prompt investigations as stated in W. Va. Code R. §114-14-6.1?
- 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?
- When applicable is the claimant who is neither an attorney nor 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?
- Was coverage checked for proper application of deductible or appropriate exclusionary language as required by W. Va. Code § 33-11-4(9)(a)?
- 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)?

G7. CLAIMS: Denied and closed without payment claims are handled in accordance with policy provisions and state law. (2022 NAIC Market Regulation Handbook Chapter 20, § G Standard 9)

- Was a prompt, reasonable and objective investigation conducted prior to refusal of payment? [W. Va. Code §33-11-4(9)(d)]
- Is the denial based upon specific policy provisions or exclusions?
- Is the claimant provided with a reasonable basis for the denial when required by statute or regulation? [W. Va. Code §33-11-4(9)(n) and W. Va. Code R. §114-14-6.5]
- Is the claimant given the option of contacting the Commissioner's Office and provided with its mailing address, telephone number, and website address? [W. Va. Code R. §114-14-6.17]
- Is the claimant who is neither an attorney nor represented by an attorney given written notice of the statute of limitation? [W. Va. Code R. §114-14-6.12]

G8. CLAIMS: Canceled benefit checks and drafts reflect appropriate claim handling practices. (2022 NAIC Market Regulation Handbook Chapter 20, § G Standard 10)

- Are checks for the appropriate amount and written to the correct payee?
- Do claim payment checks indicate the payment is "final" when they are not final?
- Do checks or drafts purport to release the insurer from total liability when this is not the case?
- Did the Company pay the amount agreed upon within (15) working days as required by W. Va. Code R. §114-14-6.11?

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>		
					Compliant	Predominantly Compliant	Non-Compliant
A1	Pass		Pass	Pass	X		
A2	Pass		Pass	Pass	X		
B1	4		90	100	X		
B2	Pass		Pass	Pass	X		
B3	4		90	100	X		
D1	Pass		Pass	Pass	X		
D2	24	1	90	96		X	
D3	13		90	100	X		
D4	15		90	100	X		
E1	25		90	100	X		
E2	32		90	100	X		
E3	12		90	100	X		
F1	25		90	100	X		
F2	25		90	100	X		
F3	25		90	100	X		
F4	25		90	100	X		
F5	N/A	N/A	90	N/A	N/A	N/A	N/A
F6	25		90	100	X		
F7	Pass		Pass	Pass		X	
F8	25		90	100	X		
F9	25		90	100	X		
F10	42		90	100	X		
G1	50		93	100	X		
G2	49	1	93	98		X	
G3	50		93	100	X		
G4	Pass		Pass	Pass	X		
G5	50		93	100	X		
G6	26		93	100	X		
G7	23	1	93	95.8		X	
G8	25	1	93	96.15		X	

OBSERVATIONS

A1. OPERATIONS AND MANAGEMENT - Records reviewed were adequate, accessible, consistent, orderly and complied with state record retention.

Cancellation Notices- During the review the Examiner was unable to locate two (2) lienholder cancellation notices. A request for Information (RFI) was sent to the Company to inquire about cancellation notices sent to the lienholder when the cancellation was requested by the insured. The Company responded that a copy of the signed insured's request for cancellation is sent to the lienholder.

Terminated Producers- Seven (7) terminated producers were reappointed after termination. The Examiner excluded these seven (7) from the sample review for **D3** and **D4**; however, noted three (3) of the seven (7) files did not contain new appointment paperwork.

A2. OPERATIONS AND MANAGEMENT - The Company's representatives were cooperative and responded to the Examiner's requests timely.

B1. COMPLAINTS - The Company is maintaining a complaint log for direct complaints in accordance with the requirements of W. Va. Code R. § 114-15-4.6. The Company's log is reconciled with WVOIC records.

B2. COMPLAINTS - The Company has procedures in place for complaint handling.

B3. COMPLAINTS - All Complaints reviewed were answered within fifteen (15) working days.

D1. PRODUCER LICENSING - The Initial producer data submitted for review appeared to have discrepancies. The Examiner sent a RFI to address the possible inconsistencies. The Company's response allowed the Examiner to reconcile the WVOIC list with the Company provided list. The Company's producer records agree with WVOIC records.

D2. PRODUCER LICENSING - The Company accepted one (1) application from a producer who was not properly appointed within fifteen (15) days of the policy submission as required by W. Va. Code §33-12-18(b). In this instance, the producer appointment was automatically terminated by the WVOIC when their license expired. The Company reappointed the producer in July 2021 when the appointment termination was identified.

D3. PRODUCER LICENSING - Fifteen (15) terminated producer files were reviewed for compliance. While two (2) producers were automatically unappointed by the WVOIC when their license expired, notice was not required to be sent to the WVOIC. The Company notified the WVOIC within thirty (30) days of appointment termination for the remaining thirteen (13) producers. Appointment termination notifications were sent to all terminated producers reviewed, including the two (2) producers automatically unappointed by the WVOIC.

D4. PRODUCER LICENSING - The terminated producer records reviewed adequately documented the reason for termination. None were terminated for cause.

E1. POLICYHOLDER SERVICE - All policies reviewed had both renewal and regular billing notices sent out appropriately and following the Company's underwriting procedures.

E2. POLICYHOLDER SERVICE - New business policies reviewed were issued in a timely manner and according to underwriting guidelines. The seven (7) insured requested cancellations assessed were processed promptly and without excessive paperwork required.

E3. POLICYHOLDER SERVICE - Unearned premiums were calculated correctly and returned timely to the appropriate party.

F1. UNDERWRITING AND RATING - The Company is following underwriting guidelines and using filed rates when calculating premiums. One (1) rule filing and one (1) rate and rule filing were both filed and approved in the System for Electronic Rate and Form Filing during the examination period.

F2. UNDERWRITING AND RATING - The quotes reviewed were reasonable and accurate; the Company is using proper forms for offering optional uninsured and underinsured motorist coverage, and the applications assessed contain the required standard risk disclosure. Examiner's note: Although not reviewed as part of standard F2, the Company was advised February 09, 2024, that the required standard risk disclosure needs to be added to the policy jacket or the first page of the policy as required by W. Va. Code R. § 114-37-5.

F3. UNDERWRITING AND RATING - While reviewing policy files, the examiner found no evidence of illegal rebating, inducements, or unfair discrimination.

F4. UNDERWRITING AND RATING - The Examiner found no evidence of unfairly discriminatory underwriting practices during the new business policy review.

F5. UNDERWRITING AND RATING - The Company did not file any forms or endorsements for use during the review period. The Examiner was able to see where forms and endorsements have been filed and approved in the System for Electronic Rate and Form Filing prior to the examination period.

F6. UNDERWRITING AND RATING - The Examiner noted all renewals and endorsements reviewed were sent out in a timely manner and following company procedures.

F7. UNDERWRITING AND RATING - The Company was found to be predominantly compliant when sending out non-renewal notices to insureds.

Cancellation Notices - When required by West Virginia law, the Company issued notices of cancellation that specify a valid reason for cancellation.

Non-Renewal Notice – The twenty-five (25) non-renewal notices reviewed informed the insured of the specific reason for non-renewal and the possible eligibility for insurance through the WV assigned risk plan. However, the notices failed to advise the insured of their right to request a hearing. Both W.Va. Code §33-6A-4(d) and W. Va. Code R. § 114-3-2 require the notice to advise the insured that non-renewal of the policy for any reason is subject to a hearing and review by the insurance commissioner. When the Company was asked about the missing language in a RFI, they responded that "We will amend our non-renewal form to include that language and file it with the West Virginia Offices of the Insurance Commissioner."

F8. UNDERWRITING AND RATING - The new business policies reviewed have rates based on information received during underwriting and not after a claim is filed.

F9. UNDERWRITING AND RATING - While reviewing policy files, the Examiner found no evidence of unfair methods of competition or anti-competitive acts.

F10. UNDERWRITING AND RATING - All cancellation and non-renewal notices reviewed were sent in accordance with WV statutory advance notice requirements and when applicable, advance notice was also provided to the lienholder/ loss payee.

G1. CLAIMS - All claim files reviewed indicated the claimant was contacted within fifteen (15) working days (or mandated emergency order timeframe) from the date of the loss notice. Most had initial contact made within a week after notice of loss.

G2. CLAIMS - The Company was found to be predominantly compliant in conducting timely investigations. Only fifteen (15) of the fifty (50) claims reviewed required investigation delay letters to be provided to the claimant. One (1) paid claim file assessed had an interruption in delay letters being sent to the claimant for a period of four (4) months. A RFI was sent to the Company concerning this pause. The Company had no explanation for the temporary interruption but acknowledged the error. The Company advised the Examiner that this claim will be used as a point of emphasis to ensure that future delay letters are sent out as mandated by W. Va. Code R. § 114-14-6.7.

G3. CLAIMS - Claims were either denied or a settlement offer was made within ten (10) working days of the completed investigation. All claims reviewed were resolved in a timely manner.

G4. CLAIMS - When applicable, claims correspondence was answered within fifteen (15) working days.

G5. CLAIMS - All claim files were adequately documented and contained work papers allowing for the reconstruction of pertinent events. Claim diaries are kept in a separate system, when asked the Company provided copies promptly for review.

G6. CLAIMS - The Company does have written standards in place for prompt investigations and the processing of claims. All twenty-six (26) paid claims reviewed were investigated timely and thoroughly. Settlement offers were fair and reasonable, and settled within policy limits. None of the paid claim files assessed required a notice to be sent concerning the statute of limitations, and no third-party claimants were advised to file under their own policy to avoid a claim being filed under the insured's policy.

G7. CLAIMS - The Company was found to be predominantly compliant in its handling of denied claims.

Denial Notice – The majority of the denial notices reviewed had the required WVOIC contact information at the bottom of the notice. One (1) denied claim notice omitted the claimant's option of contacting the Commissioner and the Commissioner's contact information as required by W. Va. Code R. § 114-14-6.17. When asked about this oversight in a RFI the Company acknowledged the omission. The Company took immediate action by sending a memo to their claim associates pointing out the importance of compliance with WV Code and that it is the responsibility of the adjuster to ensure the required language is included on every denial letter. The Examiner noted that the information included at the bottom of all outgoing letters appears to

be smaller than the font size used in the body of the notice. Although not a violation, the Company should consider, as a better business practice, increasing the font size to help bring attention to the required statutory language.

Closure Letter – Examiner's note, one (1) claim was closed without payment due to the insured being unresponsive; however, a closure letter was not sent to the insured. The Company was asked, in a RFI, about this specific claim and if there are procedures in place for handling claimants that are unresponsive or uncooperative. The Company responded that it is their practice to send a closure letter when closing a file for unresponsiveness; however, a letter was not sent in this instance. Going forward, a closing letter (to include the statute of limitation notice when applicable) will be sent when a file is closed for unresponsiveness. While this type of situation is not specifically addressed in the Company's claim manual, instructions have been sent to all claim associates via an internal memo.

G8. CLAIMS - Primarily all the claim settlements reviewed were paid within fifteen (15) days of the settlement agreement as required by W. Va. Code R. §114-14-6.11. Payment amounts matched the settlement agreements and were drafted to the correct payee. One (1) subrogation demand supplement was not paid in a timely manner. When asked about the delay of payment in a RFI, the Company acknowledged the mistake and indicated it was due to an oversight. Please note, there was no consumer harm in this instance as the payment owed was to the other carrier involved in this claim.

RECOMMENDATIONS

A1. OPERATIONS AND MANAGEMENT -

Cancellation Notices- The Company needs to keep detailed records in the policy file when mailing an insured requested cancellation notice to the lienholder/ loss payee.

Terminated Producers- For consistency purposes and as a general business practice, the Company should require producers that are reappointed after termination fill out new appointment paperwork and maintain a copy of these appointment records in the producer's file.

B2. COMPLAINTS - The Company has basic complaint handling procedures in place. As a better business practice, it is recommended that the company add response timelines to the Company's complaint handling policy and procedures to help guarantee all complaints are responded to in a timely manner.

D2. PRODUCER LICENSING - The Company must ensure all producers are properly appointed within (15) calendar days of application submission as required by W. Va. Code §33-12-18(b).

F2. UNDERWRITING AND RATING - It is crucial that the Company meet all substandard risk notice requirements as mandated by W. Va. Code R. § 114-37-1 et seq.

F7. UNDERWRITING AND RATING - The Company's non-renewal form needs to be updated to include all the language required by W.Va. Code §33-6A-4 et seq and W. Va. Code R. § 114-3-2.


G2. CLAIMS - The Company must make sure investigation delay letters are sent out at the proper intervals, as stated in W. Va. Code R. § 114-14-6.7, until the investigation is complete.

G7. CLAIMS - Per the Company's RFI response, it is imperative that claim representatives ensure all required language is included on every denial letter as mandated by W. Va. Code R. § 114-14-6.17 and that company procedure is followed when closing claim files.

G8. CLAIMS - It is critical that the Company comply with W. Va. Code R. § 114-14-6.11, guaranteeing that all claim payments are made within fifteen (15) working days from the date of the settlement agreement.

EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT

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



Jean E. Tincher
Examiner-in-Charge

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

State of West Virginia


County of Kanawha

I, Jean E. Tincher, being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of West Virginia National Auto Insurance Company.

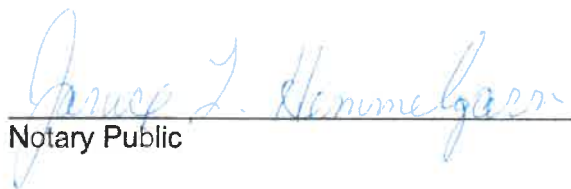
2. I have reviewed the examination work papers and examination report, and the examination of West Virginia National Auto Insurance Company was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.

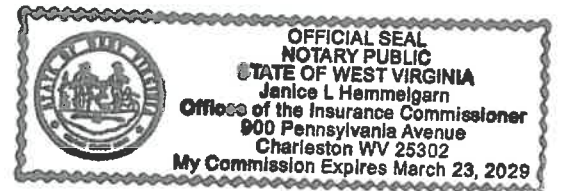


Jean E. Tincher
Examiner-in-Charge

Subscribed and sworn before me by Jean E. Tincher on this 19 day of March, 2024.



Notary Public



My commission expires: March 23, 2029 (date).