

**ALLIED PROPERTY & CASUALTY INSURANCE
COMPANY**

**701 5TH AVENUE
DES MOINES, IOWA 50391-2000**

NAIC COMPANY # 42579

MARKET CONDUCT EXAMINATION REPORT
AS OF JUNE 30, 1998

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

SS

PCMC 99-3-AUHO
(12/8/99)

Gary L. Domer, CIE
Stephen E. King, CIE
Independent Market Conduct Examiners
Working in Coordination with the
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, Colorado 80202
(303) 894-7499

**ALLIED PROPERTY & CASUALTY INSURANCE COMPANY
701 5TH AVENUE
DES MOINES, IOWA 50391-2000**

**MARKET CONDUCT
EXAMINATION REPORT
as of
June 30, 1998**

Prepared by

Gary L. Domer, CIE

Stephen E. King, CIE

Independent Contract Examiners

December 8, 1999

The Honorable William Kirven III
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting and claims practices of the ALLIED Property & Casualty Insurance Company, regarding private passenger automobile and homeowners insurance business, has been conducted. The Company's records were examined at the regional office located at 350 Blackhawk Street, Denver, Colorado. The examination covered a one-year period from July 1, 1997 to June 30, 1998.

A report of the examination of the ALLIED Property & Casualty Insurance Company is, herein, respectfully submitted.

Gary L. Domer, CIE
Stephen E. King, CIE

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
ALLIED PROPERTY & CASUALTY INSURANCE COMPANY**

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
I. COMPANY PROFILE.....	6
II. PURPOSE AND SCOPE OF EXAMINATION.....	7
III. EXAMINATION REPORT SUMMARY.....	9
IV. PERTINENT FACTUAL FINDINGS.....	11
A.. PRIVATE PASSENGER AUTOMOBILE	
1. Underwriting.....	13
2. Rating.....	19
3. Claims.....	22
B. HOMEOWNERS	
1. Underwriting	32
2. Rating	36
3. Claims	39
V. SUMMARY OF RECOMMENDATIONS.....	42
VI. EXAMINATION REPORT SUBMISSION.....	44

COMPANY PROFILE

The ALLIED Property & Casualty Insurance Company (hereinafter referred to as the Company) is one of several companies comprising the ALLIED Group. The ALLIED Group, Inc., the parent and sole shareholder of the Company, merged with the Nationwide Group Acquisition Corporation, a wholly owned subsidiary of Nationwide Mutual, on October 1, 1998. The headquarters for the ALLIED Group is located in Des Moines, IA, with four regional offices located in Lincoln, NE, Aurora, CO, Des Moines, IA, and Santa Rosa, CA. During the period under examination, the Rocky Mountain Regional Office (Aurora, CO) serviced the six northwestern states of CO, ID, MT, OR, UT and WY. The Company is licensed to transact business in the following twenty seven states: AZ, CA, CO, FL, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OR, SD, TN, TX, UT, VA, WA, WY.

The Company was issued a Certificate of Authority from the state of Colorado on May 1, 1986, to write property/casualty business. In 1997, the Company's operations in the state of Colorado represented 0.34%** share of the auto insurance market and 0.60%** share of the homeowners insurance market, with direct premiums totaling \$6,720,000** and \$3,196,000**, respectively. The Company markets its products through independent agents who submit new business electronically to the Company. During the examination period, the Company's regional office had 1515* active agent appointments consisting of 101* resident agencies, 98* nonresident agencies, 689* resident individuals and 826* nonresident individuals. Those agents wrote 1062* auto and 2143* homeowners new business policies, during the examination period. The Preferred Auto Program retention ratio was 88%* for 1997 and 86%* through June 1998. The AUTOMAX program, implemented in late 1997, showed a retention ratio of 69%* through June 1998. The retention ratio for homeowners during the examination period was 88%*.

During the examination period the Company employed 12* field staff individuals, solely responsible for Colorado claims handling, with 19* in-office employees responsible for the six-state region.

*Data as reported by the Company

**Data as reported by NAIC 1996 Detail and Market Share Ratio report.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law § 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The market conduct examination covered by this report was performed on a routine basis to assist the Colorado Commissioner of Insurance to meet statutory requirements, by determining Company compliance with the Colorado Insurance Code and generally accepted operating principles. Additionally, findings of a market conduct examination serve as an aid to the Division of Insurance's early warning system. The intent of the information contained in this report is to serve only those purposes.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covers one calendar year of the Company's operations, from July 1, 1997 to June 30, 1998.

File sampling was based on a review of systematically selected underwriting and claim files, by category. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding, the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample, the Company was provided a summary of the findings for that sample. The report of the examination is a report by exception. Therefore, much of the material reviewed will not be addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, were omitted.

An error tolerance level of plus or minus \$10.00 was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other system, a \$0 tolerance level was applied in order to identify possible system errors.

Additionally, a \$0 tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's rates, on file with the Colorado Division of Insurance.

The report is separated into two major subject areas: 1) Automobile issues and 2) Homeowner issues. The report contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following six (6) Company operations:

1. Advertising
2. Complaint Handling
3. Agent Licensing
4. Underwriting Practices
5. Rating
6. Claims Practices

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas which would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of fourteen (14) issues, arising from the Company's apparent noncompliance with Colorado statutes and regulations governing all property and casualty insurers operating in Colorado. These fourteen (14) issues involve three (3) of the six (6) categories of Company operations examined as follows:

Advertising:

In the area of advertising, although reviewed, no compliance issues are addressed in this report.

Complaint Handling:

In the area of complaint handling, although reviewed, no compliance issues are addressed in this report.

Agent Licensing:

In the area of agent licensing and appointments, although reviewed, no compliance issues are addressed in this report.

Underwriting Practices:

In the area of underwriting, four (4) automobile and two (2) homeowners compliance issues are addressed in this report. These issues arise from Colorado statutory and regulatory requirements that must be followed whenever policies are issued, canceled, non-renewed, or the premiums increased or decreased. The incidence of noncompliance in the area of automobile underwriting, exhibits a frequency range of 2% to 26% and homeowners underwriting exhibits a frequency range of 2% to 66%. With regard to these underwriting practices, it is recommended that the Company review its underwriting procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to each issue.

Rating:

In the area of rating, one (1) automobile and one (1) homeowners compliance issue is addressed in this report. These issues arise from Colorado statutory and regulatory requirements, which must be followed whenever policies are issued, canceled, non-renewed, or the premiums increased or decreased. The incidence of noncompliance in the area of automobile rating was 92% (Issue E), homeowners rating was 30% and dwelling fire was 46% (Issue L), where statistically measurable. Regarding the compliance issues in this area, it is recommended that the Company review its rating manuals and procedures and make the necessary changes to assure future compliance with applicable statutes and regulations as to each issue.

Claims Practices:

In the area of claims practices, four (4) automobile and two (2) homeowners compliance issues are addressed. These issues arise from Colorado statutory and regulatory requirements dealing with the fair and equitable settlement of claims, payment of claim benefits, maintenance of records, timeliness of payments, accuracy of claim payment calculations and delay in payment of claims. The incidence of noncompliance in the area of automobile claims practices, exhibits a frequency range of 1% to 14%. Homeowners claims practices exhibit a frequency range of 2% to 20%. Regarding the compliance issues in this area, it is recommended that the Company review its claims handling procedures and make the necessary changes to assure future compliance with applicable statutes and regulations.

PERTINENT FACTUAL FINDINGS

MARKET CONDUCT EXAMINATION REPORT
ALLIED PROPERTY & CASUALTY INSURANCE
COMPANY

PERTINENT FACTUAL FINDINGS

PRIVATE PASSENGER AUTO

MARKET CONDUCT EXAMINATION REPORT
ALLIED PROPERTY & CASUALTY INSURANCE
COMPANY

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue A: Failure of the Company to offer a named driver exclusion when canceling policies of insurance

Section 10-4-719.7(1.5)(b)(I) through (III) provides:

(b)(I) No insurer shall refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person by name pursuant to section 10-4-721 in the household if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

(III) An insurer renewing a policy pursuant to subparagraph (II) of this paragraph (b) shall include as part of such renewal a written notice naming the party specifically excluded from coverage.

Furthermore, section 10-4-721(1), C.R.S., provides in pertinent part:

(1) In any case where an insurer is authorized under this part 7 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

Private Passenger Auto Policies Canceled 1st 59 Days 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
71	50	13	26%

An examination of 50 systematically selected files, representing 70.4% of all policies canceled in the 1st 59 days by the Company, during the examination period, showed thirteen (13) instances (26% of the sample) wherein the Company issued cancellation notices refusing to write the business without offering a named driver exclusion when

such offer was required. In several instances the Company refused to write the policy and did not offer an exclusion, even though when written alone one individual within the household would qualify under the Company's underwriting rules. In such a situation, the Company is not in compliance with the requirements of the law.

Recommendation #1:

Within 30 days, the Company should demonstrate why it should not be considered in violation of §§ 10-4-719.7 and 10-4-721(1), C.R.S. In the event that the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has amended and corrected its rules and procedures regarding the offering of named driver exclusions and has implemented a plan which will offer driver exclusions as required under applicable Colorado insurance law.

Issue B: Use of restricted criteria within a set of Company underwriting standards to facilitate the placement of applicants

Section 10-4-719.7(1), C.R.S., provides:

No insurer shall cancel, fail to renew, refuse to write, reclassify an insured under, reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner, or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy because the applicant, insured, or any resident of the household of the applicant or insured has had an accident or accidents which are not the fault of such named applicant, insured, household member, or permissive user.

The Company's AUTOMAX Program, specifically, the Placement Rules and Rating Factors concerning levels 1 and 2 of the Program, incorporates not-at-fault accidents as an underwriting criteria for placement of an applicant. Level 1 requires that, "A driver can have no more than 1 not-at-fault accident in the last 3 years. Level 2 requires, "...no more than 2 not-at-fault accidents in the last 3 years.

The use of not-at-fault accidents as a placement consideration/requirement is in direct conflict with the above referenced statute.

Recommendation #2:

Within 30 days the Company should demonstrate why it should not be considered in violation of the requirements set forth in Section 10-4-719.7(1) C.R.S. In the event the Company is unable to provide such documentation, it should demonstrate that procedures have been put in place to assure compliance with Colorado insurance law.

Issue C: Failure to file and receive approval, prior to use, of disclosure forms containing cost containment options.

Colorado Insurance Regulation 5-2-6, promulgated pursuant to Section 10-4-706(2), C.R.S., authorizes insurers providing automobile insurance in Colorado to offer certain cost containment options on PIP coverage. However, Colorado Insurance Regulation 5-2-6 §§ III(B)(2), (3), and (8), require insurers to file those cost containment options prior to offering the cost containment option. The regulation provides in part:

2. Insurers intending to offer any of the cost containment options must have a provision in the private passenger automobile insurance policy or in an endorsement attached to the policy, which describes the option(s) and states any conditions or limitations. The limitations under the HMO or PPO options must clearly set forth the manner in which benefits will be determined if an injured party voluntarily incurs expenses outside the HMO or PPO provider network.
3. Any policy form containing a cost containment option must be approved by the commissioner of insurance (Commissioner) prior to use.
8. Any disclosure form containing a cost containment option must be approved by the Commissioner prior to use.

A review of all Company policy forms, endorsements, certifications and filings, effective during the examination period, demonstrated that the Company failed to file, and receive prior approval of, four(4) disclosure forms containing cost containment options, prior to use. The following are the referenced forms.

1. TM 0163, PIP Preferred Provider Organization Disclosure Form
2. TM 0242, Explanation of PIP Coverage
3. 10127, UMBI Coverage & UMPD Rejection/Selection Form
4. 11471, Personal Injury Protection Preferred Provider Organization Disclosure Form

Recommendation #3:

Within 30 days the Company should provide documentation demonstrating, why it should not be considered in violation of Colorado Insurance Regulation 5-2-6, as authorized by § 10-4-706(2), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has adopted and implemented procedures which will assure future compliance with the statutory and regulatory filing and certification requirements of Colorado insurance law.

The Company should immediately file, for approval, the subject forms in accordance with Regulation 5-2-6.

PERTINENT FACTUAL FINDINGS

RATING

Issue D: Failure to utilize rates and/or rating rules filed with the Colorado Division of Insurance

Section 10-4-401(3)(b), C.R.S. provides:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104(1)(f)(II), C.R.S., defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Colorado Insurance Regulation 5-1-10 § III(B) requires:

Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the forgoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

Private Passenger Auto New Business Policies Issued 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1491	50	46	92%

An examination of 50 systematically selected files, representing 3.3% of all private passenger auto new business policies, issued by the Company during the examination

period, showed forty-six (46) instances (92% of the sample), wherein the Company failed to use those rates and/or rating rules filed with the Division of Insurance.

In one (1) instance, an “anniversary discount” was mistakenly applied to a “new business” policy.

The Company’s rating manual, Rule 4 Section 10 reads: #10 Airbag Discount – “The premiums for Personal Injury Protection will be reduced by 20% for automobiles equipped with airbag(s) conforming to the federal protection requirements.” In sixteen (16) files, the computer system applied the “airbag discount” to the medical payments coverage, in error.

The Company’s rating manual, Rule 11 reads: #11 “The premiums for coverages under the Personal Auto Policy are computed without rounding. Except for the application of the increased limits factors for uninsured motorists where we will round to the nearest ten cents.” In (forty-six) 46 files, the computer system did not round as the rule required, but in fact, rounded at a different sequence in the calculation process.

Recommendation #4:

Within 30 days the Company should provide documentation demonstrating, why it should not be considered in violation of Colorado Insurance Regulation 5-1-10 as authorized by § 10-4-401(3)(b), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence demonstrating that the Company has adopted and implemented procedures which will assure future compliance with the statutory and regulatory filing and certification requirements of Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS HANDLING

Issue E: Failure to obtain specific written assignment from the insured when issuing checks directly payable or co-payable to a repair or service facility

Colorado Insurance Regulation 5-1-5 § III, promulgated under the authority of §10-1-109(1), C.R.S. requires:

No insurer shall attempt to settle any claim made by their direct insured by means of ordering claim checks, drafts or other choses-in-action payable to any person other than their insured(s) without specific written assignment thereof by the insured.

Private Passenger Auto 1st Party Comprehensive & Collision Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1357	50	7	14%

An examination of 50 systematically selected claim files, representing 3.6% of all 1st party comprehensive and collision claims paid by the Company during the examination period, showed seven (7) exceptions (14% of the sample) in which the Company issued a check made payable or co-payable to someone other than the insured, without a written assignment from the insured.

Recommendation #5:

Within 30 days the Company should provide written documentation, demonstrating why the Company should not be considered in violation of Colorado Insurance Regulation 5-1-5 § III. In the event the Company is unable to provide such documentation, it should be required to provide written procedures, showing that a written assignment from the insured is required before checks are issued, co-payable or directly payable to a repair or service facility.

Issue F: Failure to pay insurance claims in accordance with policy provisions and/or written Company claims handling procedures

Section 10-3-1104(1)(h)(VI), C.R.S., defines an unfair claims settlement practice as:

Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

The following language appears in the Company's Personal Auto Policy and/or endorsements used during the time period under examination.

Part A – LIABILITY COVERAGE

Insuring Agreement

A. We will pay damages for "bodily injury" or "property damage" for which any "insured" becomes legally responsible because of an auto accident.

Part D – COVERAGE FOR DAMAGE TO YOUR AUTO

- a. We will pay for direct and accidental loss to "your covered auto" or any "non-owned," including their equipment, minus any applicable deductible shown in the Declarations. We will pay for loss to "your covered auto" caused by:
1. Other than "collision" only if the Declarations indicate that Other Than Collision Coverage is provided for that auto.
 2. "Collision" only if the Declarations indicate that collision Coverage is provided for that auto.

II. PERSONAL INJURY PROTECTION COVERAGE

We will pay, in accordance with the Colorado Auto Accident Reparations Act, personal injury protection benefits shown as applicable in the schedule to or for an "insured" who sustains "bodily injury". The "bodily injury" must be caused by an accident arising out of the use or operation of a "motor vehicle".

Sales Tax :

According to the Company's policy cited above, whenever a policyholder incurs a collision or comprehensive loss, the Company will pay for direct and accidental loss. Also, the Company agrees to pay damages for property damage which any insured becomes legally responsible for because of an auto accident. In Colorado, such losses include applicable state, county, city, and /or local taxes and any other fees associated with a total loss.

Private Passenger Auto Total Loss Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
98	50	7	14%

An examination of 50 systematically selected total loss claim files, representing 51% of the sample of total loss claim files, maintained by the Company during the examination period, showed seven (7) exceptions (14% of the sample). The Company failed to pay the vehicle sales tax in six (6) instances. In the remaining instance, the underpayment was due to a miscalculation of prior damage on a vehicle.

Private Passenger Auto Personal Injury Protection (PIP) Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
189	50	1	2%

An examination of 50 systematically selected files, representing 26.4% of all personal injury protection (PIP) benefits paid by the Company during the examination period, showed one (1) instance (2% of the sample) wherein the Company overpaid the PIP benefits, as set out in Colorado Statutes.

Private Passenger Auto Canceled Personal Injury Protection (PIP) Drafts/Checks 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1924	100	1	1%

An examination of 100 systematically selected files, representing 5.1% of all personal injury protection (PIP) benefits, paid by the Company during the examination period, showed one (1) instance (1% of the sample) wherein the Company paid a provider twice for the same service.

Recommendation #6:

Within 30 days the Company should provide written documentation, demonstrating why the Company should not be considered in violation of Sections, 10-3-1104(1)(h)(VI) CRS. In the event the Company is unable to provide such documentation, it should be required to provide written procedures with the intent to minimize the occurrence of claims error. Furthermore, the Company should perform a self-audit to identify and correct sales tax underpayments on private passenger auto total losses only, from July 1, 1997 to the present, in accordance with Colorado Division of Insurance guidelines.

Issue G: Delay of PIP benefit payments

Section 10-3-1104(1)(h), C.R.S., defines in part as unfair business practices:

(II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies; or

(III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies; or

Section 10-4-708(1), C.R.S., requires:

Payment of benefits under the coverage enumerated in section 10-4-706 shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring action in contract to recover the same.

Private Passenger Auto Personal Injury Protection (PIP) Drafts/Checks 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1924	100	3	3%

An examination of 100 systematically selected issued drafts/checks, representing 5.2% of all PIP drafts/checks issued by the Company during the examination period, showed three (3) instances (3% of the sample) wherein the Company failed to pay PIP benefits within the statutory standard of 30 days.

Private Passenger Auto Personal Injury Protection (PIP) Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
189	50	4	8%

An examination of 50 systematically selected files, representing 26.4% of all PIP claims paid by the Company during the examination period, showed four (4) files (8% of the sample) wherein the Company failed to pay at least one (1) PIP claim within the statutory standard of 30 days.

Recommendation #7:

Within 30 days the Company should provide documentation, demonstrating why it should not be considered to be in violation of §§ 10-3-1104(1)(h)(II), (III), and 10-4-708(1), C.R.S. In the event the Company is unable to provide such documentation, the Company should be required to provide evidence that it has reviewed all procedures related to timeliness of handling claims, investigation of claims, acknowledgment of claims, accumulation of bills, and documentation of claim files and has implemented all necessary changes to assure compliance in each area.

Issue H: Failure to obtain specific written assignment from insureds prior to making direct payment of PIP benefits to healthcare providers

Section 10-4-708.4(1)(a), C.R.S., provides for the direct payment of benefits as follows:

A policy of motor vehicle insurance which provides coverage pursuant to this part 7 shall allow, but not require, an insured under the policy to assign, in writing, payments due under the policy to a licensed hospital or other licensed health care provider for services provided to the insured which are covered under the policy.

In addition to the above statute, Section 10-4-708.4(2) provides in part:

When a licensed hospital or other licensed health care provider receives an assignment form an insured, it is the responsibility of the provider to bill the insurer, including a copy of the assignment. The provider shall also provide a copy of such bill to the insured, stating on such copy that it is for informational purposes only and that the insurer has been billed for covered benefits. The provider shall also furnish to the insurer a current taxpayer identification number as part of the initial bill and each subsequent billing. Subsequent billing to an insurer need not include a copy of the assignment unless required by the insurer so long as it is clearly noted on each such subsequent billing that the benefits have been assigned. The insurer shall honor such assignment and make payment of covered benefits directly to such licensed hospital or other licensed health care provider.

Furthermore, Colorado Insurance Regulation 5-1-5 § III, authorized by §10-1-109(1), C.R.S., states:

No insurer shall attempt to settle any claim made by their direct insured by means of ordering claim checks, drafts or other choses-in-action payable to any person other than their insured(s) without specific written assignment thereof by the insured.

Private Passenger Auto Personal Injury Protection (PIP) Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
189	50	7	14%

An examination of 50 systematically selected files, representing 26.4% of all PIP claims paid by the Company during the examination period, showed seven (7) files (14% of the sample) wherein the Company paid at least one (1) PIP provider, without having the benefit of an assignment within the file.

Recommendation #8:

Within 30 days the Company should provide documentation, demonstrating why it should not be considered to be in violation of §§ 10-4-708(4), C.R.S. and Colorado Insurance Regulation 5-1-5 § III. In the event the Company is unable to provide such documentation, the Company should be required to provide written procedures showing that evidence of a written assignment from the insured, is required prior to making direct payment of personal injury protection benefits.

NOTE: The Company is referred to Senate Bill 123; signed by Governor Owens on April 15, 1999 and made effective August 5, 1999.

PERTINENT FACTUAL FINDINGS

HOMEOWNERS ISSUES

MARKET CONDUCT EXAMINATION REPORT
ALLIED PROPERTY & CASUALTY INSURANCE
COMPANY

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue I: Failure to make a full refund of unearned premium upon termination of insurance coverage

Section 10-3-1104(1)(m), C.R.S., defines an unfair method of competition and unfair or deceptive act or practice in the business of insurance as:

Failure to make promptly a full refund or credit of all unearned premiums to the person entitled thereto upon termination of insurance coverage;

An examination of the Company’s homeowners and dwelling fire rating manuals demonstrated that the rating manuals contained a rule, requiring the Company to round the unearned premium to the nearest whole dollar (up and/or down). This “rounding rule” was not filed with the Colorado Division of Insurance. Specifically, the Company’s rating manuals provide that:

All premiums shown on the policy and endorsements will be rounded to the nearest whole dollar. A premium of fifty cents (\$.50) or more will be rounded to the next higher whole dollar.

Homeowners Policies Canceled for Cause 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
37	37	14	37.8%

An examination of 37 files, representing 100% of policies canceled by the Company during the examination period, showed fourteen (14) instances (37.8% of the sample) wherein the Company rounded the return of unearned premium down to the nearest whole dollar, resulting in a refund of less than the total amount due.

Homeowners Applications/Policies Rejected/Canceled 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
156	50	21	42%

An examination of 50 files, representing 32% of policies canceled by the Company during the examination period, showed twenty-one (21) instances (42% of the sample) wherein the Company failed to make a full refund of premium. In seventeen (17) instances, the Company rounded the return of unearned premium down to the nearest whole dollar, resulting in a refund of less than the total amount due. Additionally, as a

practice, the Company does not provide a refund of premium if the unearned amount is less than \$3.00. Four (4) instances were noted in which the Company did not provide refunds, as the unearned premium amounts were less than \$3.00.

Recommendation #9:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of 10-3-1104, C.R.S. and Insurance Regulation 5-1-10 §§ III(B). Additionally, the Company should file a “waiver of premium” rule, incorporating language to the effect that a full refund of premium will be processed, when requested by the insured. The Company should also provide documentation of a procedure showing that disclosure to the insured of such a rule will be made in all applicable instances.

Issue J: Failure to provide policyholders with a specific reason for canceling or non-renewing a policy of insurance

Section 10-4-110.7, C.R.S. provides that:

No insurer shall cancel or refuse to renew a policy of homeowner’s insurance unless such insurer mails by first-class mail to the named insured, at the last address shown in the insurer’s records, at least thirty days in advance a notice of its intended action which specifically states the reason for proposing to take such action; but, where cancellation is for non-payment of premium, at least ten days’ notice of cancellation accompanied by the reasons therefor shall be given.

Homeowners Policies Non-Renewed 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
35	35	3	8.6%

An examination of 35 files, representing 100% of all homeowners policies non-renewed by the Company during the examination period, showed three (3) instances (8.6% of the sample) wherein the Company failed to provide insureds with a specific reason for non-renewing the homeowners policies.

Homeowners Applications/Policies Rejected/Canceled 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
156	50	33	66%

An examination of 50 files, representing 32% of all homeowners policies canceled within the 1st 59 days by the Company during the examination period, showed thirty-three (33) instances (66% of the sample) wherein the Company failed to provide insureds with a specific reason for cancellation of the homeowners policies.

Recommendation #10:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of § 10-4-110.7, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provided evidence demonstrating that the Company has adopted procedures which will assure compliance with the statutory requirement.

PERTINENT FACTUAL FINDINGS

RATING

Issue K: Failure to utilize rates and/or rating rules filed with the Colorado Division of Insurance

Section 10-4-401(3)(b), C.R.S. provides:

Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104(1)(f)(II), C.R.S., defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Colorado Insurance Regulation 5-1-10 § III(B) requires:

Every property and casualty insurer, including workers' compensation and title insurers, are required to file insurance rates, minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the forgoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

Homeowners New Business Issued 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1734	50	15	30%

An examination of 50 systematically selected files, representing 2.8% of all homeowners new business policies, issued by the Company during the examination period, showed fifteen (15) instances (30% of the sample) wherein the Company rated insurance policies failing to use those rates and/or rating rules filed with the Division of Insurance. In six

(6) instances, involving the Wood Roof Surcharge/Hail Resistant Credit, the Company's system applies the surcharge or discount in a different calculation sequence than what the rule indicates.

The Company uses a rule filed with the Division to determine differing premium credits for deductibles greater than \$250. The Company also has a printed table of rates (filed with the Division) for policies with a \$250 and \$500 deductible. In eight (8) files, the total premium calculations for policies with a \$500 deductible differed when using the printed table versus the filed rule.

In one (1) instance a New Home Credit was omitted, in error.

Dwelling Fire New Business Issued 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
176	50	23	46%

An examination of 50 systematically selected files, representing 28.4% of all dwelling fire new business policies, issued by the Company during the examination period, showed twenty-three (23) instances (46% of the sample) wherein the Company rated insurance policies failing to use those rates and/or rating rules filed with the Division of Insurance. The Company's automated system, when calculating premium amounts using pre-established value increments, differed from the manually rated policies requiring interpolation of filed rates. The Company's system generates premium amounts in value increments of \$1000, while the manual filed with the Division, sets forth value increments of \$5000.

Recommendation #11:

Within 30 days the Company should be required to show why it should not be considered in violation of Sections 10-3-1104(1)(f)(II), 10-4-401(3)(b) C.R.S. and Colorado Insurance Regulation 5-1-10 III(B). In the event the Company is unable to provide such documentation, it should demonstrate that a procedure has been put in place to comply with Sections 10-3-1104(1)(f)(II), 10-4-401(3)(b) C.R.S. and Colorado Insurance Regulation 5-1-10 III(B).

Additionally, the Company should perform a self-audit of those policies having a wood roof surcharge or a hail resistant credit, that were issued from July 1, 1997 to present. The Company should refund any excess premium amounts that were identified as a result of the audit.

FACTUAL FINDINGS

CLAIMS HANDLING

<p>Issue L: Failure to adequately document claim files in determining depreciation</p>

Section 10-3-1104(1)(f)(II), C.R.S., defines unfair discrimination as:

Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-3-1104(1)(h)(VI), C.R.S., defines unfair claim settlement practice as:

Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

Homeowners Claims Paid 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
936	50	7	14%

An examination of 50 systematically selected files, representing 5.3% of the homeowners claims, paid by the Company during the examination period, showed seven (7) instances (14% of the sample) wherein the Company failed to provide adequate file documentation regarding depreciation to determine whether the Company’s claim payment complied with Colorado Insurance Laws and Regulations.

Homeowners Claims Drafts 1997/1998

Population	Sample Size	Number of Exceptions	Percentage to Sample
1345	50	10	20%

An examination of 50 systematically selected files, representing 3.7% of the homeowners claims, submitted during the examination period, showed ten (10) instances (20% of the sample) wherein the Company failed to provide adequate file documentation of depreciation to determine whether the Company’s payment of claims complied with Colorado Insurance Laws and Regulations.

Recommendation #12:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of § 10-3-1104(1)(f)(II) and 10-3-1104(1)(h)(VI). In the event the Company is unable to show such proof, it should provide evidence that it has reviewed its procedures related to the documentation of claim files and that it has adopted reasonable procedures to assure the Division of Insurance that all claims will be paid in accordance with statutory requirements.

Summary of Recommendations

ALLIED Property and Casualty Insurance Company Examination Report

ISSUE	RECOMMENDATION NUMBER	PAGE NUMBER
A: Failure of a Company to offer a named driver exclusion when canceling policies of insurance	1	15
B: Use of restricted criteria within a set of Company underwriting standards to facilitate the placement of applicants	2	16
C: Failure to file and receive approval of disclosure forms containing cost containment options, prior to use	3	17
D: Failure to utilize rates and/or rating rules filed with the Colorado Division of Insurance	4	21
E: Failure to obtain specific written assignment from the insured when issuing checks directly payable or co-payable to a repair or service facility	5	23
F: Failure to pay insurance claims in accordance with policy provisions and/or written Company claims handling procedures	6	25
G: Delay of PIP benefit payments	7	27

Summary of Recommendations

ALLIED Property and Casualty Insurance Company Examination Report

ISSUE	RECOMMENDATION NUMBER	PAGE NUMBER
H: Failure to obtain specific written assignment from insureds prior to making direct payment of PIP benefits to healthcare providers	8	29
I: Failure to make a full refund of unearned premium upon termination of insurance coverage	9	33
J: Failure to provide policyholders with a specific reason for canceling or non-renewing a policy of insurance	10	34
K: Failure to utilize rates and/or rating rules filed with the Colorado Division of Insurance	11	37
L: Failure to adequately document claim files in determining depreciation	12	40

Independent Market Conduct Examiners
Gary L. Domer, CIE
Stephen E. King, CIE
Participated in this examination and in the preparation of this report