

ALLSTATE INSURANCE COMPANY

**2775 Sanders Road
Northbrook, Illinois 60062**

NAIC COMPANY CODE 19232

**MARKET CONDUCT EXAMINATION REPORT
as of December 31, 2001**

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

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August 28, 2002

M. Michael Cooke
Acting Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Cooke:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, and claims practices of the Allstate Insurance Company's private passenger automobile business, has been conducted. The Company's underwriting records were examined at its Western Regional office located at 5500 South Quebec Street, Englewood, CO 80111.

The examination covered a one-year period from January 1, 2001 to December 31, 2001.

A report of the examination of the Allstate Insurance Company is, herewith, respectfully submitted.

James T. Axman, CIE

Kathleen M. Bergan, AIE

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
ALLSTATE INSURANCE COMPANY**

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COMPANY PROFILE

Allstate Insurance Company is a subsidiary of the Allstate Corporation, which was incorporated in Illinois on February 9, 1931. The company is one of the largest capital stock company writers of automobile insurance coverage in the United States. The Company was admitted in Colorado to write property/casualty business on September 18, 1934.

The Western Central Regional Office in Englewood, Colorado supports Allstate Insurance Company's operations for a nine state region. These states are Colorado, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Missouri, and Iowa.

As of the calendar year 2001 the Company had reported \$155,915,000 in private passenger automobile combined written premium in Colorado, representing a 6.25% market share of all private passenger automobile insurance written in Colorado during 2001.*

*Data as reported in the Colorado Insurance Industry Statistical 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 purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

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 covered a twelve (12) month period of the Company's operations, from January 1, 2001 to December 31, 2001.

File sampling was based on a review of underwriting files that were systematically selected using Audit Command Language (ACL) software and computer data files provided by the company. 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 examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

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

Additionally, a \$0 tolerance level was applied in exceptions 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 addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following: :

1. Company Operations and Management
2. Complaint Handling
3. Underwriting
4. Rating
5. 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 that 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 six (6) issues arising from the Company's apparent failure to comply with Colorado insurance law that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management one (1) compliance issue is addressed in this report: The issue in this phase is identified as follows:

1. Failure of the Company to file a complete annual forms certification with the Colorado Division of Insurance.

It is recommended that the Company review its operational procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue.

Complaint Handling:

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

Underwriting:

In the area of underwriting, three (3) compliance issues are addressed in this report. These issues arise from Colorado insurance law requirements that must be complied with whenever policies are issued, canceled, rejected, non-renewed, or surcharged. The incidence of noncompliance in the underwriting area exhibited a frequency range of 6.0% to 28.0%. The issues in this phase are identified as follows:

1. Failure to properly offer a named driver exclusion.
2. Failure to file an actuarial justification to substantiate refusal to write a policy of insurance for applicants without prior insurance.
3. Failure of the Company to obtain completed PIP/PPO option forms to substantiate the coverage written on the policy.

It is recommended that the Company review its underwriting practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations as to each issue.

Rating:

In the area of Rating, no compliance issues are addressed in this report.

Claim Practices:

In the area of claim practices, two (2) compliance issues are addressed in this report. These issues arise from Colorado insurance law requirements dealing with payment of PIP claim benefits, maintenance of records, and the timeliness and accuracy of claim payments. The incidence of noncompliance in the claims area exhibited a frequency range of 8.0% to 10.0%. The issues in this phase are identified as follows:

1. Delay in the payment of PIP benefits.
2. Failure, in some cases, to have the correct statement of coverage on Uninsured Motorist Bodily Injury and Property Damage claim drafts.

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

ALLSTATE INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

COMPANY OPERATIONS AND MANAGEMENT

Issue A: Failure of the Company to file a complete annual forms certification with the Colorado Division of Insurance.

Section 10-4-725, C.R.S., Certification of policy and notice forms, states:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted by July 15, 1993, and not later than July 1 of each subsequent year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado insurance law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one (31) days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado insurance law. The necessary elements of the certification shall be determined by the commissioner.

Additionally, Colorado Regulation 1-1-6, Concerning the Elements of Certification for Accident and Health forms, Automobile Private Passenger Forms, and Claims-Made Liability Forms, promulgated under the authority of Section 10-1-109, C.R.S., states in part:

III. Rules

A. Definitions

1. "Annual Report for automobile private passenger insurance" shall mean a list of all automobile private passenger policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of reductions in coverage and any other such forms as requested by the commissioner currently in use and issued or delivered to any policyholder in Colorado, including the titles of the programs or products affected by the forms.

The Colorado insurance law requires that the Company submit a complete annual certification report to the commissioner listing any form, endorsement, or rider delivered to any policyholder in Colorado

According to the certification provided by the Company filed with the Colorado Division of Insurance July 19, 2001, and a review of those forms used for the period under examination, it appears that the following forms were not included in annual certification filing:

Notice of Cancellation (0000000647441450131200101/2);
Notice of Surcharge (AU99158-5/6);
Notice of Nonrenewal (0000000206614010513200101);
Refusal to write/Cancellation (0000000647650340303200101);

Since the above-captioned forms were not contained on the annual certification, but being used by the Company during the period under examination, the filing would therefore be considered incomplete with further implications that the Company was using non-certified forms.

Recommendation # 1:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-725, C.R.S. and Colorado Regulation 1-1-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed all procedures relating to the annual forms certification filing, reconciled all applicable forms in use, and implemented necessary changes to ensure completeness and compliance with the Colorado insurance law.

PERTINENT FACTUAL FINDINGS

UNDERWRITING

Issue B: Failure to properly offer a named driver exclusion.

Section 10-4-721, C.R.S., Exclusion of named driver, states:

(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.

(2) With respect to any person excluded from coverage under this section, the policy may provide that the insurer shall not be liable for damages, losses, or claims arising out of this operation or use of the insured motor vehicle, whether or not such operation or use was with the express or implied permission of a person insured under the policy.

In review of non-renewals for the period under examination, it was noted that the Company did not make an offer of a named driver exclusion in seven (7) qualifying instances. The disclosure notification identifying this qualification was missing from the form.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto non-renewals

Population	Sample Size	Number of Exceptions	Percentage to Sample
417	50	7	14.0%

An examination of fifty (50) non-renewals, representing 12.0% of those policies non-renewed by the Company during the examination period, showed seven (7) exceptions (or 14.0% of the sample) wherein the Company failed to properly offer a named driver exclusion as required by Colorado insurance law.

Recommendation # 2:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-721, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has amended its procedures in offering named driver exclusions, and implemented necessary procedural changes to ensure compliance with the Colorado insurance law.

Issue C: Failure to file an actuarial justification to substantiate refusal to write a policy of insurance for applicants without prior insurance.

Section 10-4-719.7(1.5), C.R.S., Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited, states, in part:

(II) Unless actuarial justification in support of the insurer's action that has been filed with the commissioner demonstrates that there is an increase in risk, no insurer shall refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan based solely upon:

(A) The fact that the applicant had no prior insurance;

(B) The identity of the applicant's prior insurer; or

(C) The applicant's prior type of coverage, including assigned risk or residual market coverage or any plan other than a preferred plan.

(IV) No insurer shall refuse to write a policy for a new applicant, surcharge the premium of a new applicant, or place a new applicant in a higher-priced program or plan solely because the applicant had no prior insurance if the applicant was not required to have insurance under section 10-4-705 or under a similar law in another state.

Colorado Amended Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules And Regulations, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue under the authority of §§ 42-1-204, 10-4-704, 10-4-718, 10-4-719.7, and 10-1-109, C.R.S. states, in part:

Section 3.Rules

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

1. Basis for refusal to write a policy of automobile insurance.

b. Unless actuarial justification in support of the insurer's action has been filed with the Division of Insurance, insurers shall not refuse to write a policy for new applicants, surcharge premiums of new applicants or place new applicants in higher priced programs or plans solely based on:

(1) The fact that the applicant had no prior insurance;

The Company's Auto Risk Management Policy, dated April 4, 2000, indicates the following in its criteria for acceptance of new business:

Prior Standard Insurance & clean, Acceptable, or no Hit Financial Stability.

"At least 1 year of Continuous Prior Insurance with no more than 30 day Lapse where Need for insurance existed."

Nonstandard Prior insurance or Unacceptable Financial Stability.

"Five year letter of experience or Verifiable Insurance History with no claims or Lapses in Coverage Where Need for Insurance Existed".

It was noted in new business rejections that many applicants were refused insurance on the basis of either (1) no proof of continuous insurance, or (2) they previously carried insurance with a nonstandard insurance provider. With nonstandard prior insurance, the applicant must be incident free for the past 5 years, and or (3) no letter of experience verifying prior loss experience and/or payment history within required time period.

It appears the Company was using no prior insurance as the sole basis for criteria in its refusal to write a policy of insurance and failed to file the required actuarial justification with the Division of Insurance to substantiate using this procedure to ensure compliance with the Colorado insurance law.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto new business rejected

Population	Sample Size	Number of Exceptions	Percentage to Sample
230	50	14	28.0%

An examination of fifty (50) rejections, representing 22.0% of those policies rejected by the Company during the examination period, showed fourteen (14) exceptions (or 28.0% of the sample) wherein the Company failed to write a policy of insurance for applicants with no prior insurance and filed an actuarial justification for using this sole criteria factor as required by Colorado insurance law.

Recommendation # 3:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-719.7 C.R.S. and Colorado Amended Regulation 5-2-3. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has filed an actuarial justification for refusal to write a policy of insurance for applicants with no prior insurance criteria and implemented necessary changes in order to ensure compliance with the Colorado insurance law.

Issue D: Failure of the Company to obtain completed PIP/PPO option forms to substantiate the coverage written on the policy.

Section 10-4-706, C.R.S., Required coverages - complying policies-PIP examination program repeal, states, in part:

(4) An insurer issuing policies providing coverages as set forth in this section shall provide written explanations of all available coverages prior to issuing any policy to an insured. After a named insured selects a policy with desired personal injury protection coverage, an insurer shall not be under any further obligation to notify such policyholder in any renewal or replacement policy of the availability of a basic personal injury protection policy or any alternative personal injury protection coverage.

Colorado Amended Regulation 5-2-6, (effective 12/01/2000), Auto No-Fault Cost Containment Options, promulgated under the authority of Sections 10-1-109 and 10-4-706, states, in part:

4. Insurers intending to offer one or more cost containment options must use a form which discloses information about the options and which, when completed, contains the insured's signature.

In review of new business policies written during the period under examination, it was noted that three (3) applications were missing completed supplemental documents necessary to substantiate the applicant's coverage selection of a PIP/PPO option.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto new business

Population	Sample Size	Number of Exceptions	Percentage to Sample
3321	50	3	6.0%

An examination of fifty (50) new business policies, representing 1.6% of all new business policies written by the Company during the examination period, showed three (3) exceptions (or 6.0% of the sample) wherein the Company failed to obtain or have signed and completed, supplemental applications for PIP/PPO options from the applicant as required by Colorado insurance law.

Recommendation # 4:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-706, C.R.S. and Colorado Regulation 5-2-6. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its procedures relating to the insurance application process for obtaining PIP and PPO selection forms, and implemented necessary changes in order to ensure compliance with the Colorado insurance law.

PERTINENT FACTUAL FINDINGS

CLAIMS PRACTICES

Issue E: Delay in the payment of PIP benefits.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, provides, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing, either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

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

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706 (1) (b) to (1) (e) or alternatively, as applicable, section 10-4-706 (2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the 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.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708 (1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto PIP Claims Paid

Population	Sample Size	Number of Exceptions	Percentage to Sample
3410	50	5	10.0%

An examination of fifty (50) PIP claim files, representing 1.5% of all PIP claim files paid by the Company during the examination period, showed five (5) exceptions (10.0% of the sample) wherein the Company failed to pay at least one PIP medical bill in each file within the 30 day statutory standard as required by Colorado insurance law.

Recommendation # 5 :

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104 and 10-4-708, C.R.S. and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with the Colorado insurance law.

Issue F: Failure, in some cases, to have the correct statement of coverage on Uninsured Motorist Bodily Injury and Property Damage claim drafts.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(h) Unfair claim settlement practices: Committing or performing either in willful violation of this part 11 or with such frequency as to indicate a tendency to engage in a general business practice, any of the following:

(x) Making claims payments to insured or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;
or

Four (4) Uninsured Motorist claim files had incorrect or missing statements setting forth the coverage for which the benefits applied. These instances are summarized as follows:

In two (2) instances, the statement "*Full and Final Settlement for all injuries known and unknown arising from the accident*" was displayed on the draft to the insured, but should have also included the coverage applicable, Uninsured Motorist Bodily Injury.

In one (1) instance, the statement "*Settlement of Collision loss*", should have displayed the coverage "Uninsured Motorist Property Damage".

In one (1) instance, the statement "*final Settlement of any and all claims for Bodily Injury under Underinsured Motorist coverage*" should have displayed the appropriate coverage "Uninsured Motorist Property Damage".

The following chart illustrates the significance of error versus the population and sample examined:

Private Passenger Auto uninsured motorist claims

Population	Sample Size	Number of Exceptions	Percentage to Sample
238	50	4	8.0%

An examination of fifty (50) files, representing 21.0% of all uninsured motorist claim files paid by the Company during the examination period, showed four (4) exceptions (8.0% of the sample) wherein the Company failed to have the correct statement setting forth the coverage on Uninsured Motorist Bodily Injury and Property Damage claim drafts as required by Colorado insurance law.

Recommendation # 6:

Within 30 days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-3-1104, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its internal and field procedure for claim drafts and implemented necessary changes in order to ensure compliance with the Colorado insurance law.

Summary of Recommendations

Allstate Insurance Company Examination Report

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Participated in this examination and in the preparation of this report