

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF:

|  |   |         |
|--|---|---------|
| Proceedings by the Commissioner of             | ) |         |
| Banking and Insurance, State of New Jersey,    | ) |         |
| with respect to Drive New Jersey Insurance     | ) | CONSENT |
| Company (NAIC No. 11410), Progressive          | ) | ORDER   |
| Freedom Insurance Company (NAIC No. 12301)     | ) |         |
| and Progressive Garden State Insurance Company | ) |         |
| (NAIC No. 14800)                               | ) |         |

TO: Progressive Insurance Companies  
6300 Wilson Mills Road N72  
Cleveland, OH 44143-2128

This matter, having been opened by the Commissioner of Banking and Insurance (“Commissioner”), of the Department of Banking and Insurance (“Department”), State of New Jersey, upon information that Drive New Jersey Insurance Company, Progressive Freedom Insurance Company and Progressive Garden State Insurance Company (collectively “Progressive”), insurance companies incorporated under the laws of the State of New Jersey and admitted to transact property and casualty insurance in New Jersey pursuant to N.J.S.A. 17:17-1 et. seq., may have violated provisions of New Jersey insurance law: and

WHEREAS the Department filed a Market Conduct Examination Report (“the Report”) containing the results of the examination of private passenger automobile insurance claims adjusting practices of Progressive for the period from August 1, 2012 to July 31, 2013, performed pursuant to N.J.S.A. 17:23-20 et seq., and

WHEREAS the market conduct examination revealed certain instances where Progressive’s practices did not accord fully with various provisions of New Jersey insurance

statutes or regulations. These instances, as fully set forth in the Report, are incorporated herein by reference; and

IT APPEARING that in certain instances, the findings of the Report are similar to findings issued in the market conduct examination of Progressive issued on October 25, 2011; and

IT FURTHER APPEARING that, as a result of the Department's examination, Progressive has taken or will take corrective measures pursuant to the recommendations of the report to address the instances of nonconformance set forth in the Report, and

IT FURTHER APPEARING that Progressive has waived its right to a hearing on the violations identified in the Report and has consented to a fine in the amount of \$20,000 in order to resolve this matter; and

IT FURTHER APPEARING that this matter can be resolved upon the consent of the parties to these proceedings without resort to a formal hearing,

NOW, THEREFORE, IT IS on the 18<sup>TH</sup> day of March, 2015

ORDERED AND AGREED that the attached Market Conduct Examination Report of Progressive will be adopted and filed as an official record of the Department; and

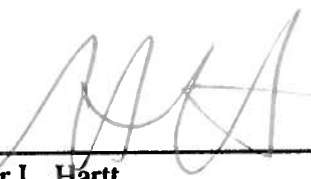
IT IS FURTHER ORDERED AND AGREED that upon execution of this Consent Order, Progressive shall remit to the Department a fine in the amount of \$20,000 in settlement of this matter. The payment shall be made to the New Jersey Department of Banking and Insurance, 20 West State Street, P. O. Box 329, Trenton, NJ 08625, attention Gale Simon, Assistant Commissioner, by wire transfer or company check payable to the State of New Jersey, General Treasury; and

IT IS FURTHER ORDERED AND AGREED that Progressive will continue to monitor claim operations in order to identify and cure practices which may result in instances of nonconformance with New Jersey insurance statutes and regulations and the recommendations contained in the Report; and

IT IS FURTHER ORDERED AND AGREED that Progressive shall comply with New Jersey insurance statutes and regulations and the recommendations contained in the attached Report; and

IT IS FURTHER ORDERED AND AGREED that the Department may commence a reexamination of Progressive within twenty four months of the date of this Consent Order to determine if the Company has complied with the recommendations contained in the attached Report; and

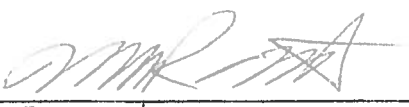
IT IS FURTHER ORDERED AND AGREED that pursuant to N.J.S.A. 17:23-24 d (1), within thirty days of the adoption of this Report, Progressive shall file an affidavit with the Department's Market Conduct Unit, stating under oath that its directors have received a copy of the adopted Report.

  
\_\_\_\_\_  
Peter L. Hartt  
Director of Insurance

Consented to as to form, content and entry  
Drive New Jersey Insurance Company


By: Dave A. Shallow  
Secretary  
Date: March 12, 2015

**Progressive Freedom Insurance Company**

By:   
Secretary

Date: March 12, 2015

**Progressive Garden State Insurance Company**

By:   
Secretary

Date: March 12, 2015

**MARKET CONDUCT EXAMINATION**

**of the**

**DRIVE INSURANCE COMPANY  
PROGRESSIVE FREEDOM INSURANCE COMPANY  
PROGRESSIVE GARDEN STATE INSURANCE COMPANY**

**located in**

**ISELIN, NEW JERSEY**

**as of**

**APRIL 10, 2014**

**BY EXAMINERS**

**of the**

**STATE OF NEW JERSEY**

**DEPARTMENT OF BANKING AND INSURANCE**

**OFFICE OF CONSUMER PROTECTION SERVICES**

**MARKET CONDUCT EXAMINATIONS and ANTI-FRAUD  
COMPLIANCE SECTIONS**

**REPORT ADOPTED: APRIL 1, 2015**

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## **I. INTRODUCTION**

This is a report of the Market Conduct activities of Drive Insurance Company, Progressive Freedom Insurance Company, and Progressive Garden State Insurance Company (hereinafter collectively referred to as Progressive or the Company). In this report, examiners of the New Jersey Department of Banking and Insurance (NJDOBI) present their findings, conclusions and recommendations as a result of their examination.

### **A. SCOPE OF EXAMINATION**

The scope of the examination included private passenger automobile insurance sold by the Company in New Jersey. The examiners evaluated Progressives' compliance with the regulations and statutes pertaining to private passenger automobile claims. The review period for the examination was August 1, 2012 to the present.

The examiners conducted their fieldwork at Progressives' office in Iselin, New Jersey from January 6, 2014 to March 7, 2014. On various dates following the fieldwork, the examiners completed additional review work and report writing. The Market Conduct Examiners were Examiner-in-Charge Bob Greenfield, Marleen Sheridan, William Sonntag and Michael Wise.

The examiners randomly selected files and records from computer listings and documents provided by the Company. The random selection process is in accordance with the National Association of Insurance Commissioner's (NAIC) Market Regulation Handbook. The examiners used the NAIC Market Regulation Handbook, Chapters Sixteen (General Examination Standards) and Seventeen (Conducting the Property and Casualty Examination), as a guide to examine the Company and write this report.

### **B. ERROR RATIOS**

Error ratios are the percentage of files reviewed which an insurer handles in error. A file is counted as an error when it is mishandled or the insured is treated unfairly, even if no statute or regulation is applicable. If a file contains multiple errors, the examiners will count the file only once in calculating error ratios. However, any file that contains more than one error will be cited more than once in the report. In the event that the insurer corrects an error as a result of a consumer complaint or due to the examiners' findings, the error will be included in the error ratio. If the insurer corrects an error independent of a complaint or NJDOBI intervention, the error is not included in the error ratios.

There may be errors cited in this report that define practices as specific acts that an insurer commits with such frequency that it constitutes an

improper general business practice. The examiners have identified all errors cited as an improper general business practice.

The examiners sometimes find improper general business practices or insurer errors that may be technical in nature or which did not have an impact on a consumer. Even though such errors or practices would not be in compliance with law, the examiners do not count these files as an error in determining error ratios. Whenever such business practices or errors do have an impact on the consumer, all files in error will be counted in the error ratio. The examiners indicate in the report whenever they did not count particular files in the error ratio.

The examiners submitted written inquiries to Company representatives on the errors cited in this report. These inquiries provided Progressive the opportunity to respond to the examiners' findings and to provide exceptions to the statutory and/or regulatory errors or mishandling reported herein. In response to these inquiries, Progressive agreed with some of the errors cited in this report. On those errors with which the Company disagreed, the examiners evaluated the individual merits of each response and gave due consideration to all comments. In some instances, the examiners did not cite the files due to the Company's explanatory responses. In others, the errors remained as cited in the examiners' inquiries. For the most part, this is a report by exception.

### **C. COMPANY PROFILE**

Progressive Insurance Group Members were incorporated in New Jersey on June 16, 2005 and commenced business on September 30, 2005. Profiles for the three companies examined appear below.

#### **Drive New Jersey Insurance Company**

Drive New Jersey Insurance Company (DNJIC) is a wholly-owned subsidiary of Drive Insurance Holdings, Inc. (DIHI), whose ultimate parent is The Progressive Corporation, an insurance holding company. On December 1, 2006, DIHI acquired the company formerly known as Parkway Insurance Company (Parkway) from Firemen's Fund Insurance Company. On December 19, 2006, Parkway was merged into DNJIC, a New Jersey-based insurance company and subsidiary of DIHI.

DNJIC is licensed in New Jersey and is currently transacting the following lines of business: Inland Marine, Other Liability, Private Passenger Auto No-Fault, Other Private Passenger Auto Liability, Commercial Auto No-Fault, Other Commercial Auto Liability, and Auto Physical Damage.



### Progressive Freedom Insurance Company

Progressive Freedom Insurance Company (PFIC) is a wholly-owned subsidiary of Progressive Direct Holdings, Inc. (PDHI), whose ultimate parent is The Progressive Corporation, an insurance holding company. PFIC was incorporated in the state of New Jersey on June 16, 2005

PFIC is licensed in New Jersey and is currently transacting the following lines of business: Private Passenger Auto No-Fault, Other Private Passenger Auto Liability, and Auto Physical Damage.

### Progressive Garden State Insurance Company

Progressive Garden State Insurance Company (PGSIC) is a wholly-owned subsidiary of PDHI, whose ultimate parent is The Progressive Corporation, an insurance holding company. On December 1, 2006, PDHI acquired the company formerly known as Salem Insurance Company, Inc. (Salem) from CBIP Management Inc., a New Jersey corporation. On December 19, 2006, Salem was merged into PGSIC, a New Jersey-based insurance company and subsidiary of PDHI.

PGSIC is licensed in New Jersey and is currently transacting the following lines of business: Inland Marine, Other Liability, Private Passenger Auto No-Fault, Other Private Passenger Auto Liability, and Auto Physical Damage.

## II. CLAIMS REVIEW

### A. INTRODUCTION

This review covers paid and denied Personal Injury Protection (PIP), collision, comprehensive and property damage claims submitted under private passenger automobile insurance. Any such New Jersey claim closed between August 1, 2012 and July 31, 2013 was subject to review. During the review period, Progressive closed a total of 97,003 claims (10,481 PIP claims, 16,976 comprehensive claims, 40,943 collision claims and 28,603 property damage claims). The examiners randomly selected and reviewed a total of 426 claims, of which the company paid 229 claims and denied 197 claims.

In reviewing each claim, the examiners checked for compliance with all applicable statutes and regulations that govern timeliness requirements in settling first and third party claims. The examiners conducted specific reviews placing particular emphasis on N.J.S.A. 17:29B-4(9) and N.J.A.C. 11:2-17 (Unfair Claims Settlement Practices), N.J.A.C. 11:3-10 (Auto Physical Damage Claims), N.J.S.A. 39:6A-5 (Personal Injury Protection Claims), N.J.A.C. 11:3-4 (PIP Benefits/Medical Protocols) as well as N.J.A.C. 11:3-37.10(a) (Explanation of Benefits). These requirements relate to standards outlined in Chapter Sixteen (General Examination Standards) and Chapter Seventeen (Property and Casualty Insurance Examinations) outlined in the NAIC Market Regulation Handbook.

### B. ERROR RATIOS

The examiners calculated the following error ratios by applying the procedure outlined in the introduction of this report. Error ratios are itemized separately based on the review samples as indicated in the following chart.

#### Error Ratio Chart

| <u>Type of Claim</u>     | <u>Files Reviewed</u> | <u>Files in Error</u> | <u>Error Ratio</u> |
|--------------------------|-----------------------|-----------------------|--------------------|
| <b>Collision</b>         |                       |                       |                    |
| <u>Paid</u>              |                       |                       |                    |
| Drive Insurance          | 26                    | 0                     | 0%                 |
| Progressive Freedom      | 5                     | 0                     | 0%                 |
| Progressive Garden State | <u>20</u>             | <u>1</u>              | 5%                 |
| Subtotal                 | 51                    | 1                     | 2%                 |
| <u>Denied</u>            |                       |                       |                    |
| Drive Insurance          | 25                    | 2                     | 8%                 |
| Progressive Freedom      | 4                     | 1                     | 25%                |

|                          |           |           |     |
|--------------------------|-----------|-----------|-----|
| Progressive Garden State | <u>20</u> | <u>3</u>  | 15% |
| Subtotal                 | 49        | 6         | 12% |
| <b>Comprehensive</b>     |           |           |     |
| <u>Paid</u>              |           |           |     |
| Drive Insurance          | 25        | 1         | 4%  |
| Progressive Freedom      | 5         | 0         | 0%  |
| Progressive Garden State | <u>20</u> | <u>0</u>  | 0%  |
| Subtotal                 | 50        | 1         | 2%  |
| <u>Denied</u>            |           |           |     |
| Drive Insurance          | 25        | 3         | 12% |
| Progressive Freedom      | 2         | 0         | 0%  |
| Progressive Garden State | <u>21</u> | <u>1</u>  | 5%  |
| Subtotal                 | 48        | 4         | 8%  |
| <b>Property Damage</b>   |           |           |     |
| <u>Paid</u>              |           |           |     |
| Drive Insurance          | 25        | 0         | 0%  |
| Progressive Freedom      | 5         | 0         | 0%  |
| Progressive Garden State | <u>20</u> | <u>0</u>  | 0%  |
| Subtotal                 | 50        | 0         | 0%  |
| <u>Denied</u>            |           |           |     |
| Drive Insurance          | 25        | 12        | 48% |
| Progressive Freedom      | 5         | 2         | 40% |
| Progressive Garden State | <u>20</u> | <u>16</u> | 80% |
| Subtotal                 | 50        | 30        | 60% |
| <b>PIP</b>               |           |           |     |
| <u>Paid</u>              |           |           |     |
| Drive Insurance          | 26        | 2         | 8%  |
| Progressive Freedom      | 5         | 1         | 20% |
| Progressive Garden State | <u>20</u> | <u>0</u>  | 0%  |
| Subtotal                 | 51        | 3         | 6%  |
| <u>Denied</u>            |           |           |     |
| Drive Insurance          | 25        | 2         | 8%  |
| Progressive Freedom      | 5         | 0         | 0%  |
| Progressive Garden State | <u>20</u> | <u>5</u>  | 25% |
| Subtotal                 | 50        | 7         | 14% |
| <b>Total Loss</b>        | <u>27</u> | <u>5</u>  | 19% |
| <b>Total</b>             | 426       | 57        | 13% |

## C. PERSONAL INJURY PROTECTION

### 1. Failure to Settle PIP Claims Timely - 7 Files in Error (3 Paid Files in Error and 4 Denied Files in Error)

N.J.S.A. 39:6A-5(g) states that a claim “shall be overdue if not paid within 60 days after the insurer is furnished written notice of the fact of a covered loss...” N.J.A.C. 11:2-17.7(b) states that “The maximum period for all personal injury protection (PIP) claims shall be 60 calendar days after the insurer is furnished written notice of the fact of a covered loss...; provided however, that an insurer may secure a 45-day extension in accordance with N.J.S.A. 39:6A-5g.” Where such an extension is requested, the maximum settlement period may not exceed 105 days.

The examiners reviewed 51 paid and 50 denied PIP claims and found that, contrary to N.J.S.A. 39:6A-5(g) and N.J.A.C. 11:2-17.7(b), Progressive failed to settle two paid and one denied claim within the maximum 60 calendar day time frame without securing a 45-day extension for additional time to investigate. Delays ranged from a low of 12 days beyond 60 days to a high of 328 days beyond 60 days with an average delay of 133 days beyond 60 days.

The examiners also found one additional paid and three denied claims where the Company requested a 45-day extension but failed to settle the claims within 105 days, further contrary to N.J.S.A. 39:6A-5(g) and N.J.A.C. 11:2-17.7(b). On one of these claims, the Company advised that it issued a reservation of rights letter due to the insured’s failure to provide information relative to a coverage issue. However, settlement may not exceed 105 days as outlined above. Delays on these claims ranged from a low of 32 days beyond 105 days to a high of 263 days beyond 105 days with an average delay of 118 days beyond 105 days.

In the 2011 Market Conduct Examination report the examiners cited ten claims in which Progressive failed to settle PIP claims timely.

### 2. Failure to Pay Interest on Delayed PIP Payments – 3 Files in Error

N.J.S.A. 39:6A-5(h) requires the payment of interest on all overdue benefits. Contrary to this requirement, Progressive failed to pay interest on three PIP claims cited in the previous section. Amounts paid subject to interest ranged from a low of \$80.12 to a high of \$840.19.

In the 2011 Market Conduct Examination report the examiners cited three claims in which Progressive failed to pay interest.

### **3. Delayed Response to Precertification Request and Prohibited Retrospective Denial – 1 File in Error**

N.J.A.C. 11:3-4.7(c) requires an insurer to respond within three business days to precertification requests by insureds or providers. In addition, N.J.A.C. 11:3-4.7(g) prohibits an insurer from retrospectively denying payment for treatment on the basis of medical necessity "...where a ... precertification request for that treatment was properly submitted to the insurer ..."

On one claim, the provider submitted a precertification request on July 18, 2013. Contrary to N.J.A.C. 11:3-4.7(c), the Company did not approve the request until October 4, 2013, or 55 business days after receipt of the request. Despite this delayed approval, and contrary to N.J.A.C. 11:3-4.7(g), Progressive nevertheless erroneously and retrospectively denied the provider's claim for lack of medical necessity. The Company agreed with this error.

### **4. Improper Denial of PIP Claims - 2 Files in Error**

Pursuant to N.J.A.C. 11:2-17.8(i), no insurer shall deny payment of a claim when it is reasonably clear that either full or partial benefits are payable.

Contrary to the above regulation, Progressive denied two PIP claims under the mistaken belief that the insureds selected primary coverage with a health benefits plan. In reviewing both files, the examiners determined that Progressive was primary over the insured's health benefits plan. In response to examiner inquiries, the Company agreed that Progressive's PIP coverage was primary and acknowledged that the denials were processing errors. The two claims in question included other bills, similarly denied which the company ultimately paid with interest.

## **D. PHYSICAL DAMAGE AND PROPERTY DAMAGE CLAIMS**

### **5. Failure to Provide a Specific Explanation on Claim Denial Letters - 28 Files in Error**

N.J.S.A. 17:29B-4(9)(n) requires an insurer to "... promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts ... for denial of a claim ..." Also, N.J.A.C. 11:2-17.8(a) requires an insurance company's denial to specifically reference policy provisions, language, exclusions and a statement of the facts making those provisions applicable to the denial.

Contrary to the statute and regulation cited above, Progressive failed to provide specific explanations on 28 denied property damage claims. The

reason for denial listed on the notice does not specifically reference the contractual basis (exclusions, conditions, determination of liability, detailed facts, etc.) that resulted in a denial of coverage. In response to an inquiry Progressive stated that “the company acknowledges the opportunity to provide greater detail.” The Company is currently in the process of developing notice enhancement and training for 2014.

In the 2011 Market Conduct Examination report the examiners cited one claim in which Progressive failed to provide specific explanation for denials.

#### **6. Settlement Delays and Failure to Issue Delay Notices - 13 Files in Error**

N.J.A.C. 11:3-10.5(a) and N.J.A.C. 11:2-17.7(c) state that unless clear justification exists, the maximum payment period for physical damage claims shall be 30 calendar days and 45 calendar days for property damage claims. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) state that, if the insurer is unable to settle the claim within the time periods specified, the insurer must send the claimant written notice by the end of the payment periods. This notice must specify the reason for the delay. N.J.A.C. 11:3-10.5(b) and N.J.A.C. 11:2-17.7(e) also require an insurer to send an updated, written notice of delay every 30 and 45 days, respectively, thereafter until all elements of the claim are paid or denied.

The examiners reviewed 151 paid and 147 denied first and third party claims (not including PIP) and found that Progressive failed to settle thirteen claims (three denied property damage, five denied collision, three denied comprehensive, one paid collision and one paid comprehensive) within the correct time frame. The Company also failed to issue any delay notices on all but two of the cited claims. Delays ranged from a low of 13 days beyond 45 to a high of 32 beyond 45 for Property Damage claims and a low of 2 days beyond 30 to a high of 39 beyond 30 for Physical Damage claims.

In the 2011 Market Conduct Examination report the examiners cited eight claims in which Progressive failed to deny timely and issue delay notices.

#### **7. Failure to Provide Rights of Recourse Notice – 4 Files in Error**

N.J.A.C. 11:3-10.4(c) requires insurers to provide claimants with a written notice of the rights of recourse at the time a total loss settlement draft is issued and to retain a copy of the notice in the claim file. Contrary to this regulation, the examiners found that Progressive failed to provide the required rights of recourse notice on four claims (3 property damage and 1 comprehensive).

In the 2011 Market Conduct Examination report the examiners cited four claims in which Progressive failed to issue rights of recourse notices

**8. Failure to Confirm Claim Denial in Writing – 2 Files in Error**

**N.J.A.C. 11:2-17.8(b)** requires insurers to confirm all denials to the claimant in writing and to maintain a copy in the appropriate claim file. The examiners found that Progressive failed to confirm the claim denial in writing on one comprehensive and one collision claim.

In the 2011 Market Conduct Examination report the examiners cited nine claims in which Progressive failed to confirm claim denials in writing.

**9. Failure to Issue Timely Notice of Termination of Storage Charges – 1 File in Error**

**N.J.A.C. 11:2-17.10(a)9** requires an insurer to provide notice to a claimant three working days prior to the termination of payment for automobile storage charges and place a copy of such notice in the claim file. On one total loss collision claim the examiners found that the Company sent the storage cut off letter one day after the date that the storage charges terminated. Contrary to **N.J.A.C. 11:2-17.10(a)9**, Progressive failed to provide at least three working days' notice.

In the 2011 Market Conduct Examination report the examiners cited one claim in which Progressive failed to terminate storage charges timely.

### III. RECOMMENDATIONS

Progressive should inform all responsible personnel and third party entities who handle the files and records cited as errors in this report of the examiners' recommendations and remedial measures that follow in the report sections indicated. The examiners also recommend that Progressive establish procedures to monitor compliance with these measures.

Throughout this report, the examiners cite and/or discuss all errors found. If the report cites a single error, the examiners often include a "reminder" recommendation because if a single error is found, more errors may have occurred.

Non-compliant activity was identified in this report which may extend to other jurisdictions. The Company should take immediate corrective action to demonstrate its ability and intention to conduct business according to New Jersey law and regulations. When applicable, corrective action for other jurisdictions should be addressed.

The examiners acknowledge that during the examination Progressive agreed and already complied with, either in whole or in part, some of the recommendations. For the purpose of obtaining proof of compliance and for the Company to provide its personnel with a document they can use for future reference, the examiners have listed all recommendations below.

#### A. GENERAL INSTRUCTIONS

All items requested for the Commissioner and copies of all written instructions, procedures, recommended forms, etc., should be sent to the Commissioner, c/o Clifton J. Day, Chief of Market Regulation and Consumer Protection Services, Mary Roebling Building, 20 West State Street, PO Box 329, Trenton, N.J. 08625, within thirty (30) days of the date of the adopted report.

#### B. CLAIMS

1. Progressive must issue written instructions to all appropriate claims personnel stating that:
  - a. pursuant to N.J.S.A. 39:6A-5 and N.J.A.C. 11:2-17.7(a) all PIP claims must be settled (paid, denied, compromised) within 60 days unless an extension of 45 days is requested in writing, within this 60-day period, for a total period not to exceed 105 days from the notice of loss;
  - b. pursuant to N.J.S.A. 39:6A-5h, the Company must pay interest on PIP claims settled beyond the required time frames;



- c. pursuant to **N.J.A.C. 11:3-4.7(c)**, Progressive must respond to a precertification request within three business days;
  - d. pursuant to **N.J.A.C. 11:3-4.7(g)**, an insurer may not retrospectively deny claims when previously in receipt of properly executed and approved precertification requests that demonstrate medical necessity.
2. Progressive must issue a written reminder to all appropriate claims personnel stating that, pursuant to **N.J.A.C. 11:2-17.8(i)**, the insurer should not deny claim payment if it is reasonably clear that full or partial payments are due.
3. Progressive must issue written instructions to all appropriate claims personnel stating that:
- a. **N.J.S.A. 17:29B-4(9)(n)** requires an insurer to "... promptly provide a reasonable explanation of the basis in the insurance policy ... for denial of a claim ..." **N.J.A.C. 11:2-17.8(a)** requires an insurance company's denial to specifically reference policy provisions, language, exclusions and a statement of the facts in support of the denial;
  - b. **N.J.A.C. 11:3-10.5(a)** and **N.J.A.C. 11:2-17.7(c)** state that unless clear justification exists the maximum payment period for physical damage claims shall be 30 calendar days and 45 calendar days for property damage claims. **N.J.A.C. 11:3-10.5(b)** and **N.J.A.C. 11:2-17.7(e)** state that, if the insurer is unable to settle the claim within the time periods specified, the insurer must send the claimant written notice by the end of the payment periods. This notice must specify the reason for the delay. **N.J.A.C. 11:3-10.5(b)** and **N.J.A.C. 11:2-17.7(e)** also require an insurer to send an updated, written notice of delay every 30 and 45 days, respectively, thereafter until all elements of the claim are paid or denied;
  - c. Pursuant to **N.J.A.C. 11:3-10.4(c)**, insurers must provide first and third party claimants with a written notice of the rights of recourse at the time of settlement on total loss claims and that a copy of this notice must be retained in the claim file;
  - d. In accordance with **N.J.A.C. 11:2-17.8(b)** insurers must confirm all denials to the claimant in writing and maintain a copy in the appropriate claim file.

4. Progressive must issue a written reminder to all appropriate claims personnel stating that N.J.A.C. 11:2-17.10(a)9 requires an insurer to provide notice to a claimant three working days prior to the termination of payment for automobile storage charges, and to place a copy of such notice in the claim file.

#### IV. VERIFICATION PAGE

I, Bob Greenfield, am the Examiner-in-Charge of the Market Conduct Examination of Drive Insurance Company, Progressive Freedom Insurance Company and Progressive Garden State Insurance Company conducted by examiners of the New Jersey Department of Banking and Insurance. This verification is based on my personal knowledge as acquired in my official capacity.

The findings, conclusions and recommendations contained in the foregoing report represent, to the best of my knowledge, a full and true statement of the Market Conduct examination of Drive Insurance Company, Progressive Freedom Insurance Company and Progressive Garden State Insurance Company as of April 10, 2014.

I certify that the foregoing statements are true. I am aware that if any of the foregoing statements made by me is willfully false, I am subject to punishment.

October 7, 2014  
Date

Bob Greenfield  
Bob Greenfield  
Examiner-In-Charge  
New Jersey Department  
of Banking and Insurance