

No. 2019- 6121

**Official Order
of the
Texas Commissioner of Insurance**

Date: OCT 30 2019

Subject Considered:

Central Mutual Insurance Company
800 South Washington Street
Van Wert, Ohio 45891-2381

Consent Order
TDI Enforcement File No. 19360

General remarks and official action taken:

This is a consent order with Central Mutual Insurance Company (Central Mutual). TDI alleges that Central Mutual was using claims not paid or payable to increase rates and failed to file supplementary rating information. Central Mutual has agreed to pay restitution to the affected policyholders and a \$45,000 administrative penalty.

Waiver

Central Mutual acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Central Mutual waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

1. Central Mutual is a foreign fire and casualty insurance company that holds a certificate of authority to transact business in Texas.
2. During the review of a personal automobile rate filing made by Central Mutual, department staff alleges that Central Mutual was using claims not paid or payable to increase rates.

Use of Claims Not Paid or Payable

3. Effective September 1, 2015, Section 1953.051(b) of the Texas Insurance Code prohibits a rating plan regarding personal automobile insurance from (1) assigning a rate consequence solely to a consumer inquiry made by an applicant or insured or a claim filed by an insured under a personal automobile insurance policy that is not paid or payable under the policy or (2) otherwise causing premium for personal automobile insurance to be increased solely because of an inquiry or claim not paid or payable under the policy.
4. On and after September 1, 2015, Central Mutual assigned a rate consequence to claims not paid or payable under the policy through tier placement.
5. Central Mutual represents that, to date, more than 1,200 policyholders have been charged a rate or premium that was increased solely because of a claim not paid or payable.
6. After recent correspondence with the department, Central Mutual made rate filing SERFF CEMC-131660858 to address the above referenced violations effective March 1, 2019 for both new and renewal business.

Failure to File Supplementary Rating Information

7. In February 2019, the department discovered Central Mutual was using tiering criteria to determine the insured's primary classes that was not filed with the department. The tiering criteria is considered supplementary rating information under TEX. INS. CODE § 2251.101(a).
8. Central Mutual filed the tiering criteria with the department in March 2019.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021– 84.044, 801.052–801.053, 1953.051, and 2251.101.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.

3. Central Mutual knowingly and voluntarily waives all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Beginning on September 1, 2015, Central Mutual violated TEX. INS. CODE § 1953.051(b) by assigning a rate consequence to claims that were not paid or payable.
5. Central Mutual violated TEX. INS. CODE § 2251.101(a) by failing to file supplementary rating information.

Central Mutual is ordered to comply with the following:

- a. Central Mutual must identify all personal automobile insurance policies issued or renewed by it in Texas with effective dates from September 1, 2015, through March 1, 2019 (the "Review Period").
- b. For each policy in the Review Period, Central Mutual must calculate the Corrected Premium without using claims filed by an insured not paid or payable in its rating plan.
- c. For each policy in the Review Period, Central Mutual must calculate and determine whether the dollar amount of the premium charged for each policy is less than or more than the Corrected Premium. If the premium charged is more than the Corrected Premium, the difference constitutes the Overcharge.
- d. Central Mutual must pay restitution in the form of a company check or account credit to each policyholder identified in the Review Period as having an Overcharge (the "Qualifying Policyholders"). The restitution check and/or account credit must include both the dollar amount of the overcharge, plus simple interest due on the overcharge. The rate of interest shall be 5 percent per annum.
- e. Central Mutual must mail the restitution checks and/or issue the account credits to the Qualifying Policyholders on or before January 31, 2020.

- f. Any restitution checks that are returned to Central Mutual with an address correction must be promptly resent to the correct address. Funds from any restitution checks that are returned thereafter for incorrect addresses and from checks that are not negotiated must be reported and delivered to the comptroller pursuant to the procedures and deadlines set forth in TEX. PROP. CODE §§ 72.001 *et. seq.*, 73.001 *et. seq.*, and 74.001 *et. seq.* Central Mutual must copy the department on any correspondence pertaining to presumed abandoned funds that is sent to the comptroller.

- g. On or before May 1, 2020, Central Mutual must report the restitution paid to the Qualifying Policyholders by submitting a complete and sortable electronic spreadsheet to the department. The spreadsheet must contain the following information:
 - i. policy number;
 - ii. policyholder name;
 - iii. policyholder address;
 - iv. effective date of the policy;
 - v. expiration date of the policy;
 - vi. amount of Overcharge;
 - vii. dollar amount of simple interest;
 - viii. amount of Overcharge and interest;
 - ix. date(s) of mailing of restitution check or credits;
 - x. the total sum of all Overcharges;
 - xi. the total sum of all simple interest; and,
 - xii. the total sum of all restitution paid (total Overcharges plus the total of the simple interest).

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

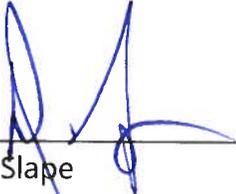
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Central Mutual is ordered to pay an administrative penalty of \$45,000. The administrative penalty must be paid within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

By:



Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Mandy R. Meesey, Director
Enforcement Division

