

DELAWARE DEPARTMENT OF INSURANCE  
MARKET CONDUCT EXAMINATION REPORT  
NATIONWIDE MUTUAL INSURANCE COMPANY

NAIC # 23787  
One West Nationwide Blvd  
Columbus, OH 43215-2220

As of

December 31, 2012

Karen Weldin Stewart, CIR-ML  
Commissioner



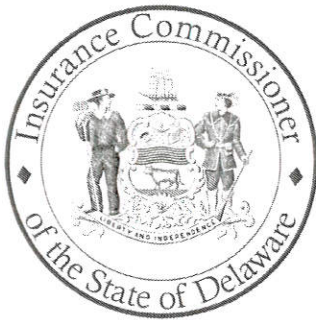
Delaware Department of Insurance

I, Karen Weldin Stewart, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON EXAMINATION, made as of December 31, 2012 on

**NATIONWIDE MUTUAL INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.

Attest By: *Sandra Newnes*



In Witness Whereof, I have hereunto set my hand and affixed the official seal of this Department at the City of Dover.

*Karen Weldin Stewart, CIR-ML*  
Insurance Commissioner

Karen Weldin Stewart, CIR-ML  
Commissioner



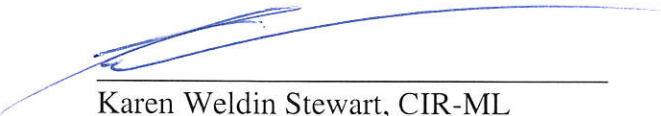
Delaware Department of Insurance

REPORT ON EXAMINATION  
OF THE  
NATIONWIDE MUTUAL INSURANCE COMPANY  
AS OF  
December 31, 2012

The above-captioned Report was completed by examiners of the Delaware Department of Insurance.

Consideration has been duly given to the comments, conclusions and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted and filed as an official record of this Department.



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Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

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Honorable Karen Weldin Stewart CIR-ML  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 13.726, and pursuant to statutory provisions including 18 Del. CODE §318-322, a market conduct examination has been conducted of the affairs and practices of:

**Nationwide Mutual Insurance Company**

The examination was performed as of December 31, 2012. Nationwide Mutual Insurance Company, hereinafter referred to as the "Company" or as "Nationwide," was incorporated in the state of Ohio as a small mutual automobile insurance company owned by policyholders. The examination consisted of two phases, an on-site phase and an off-site phase. The on-site phase of the examination was conducted at the following Company location:

7125 Columbia Gateway Dr.  
Columbia, Maryland 21045

The off-site examination phase was performed at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or "DDOI," or other suitable locations.

The report of examination herein is respectfully submitted.

## EXECUTIVE SUMMARY

Nationwide Mutual Insurance Company is domiciled in Ohio and is licensed to write automobile insurance in 50 states and the District of Columbia. The Company's main administrative offices are located in Columbia, Maryland.

In the 2012 Annual Statement filed with the Department, Nationwide reported total individual private passenger automobile premiums written for all states in the amount of \$5,972,629,694, of which \$84,778,083 was written in Delaware.

The examination focused on the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling, and Claims. This examination was part of a series of examinations to review the use of independent medical examiners, peer review organizations, arbitration, and surcharges after an at-fault accident.

The following exceptions were noted in the areas of operation reviewed:

- Claims (IME): 3 Exceptions – 18 Del. CODE §2304 (16)(b) Unfair claim settlement practices.
  - Failing to acknowledge and act reasonably promptly upon communication with the insured with respect to claims arising under insurance policies regarding the results of the Independent Medical Examination.
- Claims (Surcharges): 1 Exception – 18 Del. Admin. Code 609 §5.1.3 Limitations on Automobile Surcharges in Voluntary Markets and Assigned Risk Plan.
  - Assessment of surcharge in excess of the loss paid by the Company.
- Claims (Surcharges): 2 Exceptions – 18 Del. Admin. Code 609 §5.1.7 Limitations on Automobile Surcharges in Voluntary Markets and Assigned Risk Plan.
  - Failure to notify the insured at least ten days in advance of the effective date of a surcharge.

## SCOPE OF EXAMINATION

The Market Conduct Examination was conducted pursuant to the authority granted by 18 Del. CODE §318-322 and covered the experience period of January 1, 2011 through December 31, 2012. This examination was part of a series of examinations conducted to review the use of independent medical examiners, peer review organizations, arbitration and surcharges after an at-fault accident.

The examination was a target market conduct examination of the Company's private passenger automobile business in the following areas of operation: Company Operations and Management; Complaint Handling, and Claims.

## **METHODOLOGY**

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures suggested by the NAIC. While examiners report on errors found in individual files, the examiners also focus on general business practices of the Company.

The Company identified the universe of files for each segment of the review. Based on the universe sizes, random sampling was utilized to select the files reviewed during this examination.

Delaware Market Conduct Examination Reports generally note only those items to which the Department, after review, takes exception. An exception is any instance of Company activity that does not comply with an insurance statute or regulation. Exceptions contained in the Report may result in imposition of penalties. In general, practices, procedures, or files that were reviewed by Department examiners during the course of an examination may not be referred to in the Report if no improprieties were noted. However, the Examination Report may include management recommendations addressing areas of concern noted by the Department, but for which no statutory violation was identified. This enables Company management to review these areas of concern in order to determine the potential impact upon Company operations or future compliance.

Throughout the course of the examination, Company officials were provided status memoranda, which referenced specific policy numbers with citation to each section of law violated. Additional information was requested to clarify apparent violations. An exit conference was conducted with Company officials to discuss the various types of exceptions identified during the examination and to review written summaries provided in regard to the exceptions found.

## **COMPANY HISTORY**

The Company was incorporated in 1925 in the state of Ohio as a small mutual automobile insurance company.. The name of the original company was Farm Bureau Mutual Automobile Insurance Company. By 1955, the Company had expanded and had operations in 32 states and the Company changed their name to Nationwide Mutual Insurance Company.

In 2009, Nationwide Financial Services became a wholly-owned subsidiary of Nationwide Corporation, which, in turn, was a wholly-owned subsidiary of Nationwide Mutual Insurance Company.

## **COMPANY OPERATIONS AND MANAGEMENT**

The Company provided information and documentation related to internal audits and internal market regulation/conduct audit reviews. Included with the documents were both regulatory actions and court actions taken against the Company and Market Conduct Examination Reports. The requested information and supporting documentation was reviewed during the course of the examination.

There were no exceptions found.

## **CONSUMER COMPLAINTS**

The Company identified 172 consumer complaints received during the experience period. Of the 172 complaints, a sample of 50 complaint files was reviewed. The Company also provided a complaint log.

The complaint log was reviewed for compliance with 18 Del. C. §2304 (17). This Section of the Code requires maintenance of a complete record of all complaints received since the date of its last examination. Written complaint files involving claims were also reviewed for compliance with 18 Del. Admin. Code 902 §1.2.1.2.

There were no exceptions found.

## **CLAIMS**

### **Independent Medical Examinations**

The Company provided all claims related procedures, reference materials, newsletters, and bulletins regularly sent to claim adjusters in use in Delaware during the examination period. Procedures were also provided that related to Independent Medical Examiners (IME).

In addition, the Company provided a listing of all private passenger auto claims with a bodily injury component. The listing identified claims with IME reviews.

There were a total of 134 Bodily Injury Claims resulting in IMEs. Of the 134 IME claims, 75 IME files were reviewed for compliance with 18 Del. CODE §2304 Unfair Practices in the Insurance Business.

The following violations were noted.

**3 Exceptions-18 Del. C. § 2304 Unfair methods of competition and unfair or deceptive acts or practices defined.**



*(16) Unfair claim settlement practices. — No person shall commit or perform with such frequency as to indicate a general business practice any of the following:*

*b. Failing to acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies;*

The three IME files failed to include documentation supporting communication to the insured regarding the results of the independent medical examination performed by the IME physician. The remaining files (72) contained documentation supporting the communication from the IME physician to the insured regarding the results of the independent medical examination.

*Recommendation:* It is recommended that the Company acknowledge and act reasonably promptly to communicate to the insured the results of the independent medical examiner with respect to claims arising under insurance policies.

### **Peer Review Organizations**

Procedures were provided that related to Peer Review Organizations. The Company provided a listing of all private passenger auto claims during the examination period that had a claim component related to bodily injury (bodily injury, uninsured motorist, under insured motorist, personal injury protection, and medical pay) for all Peer Review Organizations utilized by the Company.

The Company provided a list of two claims that resulted in a peer review. Documentation in regard to the determination made by the peer review organization was also provided.

There were no exceptions found.

### **Arbitration**

The Company provided a listing of all private passenger auto claims during the examination period that had a claim component related to bodily injury (BI, UM, UIM, PIP, Med-Pay). The Company also provided a listing of six files with documentation in regard to the outcome of arbitration. Of the six files reviewed the following is a summary of the resolutions or status:

- two arbitration files are still pending
- one file ruled for a compromise settlement
- one file was in favor of the claimant
- one file has not yet been concluded
- one file is a medical claim that has not been arbitrated as a result of a lawsuit pending.

There were no exceptions noted.

## **Surcharges**

The Company provided copies of surcharge plans filed with the Delaware Department of Insurance that were in use during the examination period. The Company also provided copies of surcharge algorithms and a listing of policies for which surcharges were added after a claim. All of this information was reviewed by the Examiners. The Company identified a universe of 336 claims in which the policyholders were surcharged, after an at-fault accident. A sample of 50 policies was selected for review.

The following violations were noted:

### **1 Exception - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.3.**

*No surcharge may be imposed for the first at-fault accident during any three year period which exceeds pro rata over a three year period the amount of the claim paid or reserved by the insurer. The amount of the claim shall be net of any deductible amounts assumed by the insured. Each insurer shall file a surcharge plan with the Department which in all but exceptional cases will comply with this subparagraph. An insured may question the amount of the surcharge whereupon a decision by the Department of Insurance shall be rendered within fifteen (15) business days after receiving the inquiry. In rendering its decision, the Department shall consult with the insurer to confirm the amount of the claim and the amount of the surcharge related thereto. If, after such review, the Department finds that the insurer's surcharge exceeds the standard required by this subsection, the Department may order the insurer to adjust the surcharge amount consistent with this subsection.*

One file was noted as having surcharges which exceeded the loss paid by the Company.

*Recommendation:* It is recommended that the Company ensure that surcharges do not exceed the amount of the loss paid by the Company.

### **2 Exceptions - 18 Del. Admin 609 Limitations on Automobile Surcharges in Voluntary Markets and the Assigned Risk Plan § 5.1.7.**

*No surcharge may be imposed unless the named insured is notified at least ten days in advance of the effective date of the surcharge, of the amount of the surcharge and the reasons for the imposition of the surcharge. No surcharge may be instituted against a policyholder except at the time of renewal or policy issuance unless a new insured under the policy is added during the policy term and the new insured is surchargeable under the insurers filed and approved*

*surcharge plan. Notice of imposition of a surcharge may be included with the renewal offer. This subsection does not apply to new business.*

The Company failed to notify the insured at least ten days in advance of the effective date of the surcharge in two of the reviewed files.

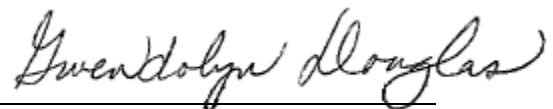
*Recommendation:* It is recommended that the Company notify the insured at least ten days in advance of the effective date of a surcharge.

## CONCLUSION

The recommendations made below identify corrective measures the Department finds necessary as a result of the exceptions noted in the Report. Location in the Report is referenced in parenthesis.

1. It is recommended that the Company acknowledge and act reasonably promptly upon communication with respect to claims arising under insurance policies, pursuant to 18 Del. CODE §2304 (16)(b). (Claims – IME).
2. It is recommended that the Company establish procedures to ensure that the policyholder is not surcharged an amount in excess of the loss paid by the Company, pursuant to 18 Del. Admin 609 §5.1.3. (Claims – Surcharges)
3. It is recommended the Company notify the insured at least ten days in advance of the effective date of the surcharge, pursuant to 18 Del. Admin 609 §5.1.7. (Claims – Surcharges).

The examination, conducted by Shelly Schuman, Gwendolyn Douglas, Stephen Misenheimer, and Linda Armstrong, is respectfully submitted.



Gwendolyn J. Douglas, MCM, CIE,  
CFE, CFE (Fraud)  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance