

No. 2018- 5760

**OFFICIAL ORDER  
of the  
TEXAS COMMISSIONER OF INSURANCE**

Date: DEC 12 2018

**Subject Considered:**

PROGRESSIVE COUNTY MUTUAL INSURANCE COMPANY  
6300 Wilson Mills Road  
Mayfield Village, Ohio 44143

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 15396

**General remarks and official action taken:**

The subject of this order is whether disciplinary action should be taken against Progressive County Mutual Insurance Company (Progressive).

**WAIVER**

Progressive acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Progressive waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Progressive agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

**FINDINGS OF FACT**

1. Progressive is a domestic county mutual insurance company holding a certificate of authority to transact business in Texas.
2. In November 2017, Progressive notified the department that in an earlier personal automobile (motorcycle) rate filing the company inadvertently filed the wrong ZIP code map which resulted in assigning incorrect hail groups to certain territories

and ZIP codes. The company submitted a new rate filing to correct this filing error. The charged rate did not match the filed rate for a number of policies.

3. The rating error occurred from November 13, 2015, through November 13, 2017. Progressive represents that the number of new and renewal policies issued during that time was 250,065 but not all policyholders would have been impacted by the wrong ZIP code map. Progressive estimates that less than 48 percent of policyholders would have been affected during this period by being charged a higher premium than that on file.

### **CONCLUSIONS OF LAW**

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.052-801.053, 912.002, 912.101-912.102, and 2251.101.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Progressive has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Progressive violated TEX. INS. CODE § 2251.101 by using a rate different than that on file with the department.
5. Pursuant to TEX. INS. CODE § 82.053, the commissioner is authorized to direct Progressive to make complete restitution to each policyholder harmed by the violations.

Progressive is ordered to comply with the following:

- a. Progressive must identify all automobile insurance policies issued by it in Texas with effective dates from November 13, 2015, through November 13, 2017 (the "Review Period").

- b. For each policy in the Review Period, Progressive must calculate the Corrected Premium using the Motorcycle Territory Assignments on file with the department.
- c. For each policy in the Review Period, Progressive must calculate and determine whether the dollar amount of the premium charged for each policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the Overcharge.
- d. Progressive must pay restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the "Qualifying Policyholders"). The restitution check and/or account credit must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5 percent per annum.
- e. Progressive must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before January 15, 2019.
- f. Any restitution checks that are returned to Progressive with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be delivered to the comptroller pursuant to the procedures set forth in TEX. PROP. CODE §§ 72.001 *et. seq.* Progressive must copy the department on any correspondence pertaining to abandoned funds that is sent to the comptroller.
- g. On or before March 1, 2019, Progressive must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic spreadsheet to the department. The spreadsheet must contain the following information:
  - i. policy number;
  - ii. policyholder name;
  - iii. policyholder address;
  - iv. effective date of the policy;
  - v. expiration date of the policy;
  - vi. amount of Overcharge;

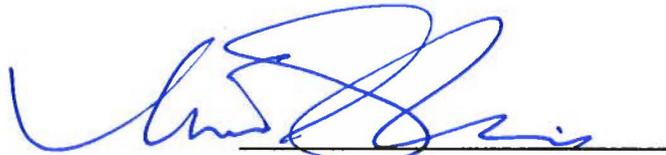
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- vii. dollar amount of simple interest;
- viii. amount of Overcharge and interest;
- ix. date(s) of mailing of restitution check or credits;
- x. the total sum of all Overcharges;
- xi. the total sum of all simple interest; and,
- xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).

h. Progressive must send all submissions required under the terms of this order by email to: EnforcementReports@tdi.texas.gov.

This consent order pertains solely to the resolution of the department's allegations with respect to Progressive County Mutual Insurance Company's self-reported rating error described above in Finding of Fact No. 2. This consent order does not address or impact any other pending investigations or enforcement cases related to Progressive.



Kent C. Sullivan  
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Mandy Meesey  
Director, Enforcement Section  
Texas Department of Insurance

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AFFIDAVIT

STATE OF Ohio §

§

COUNTY OF Cuyahoga §

Before me, the undersigned authority, personally appeared Christina L. Crews who being by me duly sworn, deposed as follows:

"My name is Christina L. Crews. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Assistant Secretary, and am the authorized representative of Progressive County Mutual Insurance Company. I am duly authorized by said organization to execute this statement.

Progressive County Mutual Insurance Company has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

Christina L. Crews

Affiant

SWORN TO AND SUBSCRIBED before me on October 23, 2018.

(NOTARY SEAL)



CELESTE A. PHILLIPS  
Notary Public - State of Ohio  
Recorded in Lake County  
My Commission Expires  
November 18, 2022

Celeste A. Phillips

Signature of Notary Public