

No. 2018-5334

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

Date: JAN 03 2018

Subjects Considered:

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

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13960

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Progressive County Mutual Insurance Company.

WAIVER

Progressive County Mutual Insurance Company acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Progressive County Mutual Insurance Company 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 County Mutual Insurance Company 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 County Mutual Insurance Company is a domestic county mutual insurance company holding a certificate of authority to transact business in Texas.
2. In July of 2017, Progressive notified the department that it had used symbol factors in rating automobile policies that were not filed with department. Specifically, Progressive updated its rating system with symbol factors for vehicles with a model year of 2011 or newer, but failed to make the required filing with the department.
3. The rating error occurred from October 23, 2009 through January 1, 2011, and affected 5,764 policyholders.

4. Progressive also notified the department that it has taken actions to correct this error for all affected policyholders. Specifically, Progressive identified all automobile insurance policies issued by Progressive in Texas with effective dates from October 23, 2009 through January 1, 2011 (the "Review Period") and calculated the Corrected Premium using the correct symbol factors on file with the department. For each policy in the Review Period, Progressive determined whether the dollar amount of premium charged for each policy is less than or more than the Corrected Premium. If the premium charged was more than the Corrected Premium, the difference constituted the Overcharge; and Progressive made payment, 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 included the dollar amount of overcharge, plus simple interest in the amount of 6% per annum.

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, 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 not 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 pay the restitution as outlined above in Finding of Fact No. 4 and comply with the following:

- a. 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.
- b. On or before February 1, 2018, 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:

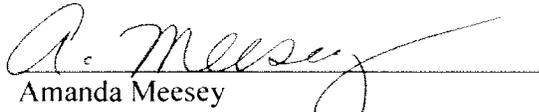
- i. policy number;
 - ii. policyholder name;
 - iii. policyholder address;
 - iv. effective date of the policy;
 - v. expiration date of the policy;
 - vi. amount of Overcharge;
 - vii. dollar amount of simple interest;
 - viii. amount of Overcharge and interest;
 - ix. date(s) of mailing of restitution 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).
- c. Progressive must send all submissions required under the terms of this order by email to: mandy.meeseey@tdi.texas.gov, and catherine.bell@tdi.texas.gov, or their successors.

This consent order pertains solely to the resolution of the department's allegations with respect to Progressive'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:



Amanda Meeseey
Director, Enforcement Section
Texas Department of Insurance

