



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Theodore K. Nickel, Commissioner

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

WISCONSIN AUTOMOBILE INSURANCE PLAN
20700 SWENSON DR STE 100
WAUKESHA WI 53186

dated October 7, 2011, and served upon the company on March 26, 2013, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 9th day of May, 2013.

A handwritten signature in black ink, appearing to read 'Theodore K. Nickel', written over a horizontal line.

Theodore K. Nickel
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**WISCONSIN AUTOMOBILE INSURANCE PLAN
WAUKESHA, WISCONSIN**

SEPTEMBER 26, 2011 - OCTOBER 7, 2011

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October 7, 2011

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Honorable Theodore K. Nickel
Commissioner of Insurance
Madison, WI 53703

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted September 26 to October 7, 2011, of:

WISCONSIN AUTOMOBILE INSURANCE PLAN
Waukesha, Wisconsin

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

The original Wisconsin Automobile Assigned Risk Plan (Plan or WAIP) was established in July of 1942, based on voluntary agreement among all insurers transacting the business of automobile bodily injury liability insurance in Wisconsin. By 1949 the assigned risk problem had become larger in scope and Chapter 351, Laws of 1949, made the Plan statutory under the provisions of s. 204.51 (2), Wis. Stat.

Under s. 204.51, Wis. Stat., the purposes of the Plan were:

1. To make automobile bodily injury and property damage liability insurance available, subject to the conditions stated in the Plan manual of rules and rates.
2. To establish a procedure for the equitable distribution of risks assigned to insurance companies.

On January 1, 1969, the name of the Plan was changed to the Wisconsin Automobile Insurance Plan (Plan). Section 204.51 (2), Wis. Stat., was repealed on August 22, 1969, and replaced by ch. 619, Wis. Stat., pertaining to all risk-sharing plans. Although the actual enabling

legislation is no longer present, the existing Plan continued unchanged, in accordance with s. 619.01 (6), Wis. Stat.

The 1969 changes to the law gave the Office of the Commissioner of Insurance (OCI) the power, upon promulgation of an administrative rule, to bring the automobile assignment plan into the general family of pools similar to the Wisconsin Rejected Risk Pool (now known as the Wisconsin Worker's Compensation Insurance Pool) and the Wisconsin Insurance Plan. Section Ins 3.49, Wis. Adm. Code, went into effect December 1, 1984. It was created to provide for the continued availability of automobile insurance for applicants unable to procure insurance and provide specific access and grievance procedures for the Plan by interpreting s. 619.01 (6), Wis. Stat., and the former s. 204.51 (2), Wis. Stat.

Membership in the Plan is required for each insurer writing automobile liability insurance in Wisconsin except for those insurers exempt from ch. 619, Wis. Stat. The number of Plan members varies directly with the number of companies licensed to transact the business of automobile liability insurance in Wisconsin. The Plan's Annual Reports include a membership list of 810 member companies in 2009 and 998 member companies in 2010.

Since the original Plan was adopted in 1942, the Wisconsin Compensation Rating Bureau has managed its operations at the request of the Plan's Governing Committee.

The following table summarizes the Plan's annual earned premium for 2009 and 2010 for commercial and personal auto.

Year	Commercial Auto Annual Earned Premium	Personal Auto Annual Earned Premium
2009	\$1,132,856	\$0
2010	748,822	0

The following tables summarize the Plan's policy volume during 2009 and 2010.

NEW APPLICATIONS

Year	Commercial Auto	Personal Auto
2009	40	0
2010	16	0

POLICIES IN FORCE

Year	Commercial Auto	Personal Auto
2009	159	0
2010	146	0

OCI defines a complaint as "a written communication received by the Commissioner that indicates dissatisfaction with an insurance company, agent, or other licensee." OCI did not receive any complaints directly against the Plan between January 1, 2010, and June 30, 2011.

II. PURPOSE AND SCOPE

The examination was conducted to determine whether the practices and procedures of the Plan comply with the Wisconsin insurance statutes and rules.

The examination focused on a period of review from January 1, 2010, through June 30, 2011. The examination of the Plan included, but was not limited to, policyholder service and complaints, operations and management, and residual market operations of the Plan.

III. MARKET CONDUCT EXAMINATION FINDINGS

Operations and Management

The Wisconsin Automobile Insurance Plan (Plan) is an unincorporated facility established by s. 204.51, 1967 Wis. Stat., and continued under s. 619.01 (6), Wis. Stat. The Plan is administered by a Governing Committee which is defined by s. Ins 3.49 (2) (a), Wis. Adm. Code, as the group of companies administering the Plan. The Governing Committee is composed of eight companies, two from each of the following classes of companies:

- American Insurance Association
- Property Casualty Insurers Association of America (PIA)
- Non-Affiliated Insurance Companies
- At-Large

In addition, one company acting as a representative of all servicing carriers for the commercial lines residual market business may also be appointed by the Governing Committee to be a member of that committee.

Annually, on a date fixed by the Committee, each respective class of companies elects its representative to the Committee to serve for a period of one year or until a successor is elected. A servicing carrier is also appointed annually at the option of the Committee and is not subject to election. Special meetings are called as needed.

The Governing Committee members during the period of examination review were as follows:

Property Casualty Insurers Association of America
Liberty Mutual Insurance Company
American Family Mutual Insurance Company

American Insurance Association
Hanover Insurance Company
Travelers Indemnity Company

Non-Affiliated Insurance Companies
Sentry Insurance A Mutual Company
State Farm Mutual Automobile Insurance Company

At Large (Subscribing Member) Insurance Companies

Employers Mutual Casualty Company
General Casualty Company of Wisconsin

The Governing Committee is empowered to appoint a Plan Manager and required staff, budget expenses, levy assessments against insurance companies, disburse funds and perform all duties essential to the proper administration of the Plan. Since the original Plan was adopted in 1942, the Wisconsin Compensation Rating Bureau (Bureau) has managed its operations at the request of the Plan's Governing Committee. The president of the Bureau has been appointed as the Plan Manager. The Governing Committee meets as often as required to perform the general duties of administration of the Plan.

In addition to the Governing Committee, there are three subcommittees. A summary of each subcommittee during the period of review is as follows:

1. Personal Subcommittee: The Personal Subcommittee is appointed to assist the Governing Committee and Plan management in all operational matters such as policy forms, rates, rules and procedures in conjunction with personal automobile insurance. This subcommittee usually meets prior to the regular Governing Committee meeting. Members of this subcommittee during the period of examination review were:
 - American Family Mutual Insurance Company
 - General Casualty Company of Wisconsin
 - Sentry Insurance A Mutual Company
 - State Farm Mutual Automobile Insurance Company
2. Commercial Subcommittee: The Commercial Subcommittee is appointed to assist the Governing Committee and Plan management in all operational matters such as policy forms, rates, rules and procedures in conjunction with commercial automobile insurance. This subcommittee usually meets prior to the regular Governing Committee meeting. The subcommittee members during the period of examination review were:
 - Employers Mutual Casualty Company
 - Hanover Insurance Company
 - Liberty Mutual Insurance Company
 - National Continental Insurance Company
 - Travelers Indemnity Company
3. Joint Finance Subcommittee: The Joint Finance Subcommittee is appointed to meet with company representatives of the Wisconsin Compensation Rating Bureau Governing Committee to determine allocation of shared costs. Recommended allocations are subject to the approval of the Bureau Governing

Committee. This subcommittee meets as needed. The subcommittee members during the period of examination review were:

- Employers Mutual Casualty Company
- Travelers Indemnity Company

The Plan contracts with AIPSO (formerly known as Automobile Insurance Plan Service Organization) to perform administrative duties on behalf of the Plan. Such duties include, but are not limited to, rating services including developing rates, rating rules and policy forms; risk distribution data; and accounting and statistical services including the assessment of the Plan members, collection of the assessments and the forwarding of these funds to the Plan. AIPSO is a management organization and service provider for various insurance industry groups responsible for administering the residual market in a number of states.

The examiners reviewed the Plan's Annual Reports for 2009 and 2010, all personal and commercial lines policy forms used by the Plan during the period of review, and the agendas and minutes for the Governing Committee for the period under review, in order to verify they comply with Wisconsin insurance laws and regulations. The following exceptions were noted.

The examiners found that Personal Auto Policy form #PP 00 01 01 05, Part E – "Duties After an Accident or Loss," paragraph A., requires that the insurer be notified "promptly" of a loss. Section 631.81, Wis. Stat., states that notice must be provided as soon as reasonably possible. The term "promptly" does not appear to be defined in the policy form.

- 1. Recommendation:** It is recommended that the Plan revise policy form PP 00 01 01 05 to comply with s. 631.81, Wis. Stat.

The examiners found that Personal Auto Policy form #PP 00 01 01 05, Part F – General Provisions, subsection "Two or More Auto Policies," states that the maximum limit of insurer liability under all the policies shall not exceed the highest applicable limit of liability under any one policy. Section 631.43 (1), Wis. Stat., states that when two or more policies promise to indemnify against the same loss, no "other insurance" provision may reduce the aggregate

protection below the lesser of the actual insured loss or the total indemnification promised by the policies absent the provision.

2. **Recommendation:** It is recommended that the Plan revise policy form PP 00 01 01 05 to comply with s. 631.43 (1), Wis. Stat.

The examiners found that the Plan's Private Passenger Auto (PPA) Insurance Policy Advisory Policy Declarations page does not contain an entry field for Underinsured Motorist Coverage. Section 632.32 (4) (a) 2m., Wis. Stat., [as modified by 2009 Wisconsin Act 28] requires, in part that every policy of insurance subject to this section, except those written by a town mutual organized under ch. 612, provide underinsured motorist coverage in limits of at least \$100,000 per person and \$300,000 per accident. Section 632.32 (4) (a) 2m., Wis. Stat., was revised and renumbered to s. 632.32 (4m), Wis. Stat., by 2011 Wisconsin Act 14. Section 632.32 (4m) (a), Wis. Stat., as revised by 2011 Wisconsin Act 14, provides that:

"an insurer writing policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide to one named insured under each such insurance policy that goes into effect after November 1, 2011, that is written by the insurer and that does not include underinsured motorist coverage written notice of the availability of underinsured motorist coverage, including a brief description of the coverage."

Section 632.32 (4m) (d), Wis. Stat., provides that if an insured accepts underinsured motorist coverage, the insurer shall include the coverage in limits of at least \$50,000 per person and \$100,000 per accident.

3. **Recommendation:** It is recommended that the Plan revise the PPA Insurance Policy Advisory Policy Declarations to comply with s. 632.32 (4m) (d), Wis. Stat.

The examiners found the Plan's Web site and Policyholder Notice form #AIP 09 82 09 03 both advise individuals how to contact OCI. The address given for OCI is "125 South Webster Street, Madison, WI 53702." The correct street address for OCI is 125 South Webster Street, Madison, WI 53703.

4. **Recommendation:** It is recommended the Plan revise its Web site and Policyholder Notice form #AIP 09 82 09 03 to reflect an accurate address to contact OCI.

Residual Market Operations

The Plan is organized into 2 categories: private passenger automobile risks and commercial automobile risks.

Commercial Lines - Wisconsin Special Risk Distribution Plan (SRDP)

The Plan defines a commercial risk as a truck, tractor, trailer, private passenger business use vehicle, public auto, miscellaneous type or hired and non-owned auto. The commercial auto risks must be headquartered in Wisconsin to be eligible for coverage through the Plan. The Plan offers bodily injury liability, property damage liability, uninsured motorist, underinsured motorist and medical payments coverages. No physical damage coverage (comprehensive or collision coverage) is available through the Plan on a commercial risk.

The Plan is required to provide reasonable rules governing the equitable distribution of risk by direct insurance, reinsurance or otherwise and their assignment to insurers. Commercial risks shall be assigned to a servicing carrier by the Plan Manager in accordance with guidelines adopted by the Governing Committee. The servicing carriers for the Plan issue policies in their own name and provide claims, loss control, auditing and other services to risks insured through the Plan. During the period of review there was one servicing carrier, National Continental Insurance Company.

Personal Lines

The Plan defines a private passenger automobile as a motor vehicle of the private passenger type, station wagon, jeep, motorcycle, motorized bicycle, scooter, recreational vehicle, motor home and other similar motorized vehicles. The vehicles must be licensed for the road and cannot be used as a public or livery service nor rented to others.

For private passenger automobiles, the plan offers bodily injury liability, property damage liability, uninsured motorist, underinsured motorist, medical payments, comprehensive

and collision coverages. These coverages are available with separate limits per person and per occurrence for bodily injury and property damage liability.

The Plan is required to provide reasonable rules governing the equitable distribution of risk by direct insurance, reinsurance or otherwise and the assignment to insurer. In accordance with the Wisconsin Automobile Insurance Plan Manual, the Plan distributes the risks which are eligible for coverage so that each company will receive the same portion of:

“Private Passenger Nonfleet Automobile Insurance Plan premiums that its respective Voluntary Private Passenger Nonfleet Net Direct Written Car Years bear to the statewide total of the Voluntary Private Passenger Nonfleet Net Direct Written Car Years of all companies in the state.”

The designated members issue policies to the risks in their own name and provide claims and other services to the risks. The policies must be written in accordance with the Wisconsin Automobile Insurance Plan Manual, using the rates and rating plans contained in the manual.

The examiners reviewed the process used to handle new business applications and reviewed the Wisconsin Automobile Insurance Plan Manual. The examiners found that there were no new personal passenger automobile applications submitted during the period of review. There were 25 new commercial applications submitted during the period of review. The examiners reviewed the 25 new business applications made to the Plan during the period under review. The following exceptions were noted.

The examiners found that the commercial Notice of Assignment letter used by the Plan to acknowledge coverage and inform the insured of the assigned servicing carrier states:

“The Servicing carrier will notify both you and the agent of record as to the effective date of coverage as provided in the Plan rules.”

The 25 commercial auto Notice of Assignment acknowledgment letters mailed to the insured did not clearly state the effective date and time of coverage.

- 5. Recommendation:** It is recommended that the commercial automobile Notice of Assignment acknowledgment letter generated to the insured be revised to clearly state the effective date and time of coverage.

The examiners found that the Wisconsin Automobile Insurance Plan Manual outlines the number of days in which specific performance standards are to be completed by the servicing carrier. While the manual specifically defines the date when specific performance standards are to be completed as working or calendar days in some portions of the manual, it does not indicate if the various time frames contained in other portions of the manual are stated in working or calendar days.

6. **Recommendation:** It is recommended that, in order to avoid confusion, the Wisconsin Automobile Insurance Plan Manual be amended to clearly indicate when a specific performance standard is to be completed in a specified number of working or calendar days.

The examiners found that Sec. 14.A.3, titled "Completion of Assignment Period," in the WAIP Plan Of Operation Personal Automobile Part of the Wisconsin Automobile Insurance Plan Manual provides that at least 45 days prior to the expiration date of the final renewal policy of the assignment period, the company shall notify the insured that the period of assignment under the plan will terminate on said expiration date. Section 631.36 (4) (a), Wis. Stat., provides that a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is 1 year or less, or for 1 year if the agreed term is longer than 1 year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder.

7. **Recommendation:** It is recommended that Sec. 14.A.3, titled "Completion of Assignment Period," of the Wisconsin Automobile Insurance Plan Manual be amended to comply with s. 631.36 (4) (a), Wis. Stat.

The examiners found that Section 9, titled "Four-Year Assignment Period," in the WAIP Plan Of Operation Personal Automobile Part of the Wisconsin Automobile Insurance Plan Manual provides that in the case of nonresident military personnel, the designated company shall not be required to renew if at the time of renewal the insured is stationed in another state

and his automobile is not registered in Wisconsin. Section 631.36 (4) (a), Wis. Stat., provides that a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is 1 year or less, or for 1 year if the agreed term is longer than 1 year, unless at least 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder. The Plan advised the examiners that the personal and commercial automobile manuals were combined on May 1, 2009, and the nonrenewal language for the rule addressing Four-Year Assignment Period was moved from Section 9 of the Plan manual to Section 14 of the manual, except the proper language for notice of nonrenewal was not found in Section 9 or Section 14 of the manual.

8. **Recommendation:** To ensure compliance with s. 631.36 (4) (a), Wis. Stat., it is recommended that Sec. 9, titled "Four-Year Assignment Period," of the Wisconsin Automobile Insurance Plan Manual be amended to require that proper notice of nonrenewal be provided to the insured.

Customer Service and Complaints

The examiners reviewed the process used by the Plan to handle complaints and appeals to the Plan requested pursuant to s. Ins 3.49 (3) (d), Wis. Adm. Code. The Plan defines complaints as any oral or written disputes presented to the Plan by an insured, agent, carrier, OCI, or any other interested parties. As complaints are received, they are reviewed and handled by Plan staff and referred to the Governing Committee as needed in accordance with the guidelines in the Wisconsin Automobile Insurance Plan Manual guidelines. The Plan also implemented a complaint procedure to log all complaints into a complaint file that may be updated by the Plan Administrator, the Administrator's assistant, the Executive Secretary or the Plan Manager. The examiners found that there have been no complaints logged during the period of review.

IV. CONCLUSION

The market conduct examination resulted in eight recommendations relating to the need for the Wisconsin Automobile Insurance Plan to modify identified Plan forms, manual pages and certain organization and management procedures.

The Plan needs to revise the three referenced personal lines policy forms outlined in recommendations 1. through 3. to comply with Wisconsin insurance laws. The Plan must also revise its Web site and Form AIP 09 82 09 03 to reflect an accurate address to contact OCI.

In addition, the Plan must ensure the Plan's manual indicates and defines when a specific performance standard of the servicing carrier is to be completed in a specified number of working or calendar days. The Plan must also ensure its manual is amended to be in compliance with s. 631.36 (4) (a), Wis. Stat.

The Plan needs to revise the commercial automobile Notice of Assignment letter to clearly state the effective date and time of coverage.

V. SUMMARY OF RECOMMENDATIONS

Operations & Management

- Page 7 1. It is recommended that the Plan revise policy form PP 00 01 01 05 to comply with s. 631.81, Wis. Stat.
- Page 8 2. It is recommended that the Plan revise policy form PP 00 01 01 05 to comply with s. 631.43 (1), Wis. Stat.
- Page 8 3. It is recommended that the Plan revise the PPA Insurance Policy Advisory Policy Declarations to comply with s. 632.32 (4m) (d), Wis. Stat.
- Page 9 4. It is recommended the Plan revise its Web site and Policyholder Notice form #AIP 09 82 09 03 to reflect an accurate address to contact OCI.

Residual Market Operations

- Page 10 5. It is recommended that the commercial automobile Notice of Assignment acknowledgment letter generated to the insured be revised to clearly state the effective date and time of coverage.
- Page 11 6. It is recommended that, in order to avoid confusion, the Wisconsin Automobile Insurance Plan Manual be amended to clearly indicate when a specific performance standard is to be completed in a specified number of working or calendar days.
- Page 11 7. It is recommended that Sec. 14 A 3, titled "Completion of Assignment Period," of the Wisconsin Automobile Insurance Plan Manual be amended to comply with s. 631.36 (4) (a), Wis. Stat.
- Page 12 8. To ensure compliance with s. 631.36 (4) (a), Wis. Stat., it is recommended that Sec. 9, titled "Four-Year Assignment Period," of the Wisconsin Automobile Insurance Plan Manual be amended to require that proper notice of nonrenewal be provided to the insured.

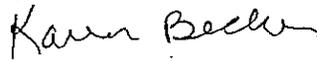
VI. ACKNOWLEDGMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the Plan is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, State of Wisconsin, participated in the examination.

<u>Name</u>	<u>Title</u>
Rebecca Rebholz	Insurance Examiner-Journey

Respectfully submitted,



Karen Becker
Examiner-in-Charge
Bureau of Market Regulation