

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES



MARKET CONDUCT EXAMINATION

NUMBER 2015C-0081

January 20, 2016

TARGETED MARKET CONDUCT EXAMINATION REPORT

OF

FREMONT INSURANCE COMPANY

Fremont, Michigan

NAIC COMPANY CODE 13994

For the Period January 1, 2014 through December 31, 2014

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	1
II. INTERROGATORY TO COMPANY.....	1
III. ACKNOWLEDGEMENT	8

I. EXECUTIVE SUMMARY

Fremont Insurance Company (the Company) is an authorized domestic insurance company. This Targeted Market Conduct Examination Report was conducted by the Michigan Department of Insurance and Financial Services (DIFS) in conformance with the National Association of Insurance Commissioners (NAIC) *Market Regulation Handbook* (2012) (*Handbook*) and the Michigan Insurance Code, MCL 500.100 et seq. (the Code).

The exam covers the period January 1, 2014 to December 31, 2014. The exam was written under the supervision of Sherry J. Bass-Pohl, Manager of the Market Conduct Company Examination Unit.

This examination was conducted as a result of analysis of the NAIC Market Conduct Annual Statement (MCAS) submission.

DIFS considers a “finding” to be an instance where a violation of Code was determined to have occurred, or one in which corrective action on the part of the Company is deemed advisable.

Findings:

The Company was found to be cancelling auto policies mid-term for reasons other than a suspended license, in violation of MCL 500.3220(b).

Recommendations:

It is recommended that the Company comply with MCL 500.3220(b). The Company has agreed to do so.

II. INTERROGATORY TO COMPANY

Below is each interrogatory provided to the Company. The NAIC Standard and/or Michigan statute which prompted the interrogatory is also included. The Company response and DIFS’ comments, if any, follow:

A. OPERATIONS/MANAGEMENT

Standard 1: The regulated entity has an up-to-date, valid internal or external audit program. NAIC *Handbook*, Chapter 16.

Standard 18: All data required to be reported to departments of insurance is complete and accurate. NAIC *Handbook*, Chapter 16.

1. The data reported by your company show the following for 2013: Number of PIP claims open at beginning of period: 8. Number of PIP claims opened during the period: 1. Number of PIP

claims closed with payment: 1. Number of claims closed without payment: 0. These numbers seem quite low. Can you please verify their accuracy?

Company Response:

The Company has discovered that when the reporting requirement changed, it continued to report PIP medical claims under the Medical Payment category rather than the PIP category. ... The correction has already been implemented for the 2014 filing.

DIFS' Comment on Company Response:

DIFS notes that the 2013 data for PIP claims was reported in the Med Pay category, and the Company has supplied the correct 2013 PIP numbers. They are:

Number of PIP claims open at beginning of period = 345
Number of PIP claims opened during the period = 395
Number of PIP claims closed with payment = 244
Number of claims closed without payment = 89

The 2013 MCAS data submission to the NAIC was amended to reflect the above numbers.

Additionally, DIFS acknowledges that the 2014 reporting has been reviewed, and the Company is not an outlier.

2. Please describe your company's internal/external audit programs of personal auto claims and underwriting: Who performs the audits? What do the auditors examine? How often are the audits performed? What were the findings of the audits done in the last twelve months?

Company Response:

The audits of Fremont insurance operations are conducted by the Internal Audit department at the Company's parent, the Auto Club Group. The Internal Audit department performs an annual risk assessment to arrive at an annual audit plan. During the risk assessment, all processes in the audit universe are evaluated on six risk categories, which include 1) financial risk 2) strategic risk 3) personnel risk 4) current risk 5) regulatory risk 6) reputational risk.

Based on the annual risk assessment, higher risk processes are selected for audit review. There are numerous processes in the universe related to personal auto claims and underwriting, including claim handling, underwriting practices, and related applications, at each of the ACG companies. There is no set rotational schedule; however, any process ranked as medium-high risk or higher in the context of ACG as a whole must be considered for audit attention. When audits are selected for review, key risks are identified, related

controls are identified, and testing primarily focusses on key or critical control and control effectiveness.

There were no audits completed of Fremont claims or Underwriting in the past 12 months, although there was a related system application audit during that time.

DIFS' Comment on Company Response:

DIFS is satisfied with the Company's audit program.

3. Please attach the minutes of Board meetings for the previous twelve months.

Company Response:

The requested minutes are attached.

DIFS' Comment on Company Response:

No issues or concerns were noted after review of the Board minutes.

B. UNDERWRITING

Standard 9: Rescissions are not made for non-material misrepresentations.

MCL 500.3109a:

An insurer providing personal protection insurance benefits under this chapter may offer, at appropriately reduced premium rates, deductibles and exclusions reasonably related to other health and accident coverage on the insured. Any deductibles and exclusions offered under this section are subject to prior approval by the commissioner and shall apply only to benefits payable to the person named in the policy, the spouse of the insured, and any relative of either domiciled in the same household.

MCL 500.3220:

Subject to the following provisions no insurer licensed to write automobile liability coverage, after a policy has been in effect 55 days or if the policy is a renewal, effective immediately, shall cancel a policy of automobile liability insurance except for any 1 or more of the following reasons:

(a) That during the 55 days following the date of original issue thereof the risk is unacceptable to the insurer.

(b) That the named insured or any other operator, either resident of the same household or who customarily operates an automobile insured under the policy has had his operator's license suspended during the policy period and the revocation or suspension has become final.

1. Does your company rescind auto policies? Can you please explain your company's rescission procedures? What is the time period beyond which your company does not exercise the option of rescission? Can you please attach copies of the last ten (10) of your company's rescission notices?

Company Response:

Fremont rescinds auto policies very rarely and only in those cases where there is material misrepresentation or fraud. There is no set time period and each rescission is reviewed and determination made to rescind is based on the circumstances surrounding the material representation or fraud. Review by counsel is undertaken prior to any rescission action. Please find attached the notices of rescissions completed in 2014.

DIFS' Comment on Company Response:

In three (3) of the four (4) rescissions done during the exam period, DIFS noticed a significant time difference between the date of loss and the time that the Company made the decision to rescind. The Company explained that failure of the insured to appear for Examination Under Oath (EUO) accounts for the time difference. DIFS accepts the explanation.

2. How does your company evaluate the veracity of an insured's statement on an application regarding qualification for excess Personal Injury Protection (PIP) and wage loss rating?

Company Response:

Fremont does not deal directly with insureds in application process and only does business through independent agents. Our agents obtain this information directly from insureds.

3. Can you please attach copies of the last ten (10) company-initiated cancellation notices (other than for non-pay) sent in the last six (6) months of policies in force for more than 55 days?

Company Response:

The requested notices are attached.

Findings:

Two (2) of the ten (10) policies were cancelled mid-term because the insured moved out of the state. This is a violation of MCL 500.3220(b). Such policies should be non-renewed rather than canceled mid-term.

Recommendations:

It is recommended that the Company comply with MCL 500.3220(b). The Company has agreed to do so.

C. COMPLAINT HANDLING

Standard 1: All complaints are recorded in the required format on the regulated entity's complaint register. NAIC *Handbook*, Chapter 16.

Standard 2: The regulated entity has adequate complaint handling procedures in place and communicates such procedures to policyholders. NAIC *Handbook*, Chapter 16.

Standard 3: The Company takes adequate steps to finalize and dispose of the complaint in accordance with applicable statutes, rules and regulations, and contract language. NAIC *Handbook*, Chapter 16.

Standard 4: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations. NAIC *Handbook*, Chapter 16.

1. Can you please attach a copy of the Company's personal auto complaint register?

Company Response:

The complaint register and DIFS letter of recorded complaints are attached. There were no personal auto complaints in 2014.

D. CLAIMS HANDLING

Standard 3: Claims are resolved in a timely manner. NAIC *Handbook*, Chapter 16.

MCL 500.3142:

- (1) Personal protection insurance benefits are payable as loss accrues.
- (2) Personal protection insurance benefits are overdue if not paid within 30 days after an insurer receives reasonable proof of the fact and of the amount of loss sustained. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. Any part of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within 30 days after the proof is received by the insurer. For the purpose of calculating the extent to which benefits are overdue, payment shall be treated as made on the date a draft or other valid instrument was placed in the United States mail in a properly addressed, postpaid envelope, or, if not so posted, on the date of delivery.
- (3) An overdue payment bears simple interest at the rate of 12% per annum.

MCL 500.3109a:

An insurer providing personal protection insurance benefits under this chapter may offer, at appropriately reduced premium rates, deductibles and exclusions reasonably related to other health and accident coverage on the insured. Any deductibles and exclusions offered under this section are subject to prior approval by the commissioner and shall apply only to benefits payable to the person named in the policy, the spouse of the insured, and any relative of either domiciled in the same household.

MCL 500.3151:

When the mental or physical condition of a person is material to a claim that has been or may be made for past or future personal protection insurance benefits, the person shall submit to mental or physical examination by physicians. A personal protection insurer may include reasonable provisions in a personal protection insurance policy for mental and physical examination of persons claiming personal protection insurance benefits.

MCL 500.3135(5):

As used in this section, "serious impairment of body function" means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life.

1. How does your company ensure compliance with MCL 500.3142? Please describe the process of payment of interest on PIP claims.

Company Response:

Fremont evaluates each payment to determine if interest is owed. In the event that interest is owed, the adjuster completes the interest calculation and enters this amount as a separate line on the check register identifying the additional payment as interest. A monthly report is provided to management to monitor the amount and frequency of interest payments.

2. How many PIP claims were closed and paid in 2014? How many PIP claims were paid late, thereby necessitating the payment of interest?

Company Response:

Fremont closed 327 PIP claims in 2014. Fremont made forty four interest payments on claims in 2014.

DIFS' Comment on Company Response:

Following additional communications with DIFS, Fremont subsequently revised its response regarding closed PIP claims, to 287 PIP claims which were closed with payment(s). Of the population of claims closed with payment, 26 claims were paid late, requiring 44 interest payments. DIFS notes the Company's evaluation of each individual PIP claim to determine that interest is owed. Based on the monthly Claim Interest Payments Report submitted by the Company, DIFS recognizes that the Company is in substantial compliance with MCL 500.3142.

3. What is the PIP penalty deductible applied when an insured is rated excess PIP but after a PIP loss is found not to have primary health insurance?

Company Response:

The Fremont Personal Auto Policy Part D, Section 3d, Limit of Liability states “If primary protection is not available, any amount payable will be subject to a deductible of \$300.”

4. How is the choice of IME physician made? Is the insured allowed any input?

Company Response:

IME physicians are selected based upon the type of injury that the insured has sustained. Fremont attempts to locate physicians that provide services in the area that the insured resides. Mileage checks are mailed to the insured in advance of the appointment. In the event there is not a physician in the immediate area due to the nature of the injury or specialty required, additional accommodations will be provided to the insured including date selection, hotel, and food accommodations if necessary.

5. Does your company have a rebuttal process in place for disputed IME reports?

Company Response:

Copies of all IME reports are sent to the insured. In the event the insured disagrees with the doctor on specific points or feels the doctor has not properly addressed an issue an addendum may be ordered for clarification regarding the specific question or issue as it relates to the claim.

DIFS’ Comment on the Company Response:

DIFS agrees that this is an acceptable method of dealing with IME disputes.

6. Can you please explain how the BI threshold is explained to claimants?

Company Response:

The bodily injury threshold is explained to claimants in accordance to MCL 500.3135. A person may be entitled to recovery only if the injured person suffered death, serious impairment of body function, or permanent serious disfigurement. Damages are assessed on the basis of comparative fault, except that damage shall not be assessed if the injured party is over 50% at fault. Damages shall not be assessed in favor of a party who is operating his or her own vehicle at the time the injury occurred and did not have in effect for that motor vehicle the security required by section 3101 at the time the injury occurred.

DIFS’ Comment on the Company Response:

DIFS suggested that the Company also include MCL 500.3135(5) in the explanation of the BI threshold. The Company agreed to do so.

7. What are your company’s net and combined loss ratios for BI and PIP for the last five years? Is there any relationship between these loss ratios and the compensation of any employees?

Company Response:

2010 Net BI loss ratio – 41.0, Combined – 81.0;
2011 Net BI loss ratio – 44.9, Combined – 84.4;
2012 Net BI loss ratio – 50.5, Combined – 79.1;
2013 Net BI loss ratio – 33.4, Combined – 62.6;
2014 Net BI loss ratio – 48.9, Combined – 72.4

2010 Net PIP loss ratio – 107.8, Combined – 147.8;
2011 Net PIP loss ratio – 102.5, Combined – 142.0;
2012 Net PIP loss ratio – 83.6, Combined – 116.5;
2013 Net PIP loss ratio – 72.4, Combined – 105.4;
2014 Net PIP loss ratio – 83.1, Combined – 119.9

Fremont employees are not compensated based on loss ratios for BI or PIP claims.

Findings:

There are no findings.

Recommendations:

There are no recommendations.

III. ACKNOWLEDGEMENT

This targeted market conduct examination report of Fremont Insurance Company is respectfully submitted to the Director of the Department of Insurance and Financial Services, State of Michigan.

The courteous cooperation and assistance of the officers and employees of the Company extended to the examiners during the course of the examination is hereby acknowledged.

David A. Haddad, CPCU, MCM
Examiner-in-Charge
Office of Insurance Licensing and Market Conduct
Department of Insurance and Financial Services