

**AIU INSURANCE COMPANY
70 PINE STREET
NEW YORK, NEW YORK 10270**

**MARKET CONDUCT EXAMINATION REPORT
AS OF DECEMBER 31, 2000**

**EXAMINATION LOCATION

505 CARR ROAD
WILMINGTON, DELAWARE 19809**

NAIC COMPANY CODE 19399

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

03/22/02

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**Prepared by
LUCILLE E. WHITTLE, CIE
K. C. LANG, AIE
Independent Contract Examiners**

January 24, 2002

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

Commissioner:

In accordance with Sections 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting and claims practices of the private passenger automobile insurance business of AIU Insurance Company, hereinafter referred to as the "Company", has been conducted. The Company's records were examined at its regional offices located at 505 Carr Road, Wilmington, Delaware 19809.

The examination covered the period from January 1, 2000 to December 31, 2000.

A report of the examination is herein respectfully submitted.

Lucille E. Whittle, CIE
K. C. Lang, AIE
Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF
AIU INSURANCE COMPANY**

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COMPANY PROFILE

The Company was incorporated December 1, 1913, under the laws of the State of New York. The Company was licensed to write business in Colorado on March 1, 1977. This multiple line license included private passenger automobile insurance.

The Company is licensed in the District of Columbia and all states except Hawaii. The Company was a direct sales writer in Colorado in 2000. It procured its business through the use of mail-out material, telephone calls from customers of certain businesses and internet sales.

The Company's written premiums and market share in the State of Colorado for the twelve (12) month period ended December 31, 2000 were approximately \$15,670,000 and 0.70%, respectively, for private passenger automobile based on the 2000 Colorado Market Share and Loss 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 examination is in accordance with Colorado Insurance Law Section 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, the Colorado Division of Insurance and the Insurance Regulatory Examiners Society. In reviewing material for this report, the examiners relied primarily on records and material maintained by the Company. The examination covered one calendar year of the Company's operations, from January 1, 2000 to December 31, 2000.

File sampling was based on a review of systematically selected samples of underwriting and claim files by category. Sample sizes were chosen based on guidance from procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any concerns or discrepancies were noted on comment forms. These comment forms were 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 the examination, the Company was provided a summary of the findings for each sample. The report of the examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report as reference to any practices, procedures, or files manifesting no errors 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, 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.

This report contains information regarding exceptions to the Colorado Insurance Laws. The examination included review of the following five (5) Company operations:

1. Marketing, Sales and Advertising
2. Complaint Handling Practices
3. Underwriting Practices
4. Rate Application
5. Claims Practices

All unacceptable or non-complying practices may not have been discovered throughout 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 of such practices. This report should not be construed to endorse nor discredit any insurance company or insurance product. Statutory cites and regulation references are as of the period under examination unless otherwise noted. Examination report recommendations not referencing specific insurance laws, regulations, or bulletins may be presented to encourage improvement of company practices and operations and ensure consumer protection. Examination findings may result in administrative action by the Division of Insurance.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of thirteen (13) issues arising from the Company's apparent noncompliance with Colorado statutes and regulations related to property and casualty insurance. These issues encompassed the following Company operations:

Marketing, Sales and Advertising

No compliance issues were found in the area of marketing, sales and advertising.

Complaint Handling Practices

No compliance issues were found in the area of complaint handling.

Underwriting Practices

In the area of private passenger automobile underwriting practices, ten (10) compliance issues were addressed in this report. These issues arise from Colorado statutory and regulatory requirements that must be followed when writing private passenger automobile policies in Colorado. The incidences of noncompliance in the area of private passenger automobile underwriting practices shows a frequency range of error between 95.0% and 6.0%. In regard to these ten (10) 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.

Rate Application

No compliance issues were found in the area of private passenger automobile rate application.

Claims Settlement Practices

In the area of private passenger automobile claim practices, three (3) compliance issues are addressed. These issues arise from Colorado private passenger automobile statutory and regulatory requirements dealing with the fair and equitable settlement of claims, payment of claim checks, maintenance of records, timeliness of payments, accuracy of claim payment calculations, and delay of claims. The incidences of noncompliance in the area of private passenger automobile claims practices shows a frequency range of error between 32.0% and 14.0%. In regard to the three (3) compliance issues in this area, it is recommended that the Company review its private passenger automobile claims handling procedures and make the necessary changes to assure future compliance with applicable statutes and regulations.

AIU INSURANCE COMPANY

PERTINENT FACTUAL FINDINGS

MARKET CONDUCT EXAMINATION REPORT

PRIVATE PASSENGER AUTOMOBILE

PERTINENT FACTUAL FINDINGS

for

PRIVATE PASSENGER AUTOMOBILE

A. UNDERWRITING PRACTICES

Issue A: Failure of the Company to file the formula used to determine a rating tier, and the methodology for determining the points and factors used in this formula, with the Colorado Division of Insurance.

Colorado Regulation 5-1-10, Rate And Rule Filing Submissions Property and Casualty Insurance, under the authority of Section 10-1-109, C.R.S., states in part:

Section 5. Rules

A. Rate Filings General Requirements

1. Required Submission: All companies must submit rate filings whenever the rates charged to the new or renewal policyholders change. Included in this requirement are changes due to periodic recalculation of experience or projections, or a change in rate calculation methodology.

2. Timing and Submission: Unless a filing is specifically identified as requiring prior approval by statute, all filings are classified as file and use. File and use requires the company to file the rates and rating data with the Division of Insurance concurrent with or prior to distribution, release to producers, collection of premium, advertising, or any other use of the rate. All filings must be submitted to the rates and forms section of the Division of Insurance...

The Company uses a tier rating program for determining rates to be charged to insureds. Because the tier assignment for an insured is based on points and factors determined by items such as, but not limited to, violations and/or accidents, driver age, sex, marital status, occupation, education, and a number derived from credit scoring, Colorado law requires that the formula used for determining the rating tier, and the methodology for determining the points, factors and credit scoring number used in this formula, be filed with the Colorado Division of Insurance.

The Company did not file any of the above with the Colorado Division of Insurance for use with policies written in 2000.

Recommendation #1

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Section 10-4-401(1), C.R.S. and Colorado Regulation 5-1-10(5)(A)(1) & (2). In the event the Company is unable to provide such documentation, it should be required to file its tier rating formula, and the methodology for determining the points and factors used in the formula, with the Colorado Division of Insurance, Rates & Forms Section.

Issue B: Failure of the Company to publish underwriting guides which comply with all of the laws of the State of Colorado.

Section 10-4-710, C.R.S., Required coverages are minimum, states in part:

(3) All insurers shall offer collision coverage for damage to insured motor vehicles subject to deductibles of one hundred dollars and two hundred fifty dollars. Insurers may offer such other reasonable deductibles as they deem appropriate. Collision coverage shall provide insurance without regard to fault against accidental property damage to the insured motor vehicle with another motor vehicle or motor vehicle caused by physical contact of the insured with another object or by upset of the insured motor vehicle, if the accident occurs within the United States, its territories or possessions, Canada, or Mexico.

Section 10-4-719, C.R.S., Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7, states in part:

(1) No insurer authorized to transact or transacting business in this state shall refuse to write or refuse to renew a policy of insurance affording the coverages required by operation of sections 10-4-706 and 10-4-707 solely because of the age, color, sex, national origin, residence, marital status, or lawful occupation, including the military service, of anyone who is, or seeks to become insured...

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

(1) 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:

(a) Had an accident or accidents which are not the fault of such named applicant, insured, household member, or permissive user;

Colorado Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules and Regulations, under the authority of Section 10-1-109, C.R.S., states in part:

Section 3 Rules (E)

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

a. Colorado law prohibits discrimination solely based on age, color, sex, national origin, residence, marital status, or lawful occupation, including the military service. Prohibited underwriting or rating practices may not be used in combination with any other practice when use of the prohibited practice results in a rejection, cancellation, nonrenewal, reclassification or reduction in coverage which would not have occurred but for the prohibited practice...

e. Comprehensive claims are defined as accidents where the insured is not at fault. Therefore, no insurer shall refuse to write, classify, surcharge, or place an applicant for insurance into a higher priced tier based on comprehensive claims pursuant to Section 10-4-719.7, C.R.S...

5. Unacceptable reasons for refusal to renew a policy of automobile insurance include, but are not limited to the following...

d. Motor vehicle citations without convictions...

g. The use of comprehensive, towing and labor, or uninsured motorist coverage claims.

6. Unacceptable reasons for an increase in premium...

a. The use of reasons under 1. and 5., except 5.h. and i. above.

The Company's Underwriting Manual states in part:

Page 3-6 – Vehicle Age

New Business

...Vehicles age 31 or over, if registered, are eligible for our program for liability coverage only. However, these vehicles should be screened carefully to avoid antique or classic vehicles.

Inforce Business

...Requests to add a vehicle age 31 and over are acceptable but should be screened carefully to avoid antique or classic vehicles. Do not provide physical damage coverage (see State Exceptions).

Colorado law requires an insurer to offer collision coverage. There is no exception to this law.

The Company's Underwriting Manual also states:

Page 2-2 – Applicant's Household Members

New Business

...Related and unrelated household members, age 18 and over, who own their own vehicle, have their own insurance and do not regularly drive the applicant's vehicle(s), may be omitted as an operator.

Related household members, under age 18, who own their own vehicle, must be included as an operator with their vehicle, meet all eligibility requirements and be listed as a named insured in order for us to provide a quote. Unrelated household members (or roommates) under age 18, who own their own vehicle and have their own insurance, may be omitted as an operator.

Related and unrelated household members over age 18, away at school, who own their own vehicle and have their own insurance and do not regularly drive the applicant's vehicle(s), may be omitted as an operator.

Inforce Business

...Household members age 18 and over may be deleted from the policy so long as the insured provides a copy of their current declarations page. However, if the person is age 21 and over, and we are advised that they have their own vehicle and insurance, proof of that insurance will not be required.

Page 3-9 – Miscellaneous Type Vehicles (starting on Page 3-8)

Trailers: Utility and Recreational

...No drivers under 21 or licensed less than three (3) years may operate pulling vehicle.

Page 3-10 – Motor Homes – Ineligible Risks

...6. Motor Homes principally operated by an operator aged 25 or less.

Page 5-1 – Multiple AIG Policies

It is acceptable to have multiple AIG policies within a household; however, the applicants(s) or insured(s) must be 18 or older...

Colorado law does not permit an insurer to make underwriting selections based on an applicant's or insured's age.

The Company's Underwriting Manual further states:

Page 2-6 – 6 or More Comprehensive Losses Per Household

Any household with six (6) or more comprehensive losses makes the risk unacceptable.

Colorado law does not permit an insurer to refuse to write or nonrenew a policy because of comprehensive claims.

The Company's Underwriting Manual states:

Page 2-5 – Driving Records

Always use the conviction date if provided for minor and major violations, otherwise use the occurrence date...

Colorado law does not permit the use of an occurrence date for refusing to renew a policy or for assigning points to an insured. It requires that you be able to provide the conviction date.

The company does not retain records on applicants it refuses to insure and thereby, there is no way to verify the implementation of these Company underwriting guidelines.

Recommendation #2

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Sections 10-4-710(3), 10-4-719(1) and 10-4-719.7(1)(a), C.R.S. and Colorado Regulation 5-2-3 (1)(a) and (e), (5)(d) and (g) and (6)(a). In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance that will ensure that it will publish and implement underwriting guides which comply with Colorado law.

Issue C: Failure of the Company's General Rules to correctly state that a discount given to drivers aged fifty-five or older who complete a driver's education course may only be cancelled if the insured is involved in an at-fault accident during the three-year period after course completion.

Section 10-4-724, C.R.S., Reduction in rates for drivers aged fifty-five or older who complete a driver's education course – legislative declaration, states in part:

(5) The premium reduction required by this section shall be effective for an insured for a three-year period after successful completion of the approved course. However, the insurer may require, as a condition of providing and maintaining such discount, that the insured, during the three-year period after course completion, not be involved in an accident for which the insured is held at fault.

The Company's General Rules, Page CO-E-3, state in part:

11. Mature Operator Motor Vehicle Accident Prevention Course Discount.

...b. The discount may be cancelled if, during the policy period, the principal operator of the insured motor vehicle is:

- (1) involved in an at-fault accident, or
- (2) convicted of a moving violation.

Colorado law does not provide for removing the insured's mature operator discount if he is convicted of a moving violation.

Recommendation #3

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Section 10-4-724(5), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance that ensure that the Company will not cancel a mature operator's discount for conviction of a moving violation.

Issue D: Failure of the Company's General Rules to properly address increases in premium for a single accident resulting in payment of less than \$1000.

Colorado Regulation 5-2-3, Auto Accident Reparations Act (No-Fault) Rules and Regulations, under the authority of Section 10-1-109, C.R.S., states in part:

Section 3 Rules (E)

6. Unacceptable reasons for an increase in premium...

b. The use of a single accident resulting in payment of less than \$1,000 unless the insurer has elected to file with the Division of Insurance a rating plan such as a Safe Driver Plan, Accident Surcharge Plan, etc., which includes statistical data justifying the use of a lesser threshold.

The Company's General Rules, Page CO-E-5, state in part:

b. Accidents

Points shall be assigned for each accident that occurred during the experience period, involving the applicant or any current resident operator, while operating an auto.

1. One point shall be assigned for each auto accident for which the applicant or any current resident operator received a conviction for a motor vehicle violation and results in:

(a) bodily injury, or death; or

(b) a paid claim for damage to all property, including his or her own, if the paid claim meets or exceeds one of the damage threshold amounts below. {Note by examiner: \$1,000 is stated below}

In the absence of statistical justification for a lesser threshold, Colorado law does not provide for assigning a point if an accident resulted in bodily injury, or death, if the payment made is less than \$1,000.

Recommendation #4

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered to be in violation of Colorado Regulation 5-2-3(3)(E)(6)(b). In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Colorado Division of Insurance that the Company has elected to file a rating plan which includes statistical data justifying the use of a lesser threshold.

Issue E: Failure of the Company's General Rules and Additional PIP Option form to provide a loss of gross income option equivalent to eighty-five percent of loss of gross income per week, without dollar or time limitation, when offering optional PIP coverage.

Section 10-4-710(2), C.R.S., Required coverages are minimum, states in part:

(a) Every insurer shall offer for inclusion in a complying policy, in addition to the coverages described in section 10-4-706, at the option of the named insured:

(I) Compensation of all expenses of the type described in section 10-4-706(1)(b) without dollar or time limitation; or

(II) Compensation of all expenses of the type described in section 10-4-706(1)(b) without dollar or time limitations and payment of benefits equivalent to eighty-five percent of loss of gross income per week from work the injured person would have performed had such insured person not been injured during the period commencing on the day after the date of the accident without dollar or time limitations.

The Company's General Rules, Pages CO-E-15 and CO-E-16, and the Company's Additional PIP Option form, PIP-CP (10/98), state in part:

1. Medical Expenses Benefit without dollar or time limit (but subject to the total aggregate limit).

2. Work Loss Benefit

This Option allows the named insured to increase the percentage of gross income payable under the work loss benefit, with the following weekly dollar limits being available:

\$400 Per Person Per Week (Same limit as Basic PIP)

500 Per Person Per Week

650 Per Person Per Week

850 Per Person Per Week

No Per Week Limit

The Company's Program and form do not allow for the option required by Colorado law of eighty-five percent of loss of gross income per week from work the injured person would have performed had such injured person not been injured during the period commencing on the day after the date of the accident without dollar or time limitations.

Recommendation #5

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-710(2(a)(I) and (II), C.R.S. If the Company is unable to provide such documentation, it should be required to provide the Colorado Division of Insurance with written procedures that ensure that it will offer the eighty-five percent of loss of gross income option required by Colorado law.

Issue F: The Company certified a policy form that does not comply with Colorado Law.

Section 10-3-1104(1), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices prohibited, states in part:

(u) Certifying pursuant to section 10-4-725 or issuing, soliciting, or using an automobile policy form, endorsement, or notice form that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections 10-3-1107, 10-3-1108, and 10-3-1109.

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

(1) All insurers providing automotive 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 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 law...

(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 days before using ...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 law...

The Company certified its Additional PIP Option form, PIP-CP (10/98), a notice form. This form does not comply with Colorado law because it does not offer the insured the option of choosing eighty-five percent of loss of gross income per week from work the injured person would have performed had such injured person not been injured during the period commencing on the day after the date of the accident without dollar or time limitations.

Recommendation #6

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104(1)(u) and 10-4-725(1) and (2), C.R.S. If the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance to ensure that forms certified by an officer of the Company comply with Colorado law.

Issue G: Failure of the Company to maintain records required when writing private passenger automobile policies and/or paying claims in the State of Colorado.

Section 10-4-413, C.R.S., Records required to be maintained, states in part:

(1) Every insurer, rating organization, or advisory organization and every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonable adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this part 4 applicable to it...

Colorado Regulation 1-1-7, Market Conduct Record Retention, under the authority of Section 10-1-109, C.R.S., states in part:

III.B. Records required for market conduct purposes

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.

2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained so as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the

commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:

- a. The application for each policy, if any;
- b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
- c. Other information necessary for reconstruction of the rating and underwriting of the policy.

Records required to be retained by this regulation may be maintained in paper, photograph, microprocess, magnetic, mechanical or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record. A company shall be in compliance with this section if it can produce the data which was contained on the original document, if there was a paper document, in a form which accurately represents a record of communications between the insured and the company or accurately reflects a transaction or event.

Records required to be retained by this regulation shall be readily available upon request by the commissioner or a designee. Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of this regulation, unless the insurer or related entity can demonstrate that there is a reasonable justification for that delay.

3. Claim files shall be maintained so as to show clearly the inception, handling and disposition of each claim. A claim file shall be retained for the calendar year in which it is closed plus the next two calendar years.

Records required to be retained by this regulation may be maintained in paper, photograph, microprocess, magnetic, mechanical or electronic media, or by any process which accurately reproduces or forms a durable medium for the reproduction of a record. A company shall be in compliance with this section if it can produce the data which was contained on the original document, if there was a paper document, in a form which accurately represents a record of communications between the insured and the company or accurately reflects a transaction or event.

Records required to be retained by this regulation shall be readily available upon request by the commissioner or a designee. Failure to produce and provide a record within a reasonable time frame shall be deemed a violation of this regulation, unless the insurer or related entity can demonstrate that there is a reasonable justification for that delay.

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

**PRIVATE PASSENGER AUTOMOBILE NEW BUSINESS POLICIES WRITTEN
FROM JANUARY 1 TO DECEMBER 31, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
5712	100	95	95.0%

An examination of one hundred (100) systematically selected files, representing 1.8% of all private passenger automobile new business policies written by the Company in Colorado from January 1 to December 31, 2000, showed ninety-five (95) exceptions (or 95.0% of the sample), and two hundred twenty one (221) instances, in which the Company was not able to provide a copy of the required policy records. Ninety-four (94) PIP selection forms were not provided and it was not possible to determine what options the insured has chosen. The Company did not provide forty-two (42) PPO selection forms to show that the insured had requested this coverage. Forty-one (41) uninsured motorist forms were not provided to support the limits given the insured. Twenty (20) applications were not provided. Twelve (12) policies did not have information provided to show whether or not the insured had had any accidents for which he should be charged. Five (5) applications provided were not signed. Four (4) uninsured motorist forms provided did not contain a limits selection or were not signed. The Company did not provide copies of three (3) new business policy declaration pages.

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

PRIVATE PASSENGER AUTOMOBILE TOTAL LOSS CLAIMS PAID IN 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
261	50	3	6.0%

An examination of fifty (50) files, representing 19.2% of all total loss claim files paid by the Company in Colorado in 2000, showed three (3) exceptions (or 6.0% of the sample), in which the Company did not maintain sufficient claim files and screen notes to provide enough information to examine those claims files.

Recommendation #7

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-413(1), C.R.S. and Colorado Regulation 1-1-7 (III)(B)(1),(2) and (3). If the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance that ensure that all required policy records will be maintained.

Issue H. Failure of the Company to have proofs of mailing for notices of cancellation and nonrenewal.

Section 10-4-603, C.R.S., Notice, states in part:

(1) No notice of cancellation of a policy to which section 10-4-602 applies shall be valid unless mailed or delivered by the insurer to the named insured at least thirty days prior to the effective date of cancellation; but, where cancellation is for nonpayment of premium, at least ten days' notice of cancellation...

Section 10-4-604, C.R.S., Nonrenewal, states in part:

(1) No insurer shall refuse to renew a policy unless such insurer or its agent mails or delivers to the named insured, at the address shown in the policy, at least thirty days' advance notice of its intention not to renew...

Section 10-4-605, C.R.S., Proof of notice, states:

Proof of mailing notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy shall be sufficient proof of notice.

The following charts illustrate the significance of error versus the populations and samples examined:

**PRIVATE PASSENGER AUTOMOBILE POLICIES CANCELLED BY THE
COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
922	51	4	7.8%

An examination of fifty-one (51) files, representing 5.5% of all private passenger automobile policies cancelled by the Company in Colorado in 2000, showed four (4) exceptions (or 7.8% of the sample) for which the Company was unable to provide proofs of mailing.

**PRIVATE PASSENGER AUTOMOBILE POLICIES NONRENEWED BY THE
COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
55	55	5	9.1%

An examination of fifty-five (55) files, representing 100% of all private passenger automobile policies nonrenewed by the Company in Colorado in 2000, showed five (5) exceptions (or 9.1% of the sample) for which the Company was unable to provide proofs of mailing.

Recommendation #8

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-603(1), 10-4-604(1), and 10-4-605, C.R.S. If the Company is unable to provide such documentation, it should provide written evidence to the Colorado Division of Insurance that it has implemented procedures to ensure that proofs of mailing will be obtained and kept for all cancellations and nonrenewals.

Issue I: Failure of the Company to provide the insured with a timely notice, or any notice, of cancellation, nonrenewal or an increase in premium when a policy had been surcharged.

Section 10-4-603, C.R.S., Notice, states in part:

(1) No notice of cancellation of a policy to which section 10-4-602 applies shall be valid unless mailed or delivered by the insurer to the named insured at least thirty days prior to the effective date of cancellation; but, where cancellation is for nonpayment of premium, at least ten days' notice of cancellation...

Section 10-4-604, C.R.S., Nonrenewal, states in part:

(1) No insurer shall refuse to renew a policy unless such insurer or its agent mails or delivers to the named insured, at the address shown in the policy, at least thirty days' advance notice of its intention not to renew...

Section 10-4-720, C.R.S., Cancellation – renewal – reclassification, states in part:

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner...

The following charts illustrate the significance of error versus the populations and samples examined:

**PRIVATE PASSENGER AUTOMOBILE POLICIES CANCELLED BY THE
COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
922	51	7	13.7%

An examination of fifty-one (51) files, representing 5.5% of all private passenger automobile policies cancelled by the Company in Colorado in 2000, showed seven (7) exceptions (or 13.7% of the sample) for which the Company gave the insured less than thirty (30) days notice of cancellation.

**PRIVATE PASSENGER AUTOMOBILE POLICIES CANCELLED
WITHIN THE FIRST 59 DAYS BY THE COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
9	9	1	11.1%

An examination of nine (9) files, representing 100% of all private passenger automobile policies cancelled by the Company within the first fifty-nine (59) days in Colorado in 2000, showed one (1) exception (or 11.1% of the sample) for which the Company used the ten (10) day notice of cancellation period for a policy shown to have been cancelled within the first fifty-nine (59) days; however, the notice to cancel was sent sixty-four (64) days after the effective date of coverage.

**PRIVATE PASSENGER AUTOMOBILE POLICIES SURCHARGED BY THE
COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
691	50	9	18.0%

An examination of fifty (50) files, representing 7.2% of all private passenger automobile policies surcharged by the Company in Colorado in 2000, showed eight (8) exceptions (or 16.0% of the sample) for which the Company could not prove that a notice of increase in premium had been sent to the insureds. One (1) exception (or 2.0% of the sample) showed that the notice had been mailed one hundred thirty four (134) days after the premium had been increased.

Recommendation #9

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-603(1), 10-4-604(1) and 10-4-720(2), C.R.S. If the Company is unable to provide such documentation, it should provide written evidence to the Colorado Division of Insurance that it has implemented procedures to ensure that notices of cancellation, nonrenewal and increases in premium will be sent to all insureds who are cancelled, nonrenewed or whose premium has been increased and that the notices will be sent in a timely manner.

Issue J. Failure of the Company to use correct rating elements when rating policies written in Colorado.

Section 10-4-401, C.R.S., Purpose – applicability, states in part:

(1) The purpose of this part 4 is to promote the public welfare by regulating insurance rates to the end that they not be excessive, inadequate, or unfairly discriminatory, to prohibit price-fixing agreements and other anticompetitive behavior by insurers, to promote price competition among insurers, to provide rates that are responsive to competitive market conditions, and to improve the availability and reliability of insurance. For such purposes, the division of insurance of the department of regulatory agencies and the head of the division, the commissioner of insurance, shall be charged with execution of this part 4...

The Company's General Rules, Page CO-E-5, Rule 5, Safe Driver Insurance Plan (SDIP), states in part:

Section B.1.b.(1) and (2) are replaced by the following:

(1) One point shall be assigned for each auto accident for which the applicant or any current resident operator received a conviction for a motor vehicle violation and results in:

- (a) bodily injury, or death; or
- (b) a paid claim for damage to all property, including his or her own, if a paid claim meets or exceeds one of the damage threshold amounts below...

The following charts illustrate the significance of error versus the populations and samples examined:

**PRIVATE PASSENGER AUTOMOBILE NEW BUSINESS POLICIES WRITTEN
FROM JANUARY 1 TO DECEMBER 31, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
5712	100	8	8.0%

An examination of one hundred (100) systematically selected files, representing 1.8% of all private passenger automobile new business policies written by the Company in Colorado from January 1 to December 31, 2000, showed eight (8) exceptions (or 8.0% of

the sample), and nine (9) instances, in which the Company incorrectly rated policies. Six (6) policies were rated with incorrect classifications. One (1) policy was rated with an incorrect sub-classification factor. One (1) policy was rated with different uninsured motorist limits than those chosen by the insured. One (1) policy was rated with no points when points should have been applied.

**PRIVATE PASSENGER AUTOMOBILE POLICIES SURCHARGED BY THE
COMPANY IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
691	50	9	18.0%

An examination of fifty (50) files, representing 7.2% of all private passenger automobile policies surcharged by the Company in Colorado in 2000, showed nine (9) exceptions (or 18.0% of the sample) were the Company had charged the insured with a point for an accident when there was no evidence to prove that the insured had been convicted of a violation in connection with the accident. The Company's General Rules stated that the insured must have received a conviction in order to have a point assigned.

Recommendation #10

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-401(1), C.R.S. If the Company is unable to provide such documentation, it should provide written evidence to the Colorado Division of Insurance that it has implemented procedures to ensure that correct rating elements will be used to rate private passenger automobile policies written in Colorado.

PERTINENT FACTUAL FINDINGS

for

PRIVATE PASSENGER AUTOMOBILE

B. CLAIMS PRACTICES

Issue K: Failure of the Company to make PIP benefit payments within the time period required by Colorado Law.

Section 10-4-708, C.R.S., Prompt payment of direct benefits, states 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 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 an action in contract to recover the same.

Colorado Regulation 5-2-8, Timely Payment of Personal Injury Protection Benefits, under the authority of Section 10-1-109, C.R.S., states in part:

III RULES

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

B. In the usual case, for purposes of triggering the thirty-day time period in section 10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred:

1. A properly executed application for benefits from the PIP claimant;
2. A notice to an insurer which meets the requirements of Section 10-4-708.5, C.R.S.; and
3. A billing statement for a procedure or treatment, which is subject to the obligations of Section 10-4-708.6, C.R.S.

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

**PRIVATE PASSENGER AUTOMOBILE PERSONAL INJURY PROTECTION
CLAIMS DRAFTS PAID IN 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
5,562	100	14	14.0%

An examination of one hundred (100) systematically selected drafts, representing 1.8% of all personal injury protection drafts estimated to have been paid by the Company in 2000, showed fourteen (14) exceptions (or 14.0% of the sample) wherein the Company failed to pay PIP claims within the time period required by Colorado Insurance Law.

Recommendation #11

Within thirty (30) days, the Company should provide written documentation demonstrating why it should not be considered in violation of Section 10-4-708 (1), C.R.S., and Colorado Regulation 5-2-8 (III)(A) and (B). In the event the Company is unable to provide such documentation, it should be required to provide written evidence demonstrating that the Company has implemented procedures that will ensure timely payment of PIP benefits in compliance with Colorado Insurance Law.

Issue L: Failure of the Company to notify providers and claimants in writing of the reason why a provider's claim had not been paid within thirty (30) days of receipt of all documents that may be required for payment of PIP benefits.

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

(1.3) The general assembly directs the commissioner of insurance to promulgate a rule, pursuant to the "State Administrative Procedures Act", article 4 of title 24, C.R.S., to establish guidelines for the timely payment of personal injury protection benefits including the penalties for the failure to timely pay such benefits or to otherwise comply with the rule... Such guidelines shall also provide for the commencement of investigations by insurers after receipt of the items listed if payment of the expenses is not made within thirty days of the items' receipt, together with written notice to the insured and provider of the reasons the claim has not been paid.

Colorado Regulation 5-2-8, Timely Payment of Personal Injury Protection Benefits, under the authority of Section 10-1-109, C.R.S., states in part:

III RULES

C If an insurer does not pay a claim for benefits under Section 10-4-706, C.R.S. within 30 days of receipt of all of the documents described in paragraph B. of this rule, the insurer shall immediately notify the PIP claimant and the provider of the reason(s) the claim has not been paid. If the claim has not been paid because an investigation is underway, the insurer shall document in the claim file the actions being taken to investigate the claim and the efforts being made to promptly conclude the investigation.

The following charts illustrate the significance of error versus the populations and samples examined:

PRIVATE PASSENGER AUTOMOBILE PERSONAL INJURY PROTECTION DRAFTS PAID IN 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
5,562	100	14	14.0%

An examination of one hundred (100) systematically selected drafts, representing 1.8% of all personal injury protection drafts estimated to have been paid by the Company in 2000, showed fourteen (14) exceptions (or 14.0% of the sample) wherein the Company did not notify the provider and claimant of the reason(s) why the provider's claim had not been paid within thirty (30) days.

Recommendation #12

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708(1.3), C.R.S. and Colorado Regulation 5-2-8 (III)(C). In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Colorado Division of Insurance demonstrating that it has instituted a system to ensure that providers and claimants will be notified in writing of the reason(s) why the provider's claim has not been paid within thirty (30) days as required by Colorado Law.

Issue M. Failure of the Company to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

Section 10-3-1104(1)(f), C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states in part:

(II) 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...

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

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

PRIVATE PASSENGER AUTOMOBILE TOTAL LOSS CLAIMS PAID IN 2000

Population	Sample Size	Number of Exceptions	Percentage to Sample
261	50	16	32.0%

An examination of fifty (50) files, representing 19.2% of all total loss claim files paid by the Company in Colorado in 2000, showed sixteen (16) exceptions (or 32.0% of the sample), and twenty-three (23) instances in which the Company did not pay sales tax and/or title fees when making total loss payments. Fifteen (15) of the payments did not include title fees. Eight (8) of the payments did not include sales tax.

Recommendation #13

Within thirty (30) days, the Company should provide written documentation demonstrating why the Company should not be considered in violation of Section 10-3-1104(1)(f)(II) and (h)(VI), C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance to ensure that it will include sales tax and title fees on all total loss payments made in Colorado.

SUMMARY OF RECOMMENDATIONS LOCATOR
EXAMINATION REPORT ON

AIU INSURANCE COMPANY

	ISSUE	RECOMMENDATION	PAGE #
A	Failure of the Company to file the formula used to determine a rating tier, and the methodology for determining the points and factors used in this formula, with the Colorado Division of Insurance.	1	12
B	Failure of the Company to publish underwriting guides which comply with all of the laws of the State of Colorado.	2	16
C	Failure of the Company's General Rules to correctly state that a discount given to drivers aged fifty-five or older who complete a driver's education course may only be cancelled if the insured is involved in an at-fault accident during the three-year period after course completion.	3	17
D	Failure of the Company's General Rules to properly address increases in premium for a single accident resulting in payment of less than \$1000.	4	18
E	Failure of the Company's General Rules and Additional PIP Option form to provide a loss of gross income option equivalent to eighty-five percent of loss of gross income per week, without dollar or time limitation, when offering optional PIP coverage.	5	20
F	The Company certified a policy form that does not comply with Colorado law.	6	22

	ISSUE	RECOMMENDATION	PAGE #
G	Failure of the Company to maintain records required when writing private passenger automotive policies in the State of Colorado.	7	26
H	Failure of the Company to have proofs of mailing for notices of cancellation and nonrenewal.	8	28
I	Failure of the Company to provide the insured with a timely notice, or any notice, of cancellation, nonrenewal or an increase in premium when a policy is surcharged.	9	30
J	Failure of the Company to use correct rating elements when rating policies written in Colorado.	10	32
K	Failure of the Company to make PIP benefit payments within the time period required by Colorado Law.	11	35
L	Failure of the Company to notify providers and claimants in writing of the reason why a provider's claim had not been paid within thirty (30) days of receipt of all documents that may be required for payment of PIP benefits.	12	37
M	Failure of the Company to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.	13	38

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