

**BEFORE JAMES A. DODRILL  
INSURANCE COMMISSIONER  
STATE OF WEST VIRGINIA**

**IN RE:  
HUNTINGTON BANCSHARES**

**ADMINISTRATIVE PROCEEDING #  
19-AP-MCSI-02002**

**AGREED ORDER ADOPTING REPORT OF  
SELF-INSURED CLAIMS COMPLIANCE EXAMINATION, DIRECTING  
CORRECTIVE ACTION AND ASSESSING PENALTY**

NOW COMES James A. Dodrill, Insurance Commissioner of the State of West Virginia, and issues this Agreed Order which adopts the Report of Self-Insured Claims Compliance Examination, directs corrective action and assesses a penalty. The Agreed Order is a result of findings in the Report of Self-Insured Claims Compliance Examination of Huntington Bancshares for the audit period ending December 31, 2018, based upon the following, to wit:

**PARTIES**

1. James A. Dodrill is the Insurance Commissioner of the State of West Virginia (hereinafter "Insurance Commissioner") and is charged with the duty of administering and enforcing, among other duties, the provisions of Chapter 33 and 23 of the West Virginia Code, as amended, including all Code of State Rules.

2. Huntington Bancshares is a corporation authorized to transact and conduct its workers' compensation affairs in a self-insured capacity in West Virginia pursuant to the provisions of W. Va. Code §23-2-9.

**FINDINGS OF FACT**

1. A Self-Insured Compliance Audit concerning the operational affairs of Huntington Bancshares for the period ending December 31, 2018, was conducted in accordance with W.Va.

Code §33-2-9, W.Va. Code §23-2-9, W.Va. Code §23-2C-22, W.Va. Code §33-2-21 and W.Va. Code R. §85-18-1, *et seq.* by auditors duly appointed by the Insurance Commissioner. The Self-Insured Compliance Audit of the Self-Insured Employer began on April 9, 2019 and concluded on April 20, 2019.

2. On April 24, 2019, the examiner filed with the Insurance Commissioner, pursuant to W. Va. Code § 33-2-9(j)(2), a Report of Self-Insured Claims Compliance Examination. (sometimes referred to as “Examination Report”).

3. A true copy of the Examination Report was sent to Huntington Bancshares along with this Agreed Order.

4. Huntington Bancshares was notified pursuant to W. Va. Code § 33-2-9(j)(2) that it had thirty (30) days after receipt of the Examination Report to file a submission or objection with the Insurance Commissioner, or it could enter into this Agreed Order if it had no objections to the Examination Report.

5. The Examination Report focused on the methods used by the Self-Insured Employer to manage its operations for each of the business areas examined which includes how the Self-Insured Employer complies with West Virginia statutes and rules.

6. The exam discovered four (4) areas where there was not one hundred percent compliance and where systemic corrective action is needed.

7. Huntington Bancshares agreed to enter into this Order.

8. Huntington Bancshares hereby waives additional notice and review of the Report of Self-Insured Claims Compliance Examination, notice of administrative hearing, any and all rights to an administrative hearing and to appellate review of any matters contained herein this Agreed Order.

## CONCLUSIONS OF LAW

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

2. This proceeding is pursuant to and in accordance with W.Va. Code §33-2-9, W.Va. Code §23-2-9, W.Va. Code §23-2C-22, W.Va. Code §33-2-21 and W.Va. Code R. §85-18-1, *et seq.*

3. Huntington Bancshares has incurred violations of the West Virginia Code and/or the West Virginia Code of States Rules as detailed in the Report of Self-Insured Claims Compliance Examination including but not limited to:

**(A.) Claims Standard B1** (Three (3) *violations*) – The Self-Insured Employer did not issue an initial ruling letter as required by West Virginia law. W.Va. Code §23-4-1c and W.Va. Code R. §85-1-10.1.

**(B.) Claims Standard B2** (One (1) *violation*) – The Self-Insured Employer did not send a written notice of its decision with the protest clause language. W.Va. Code §23-5-1(b)(1) and W.Va. Code R. §85-1-7.2.

**(C.) Claims Standard C3** (One (1) *violation*) – The Self-Insured Employer did not calculate and pay indemnity payments as required by Informational Letter 162A. W.Va. Code §23-4-14(b)(2).

**(D.) Claims Standard M1** (Two (2) *violations*) – The Self-Insured Employer did not submit first report of injury timely. W.Va. Code §23-2C-5(c)(8) and W.Va. Code R. §85-2-1, *et. seq.*

4. The Insurance Commissioner is charged with the responsibility of verifying continued compliance with West Virginia Code and the West Virginia Code of State Rules by Huntington Bancshares.

5. The Insurance Commissioner has determined that Huntington Bancshares should be assessed a penalty for violating the aforementioned standards.

### **ORDER**

Pursuant to W. Va. Code § 33-2-9(j)(3)(A), following the review of the Report of Self-Insured Claims Compliance Examination, the examination work papers, and Huntington Bancshares' Response thereto, if any, the Insurance Commissioner and Huntington Bancshares have agreed to enter into this Agreed Order adopting the Report of Self-Insured Claims Compliance Examination. The Parties have further agreed to the imposition of corrective action and an administrative penalty against Huntington Bancshares as set forth below.

It is accordingly **ORDERED** as follows:

(A) The Report of Self-Insured Claims Compliance Examination of Huntington Bancshares for the period ending December 31, 2018, is hereby **ADOPTED** and **APPROVED** by the Insurance Commissioner.

(B) It is **ORDERED** that Huntington Bancshares will endeavor to comply with the recommendations in the Report of Self-Insured Compliance Audit adopted herein.

(C) It is further **ORDERED** that Huntington Bancshares shall continue to monitor its compliance with the West Virginia Code, the West Virginia Code of State Rules and all laws it is subject thereto.

(D) Huntington Bancshares shall specifically cure those violations and deficiencies identified in the Examination Report including providing appropriate restitution (where applicable) or other immediate handling of the issue so as to bring the violations into compliance and conformity with the Commissioner's findings, recommendations and any applicable law(s) to the extent the same has not already been completed and/or accomplished.

(E) It is further **ORDERED** that Huntington Bancshares shall file a Corrective Action Plan which will be subject to the approval of the Insurance Commissioner. The Corrective Action Plan shall detail Huntington Bancshares' changes to its procedures and/or internal policies to ensure compliance with the West Virginia Code and West Virginia Code of State Rules. It shall further incorporate all recommendations of the Insurance Commissioner's examiners and address all violations specifically cited in the Examination Report. The Corrective Action Plan outlined in this Order must be submitted to the Insurance Commissioner for approval within thirty (30) days of the entry date of this Agreed Order. Huntington Bancshares shall implement reasonable changes to the Corrective Action Plan if requested by the Insurance Commissioner within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Insurance Commissioner shall provide notice to Huntington Bancshares if the Corrective Action Plan is disapproved and the reasons for such disapproval within thirty (30) days of the Insurance Commissioner's receipt of the Corrective Action Plan. The Corrective Action Plan shall be implemented within 90 days of the entry date of this Agreed Order.

(F) The Insurance Commissioner has determined and it has been agreed by Huntington Bancshares and therefore, it is hereby **ORDERED** that Huntington Bancshares shall pay an administrative penalty in the amount of One Thousand Seven Hundred-Fifty Dollars (\$1,750.00) to the State of West Virginia for non-compliance with the West Virginia law as described herein. The payment of this administrative penalty is in lieu of any other regulatory penalty and is due within **THIRTY (30) calendar days** of the entry of this Order.

(G) It is finally **ORDERED** that all such review periods, statutory notices, administrative hearings and appellate rights are herein waived concerning this Report of Self-Insured Claims Compliance Examination and Agreed Order. All such rights are reserved by the Parties regarding any future action taken, if any, on such Agreed Order by the Insurance

Commissioner against Huntington Bancshares.

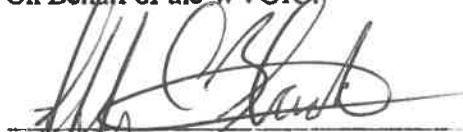
Entered this 25<sup>th</sup> day of July, 2018.



James A. Dodrill  
Insurance Commissioner  
State of West Virginia

**REVIEWED AND AGREED TO BY:**

On Behalf of the WVOIC:




Jeffrey C. Black, Associate Counsel  
Attorney Supervisor  
Regulatory Compliance and Enforcement

Dated: 7/24/19

On Behalf of HUNTINGTON BANCSHARES:

By: HEATHER MYERS COUGH  
[Print Name]

Its: SVP CORPORATE INSURANCE DIRECTOR

Signature: 

Dated: 7.19.2019

**Report of Self-Insured Claims Compliance Examination**

12/31/2018



**Huntington Bancshares  
37 West Broad Street, HP0225  
Columbus, OH 43215**

**TPA  
Sedgwick Claims Management Services, Inc.**

**Examination Number: 19-MCSI-02001**

**Date Prepared:  
April 24, 2019**

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April 24, 2019

The Honorable James A. Dodrill  
West Virginia Insurance Commissioner  
900 Pennsylvania Avenue  
Charleston, West Virginia 25302

Dear Commissioner Dodrill:

Pursuant to your instructions and in accordance with West Virginia Code §§33-2-9, 33-2-10(b), 33-2-21(a), 23-1-1, 23-2-9(b)(1) & (2), §23-2C-22 and West Virginia Code of State Rules Title 85, a Market Conduct examination has been made for the period of 1/1/2016 through 12/31/2018 of the business affairs of

Huntington Bancshares  
37 West Broad Street, HP0225  
Columbus, OH 43215

hereinafter referred to as the "Self-Insured Employer." The following report of the findings of this examination is herewith respectfully submitted.

## EXECUTIVE SUMMARY

This Self-Insured Market Conduct Compliance Examination (“examination”) was initiated to determine the compliance of Huntington Bancshares with the West Virginia statutes, rules and regulations governing the self-administration of workers’ compensation claims.

The examination work related to Huntington Bancshares began on April 9, 2019 and concluded April 20, 2019. Huntington Bancshares’s maintains an electronic environment; the majority of the examination work was conducted by electronic virtual private network through the Third-Party Administrator’s (“TPA’s”), Sedgwick Claims Management Services, Inc. computer systems.

The following are areas of concern:

**B1-** Three (3) claims were not ruled on within fifteen (15) working days in violation of W.Va. Code §23-4-1c (a) and (b) and & W.Va. Code R. §85-1-10.1. One of those three was not sent an award letter.

**B2-** For one (1) claim, the Company did not send a written notice of the decision with the protest clause in violation of W. Va. Code §23-5-1(b)(1) & W. Va. Code R. §85-1-7.2.

**C3-** For one (1) claim, the Company did not calculate and pay indemnity payments in accordance with Informational Letter 162A and in violation of W.Va. Code §23-4-14(b)(2).

**M1-** Two (2) claims the Company did not submit the First Report of Injury within to (10) business days in violation of W.Va. Code §23-2C-5(C)(8) and W.Va. Code R. §85-2-1 Et Seq. and West Virginia Offices of the Insurance Commissioner’s Electronic Data Interchange (“EDI”) Implementation Guide.

## COMPLIANCE WITH PREVIOUS EXAMINATION

No previous exams were performed.

## **HISTORY AND PROFILE**

Huntington Bancshares Incorporated is a regional bank holding company headquartered in Columbus, Ohio, with \$109 billion of assets and a network of 954 branches and 1,774 ATMs across eight Midwestern states. Founded in 1866, The Huntington National Bank and its affiliates provide consumer, small business, commercial, treasury management, wealth management, brokerage, trust and insurance services. Corporate-wide Huntington employees approximately 16,000 colleagues with an estimated 250 being located in the State of West Virginia. The Corporate Insurance department within Huntington is responsible for the administration and oversight of all Huntington employee workers' compensation incidents and claims. Huntington has contracted with Sedgwick CMS for third party administrator services since January 1, 2011 and there have been no changes in self-insured status or personnel during this time.

## **METHODOLOGY**

The examiners conducted file reviews and interviews of company management. This examination report is a report by test, rather than a report by exception, and all elements tested are described and the results indicated.

Tests designed to measure the level of compliance with West Virginia's statutes, rules and regulations were applied to all files. All tests are described, and the results displayed in this report.

The Company had a low number of claims, eight in total for the examination period. All claims were reviewed. The percentages on the compliance table show several failures, however due to the low number of claims a business practice could not be statistically established.

## **ELEMENTS OF THE REVIEW**

### **A. COMPLAINTS: THE TIME FRAME WITHIN WHICH THE EMPLOYER RESPONDS TO COMPLAINTS IS IN ACCORDANCE WITH APPLICABLE STATUTES, RULES AND REGULATIONS.**

1. Did the Self-Insured Employer respond to complaints received from the WVOIC within fifteen (15) working days? [W. Va. Code R. §85-1-16] (Additionally list each individual complaint, the nature of the complaint and the resolution.)

### **B. INITIAL COMPENSABILITY DECISIONS AND INVESTIGATIONS ARE CONDUCTED IN A TIMELY MANNER.**

1. Did the Self-Insured Employer properly investigate then rule on a claim within fifteen (15) working days, or if "tolled" while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code §§23-4-1c (a) and (b) & W. Va. Code R. §85-1-10.1]
2. Did the Self-Insured Employer send a written notice of the decision with the protest clause? [W. Va. Code §23-5-1(b)(1) & W. Va. Code R. §85-1-7.2]

### **C. TEMPORARY TOTAL DISABILITY (TTD)**

1. Did the Self-Insured Employer/TPA properly notify the claimant of the TTD award? [W.Va. Code § 23-5-1]
2. Did the Self-Insured Employer/TPA immediately pay amounts due the claimant for benefits upon determination of eligibility? [W. Va. §§23-4-1c(b) and (g)]
3. Did the Self-Insured Employer/TPA calculate and pay indemnity payments correctly? [W. Va. Code §23-4-14(b)(2), and Informational Letter 162A]
4. Did the Self-Insured Employer/TPA issue temporary total disability closure letters in accordance with W. Va. Code §§23-5-1, 23-4-7a and 23-4-22.

### **D. PERMANENT PARTIAL DISABILITY (PPD)**

1. Did the Company act on PPD evaluations timely? [W.Va. Code R. § 85-1-10.5 a. The responsible party shall act on a permanent disability evaluation report received from a physician to whom the responsible party referred a claimant in a claim for injuries and occupational diseases other than occupational pneumoconiosis within thirty (30) working days of receipt by the responsible party of the report.]

2. Did the Company make timely IME referrals? [W.Va. Code R. § 85-1-10.5 b. The responsible party shall make a referral of a claimant to a physician for examination and evaluation in response to a request by or on behalf of the claimant for consideration of a permanent disability award in a claim for injuries and occupational diseases other than occupational pneumoconiosis within thirty (30) working days from the date the request was received by the responsible party.]
3. Did the Company commence PPD award payments timely? [W.Va. Code R. § 85-1-10.5 c. Permanent partial disability awards may be paid, at the discretion of the responsible party, either by lump sum or in installments consistent with applicable law. Payment of permanent partial awards shall commence within fifteen (15) working days of the decision granting the award.]
4. Did the Company calculate and pay the payment correctly? [W.Va. Code § 23-4-14(b)(2) and Informational Letter 162A]

#### **E. MEDICAL AUTHORIZATIONS**

1. Did the Company comply with W. Va. Code R. §85-1-10.3? "Medical treatment, medications, appliances, devices and supplies. – The responsible party shall act upon an injured worker's request for authorization of medical treatment, medications, appliances, devices and supplies within fifteen (15) working days from the date the request was received by the responsible party."

#### **F. NON-AWARDED PARTIAL BENEFITS (NAP)**

Are non-awarded partial disability benefits paid at the same rate as the permanent partial disability rate per W. Va. Code R. §85-1-9.7?

#### **G. DEATH CLAIMS (FATAL)**

1. Were the death benefits in the proper amounts and to the proper person(s) per W. Va. Code §§23-4-1 and 23-4-10?

#### **H. CLOSURE**

1. Claims properly closed and notice issued?

## **I. OCCUPATIONAL PNEUMOCONIOSIS**

Did the Self-Insured Employer enter non-medical decisions in occupational pneumoconiosis claims within ninety (90) days from the date the responsible party receives properly executed, prescribed forms? (can be "tolled" for no more than thirty (30) additional days during the evidence gathering process) [W. Va. Code §23-4-15b and W. Va. Code R. §85-1-10.2?

## **J. DENIED AND CLOSED WITHOUT PAYMENT**

1. Did the Self-Insured Employer properly investigate then rule on a claim within fifteen (15) working days, or if "tolled" while evidence for the claim is gathered, rule in the appropriate time? [W. Va. Code R. §85-1-10.1, W. Va. Code §23-4-1c (a)]
2. Are claims handling practices meeting West Virginia statutes, rules and regulations of "denied" and "closed without payment" claims including proper notifications, reasonable basis for denial, and whether or not claimants are provided adequate instructions for rebuttals? [W. Va. Code §§23-5-1(a) 23-5-1(b)(1)]
3. Are claims denied inappropriately due to a technicality? [W. Va. Code §23-5-13]
4. Is appropriate protest/grievance language on the decision order? [W. Va. Code §§23-5-1(b)(1) and 23-4-3(f) and W. Va. Code R. §§85-1-7.2 and 85-21-10.2b]
5. Are denied claim investigations by the Self-Insured Employer/TPA complete and thorough?
6. Are denied claim investigations by the Self-Insured Employer/TPA tolled only for the purpose of gathering additional evidence needed to rule on a claim? [W. Va. Code R. §85-1-10.1]

## **K. OFFICE OF JUDGES (OOJ) AND BOARD OF REVIEW (BOR) ORDERS**

1. Did the Self-Insured Employer comply with all orders of the Office of Judges ("OOJ") and the Board of Review ("BOR") and all mandates of the West Virginia Supreme Court of Appeals within thirty (30) days from the date of receipt, unless the responsible party is required to act sooner under the terms of the order or mandate or the order or mandate is subject to a lawfully ordered stay? [W. Va. Code §23-2C-22 and W. Va. Code R. §85-1-10.7]

**L. DOCUMENTATION**

1. Did the Self-Insured Employer follow state statutes, rules and regulations which require that claim files contain adequate documentation and to be maintained in a manner so that pertinent events and dates of such events can be reconstructed if necessary? [W. Va. Code R. §§85-18-13.3 and 13.4]

**M. EDI - Did the self-insured employer promptly and accurately provide the WVOIC with all necessary claim information to maintain the workers' compensation claim index? W. Va. code §23-2c-5(c)(8) and W. Va. Code R. §85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's electronic data interchange ("EDI") implementation guide]**

1. FROI – Did the Company submit the First Report of Injury report timely within ten (10) business days?
2. SROI - Did the Company submit the Subsequent Reports of Injury report(s) updates on each claim either monthly or quarterly?
3. Closing - Did the Company properly report closure of the claim when no additional transactions are expected on the claim? (For example: A notification that an accident has occurred is not a request for a compensability decision and therefore should not be denied (FROI 04) or administratively closed (SROI FN) and should be canceled as a FROI 01.)

**N. THE COMPANY COOPERATES ON A TIMELY BASIS WITH EXAMINERS PERFORMING THE EXAMINATION.**

1. Did the Company respond to RFI's in a timely manner?
2. Did the Self-Insured Employer provide records in a timely basis and cooperate with the examination? [W.Va. Code R. §85-18-13.6]

**O. Other Issues**

**COMPLIANCE TABLE**

<u>Review Section</u>	<u># Pass</u>	<u># Fail</u>	<u>N/A</u>	<u>Compliance %</u>	<u>Observation</u>	<u>Individual Corrective Action</u>	<u>Systemic Corrective Action</u>
A1	0	0	0	n/a			
B1	5	3	0	62			*
B2	7	1	0	88			*
C1	1	0	7	100			
C2	1	0	7	100			
C3	0	1	7	0			*
C4	1	0	7	100			
D1	0	0	0	n/a			
D2	0	0	0	n/a			
D3	0	0	0	n/a			
D4	0	0	0	n/a			
E1	1	0	7	100			
F1	0	0	0	n/a			
G1	0	0	0	n/a			
H1	3	0	5	100			
I1	0	0	0	n/a			
J1	0	0	0	n/a			
J2	0	0	0	n/a			
J3	0	0	0	n/a			
J4	0	0	0	n/a			
J5	0	0	0	n/a			
J6	0	0	0	n/a			
K1	0	0	8	n/a			
L1	8	0	0	100			
M1	6	2	0	75			*
M2	1	0	7	100			
M3	3	0	5	100			
N1				100			
N2				100			
O				n/a			



## OBSERVATIONS

**A1-** There were no complaints.

**B1-** Three (3) claims were not ruled on within fifteen (15) working days in violation of W.Va. Code §§23-4-1c (a) and (b) and W.Va. Code R. §85-1-10.1.

**B2-** For one (1) claim, the Company did not send a written notice of the decision with the protest clause in violation of W. Va. Code §23-5-1(b)(1) & W. Va. Code R. §85-1-7.2.

**C3-** For one (1) claim, the Company did not calculate and pay indemnity payments in accordance with Informational Letter 162A, and in violation of W.Va. Code §23-4-14(b)(2).

**D-** There were no permanent partial disability claims.

**F-** There were no non-awarded partial benefits.

**G-** There were no death claims.

**I -** There were no occupational pneumoconiosis.

**J-** There were no denied claims.

**K-** There were no Office of Judges or Board of Review orders.

**M1 –** The Company did not submit the First Report of Injury report timely for one (two) claims, in violation of W. Va. code §23-2c-5(c)(8) and W. Va. Code R. §85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's electronic data interchange ("EDI") implementation guide]

## RECOMMENDATIONS

**B1-** It is recommended that all claims be ruled on within fifteen (15) working days in accordance with W.Va. Code §§23-4-1c (a) and (b) and & W.Va. Code R. §85-1-10.1.

**B2** – It is recommended that the Company issue ruling letters on all claims, as required by W.Va. Code §23-4-1c(a) and W.Va. Code R. §85-1-10.1.

**C3** - It is recommended that the Company should calculate and pay indemnity payments in accordance with W.Va. Code §23-4-14(b)(2) and Informational Letter 162A.

**M1** - It is recommended that the Company submit the First Report of Injury report in accordance with W. Va. code §23-2c-5(c)(8) and W. Va. Code R. §85-2-1 et seq. and West Virginia Offices of the Insurance Commissioner's electronic data interchange ("EDI" implementation guide].

**EXAMINER'S SIGNATURE AND ACKNOWLEDGEMENT**

The examiner would like to acknowledge the cooperation and assistance extended by the Self-Insured Employer/TPA during the course of the examination.



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John Stike CIE, CPCU, AMCM, CWCP, CIPA, APA, AU, AFI, PAHM

Examiner-in-Charge

**EXAMINER'S AFFIDAVIT**


State of West Virginia  
County of Kanawha

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

I, John Stike being duly sworn, states as follows:

1. I have the authority to represent West Virginia in the examination of Huntington Bancshares.
2. I have reviewed the examination work papers and examination report, and the examination of Huntington Bancshares was performed in a manner consistent with the standards and procedures required by West Virginia.

The affiant says nothing further.



John Stike CIE, CPCU, AMCM, CWCP, CIPA, APA, AU, AFI, PAHM

Subscribed and sworn before me by John Stike on this 24th day of April 2019.

  
Notary Public

My commission expires: 10-11-2019

