



DEPARTMENT OF COMMERCE & INSURANCE

P.O. Box 690, Jefferson City, Mo. 65102-0690

In Re:)
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 ESURANCE PROPERTY & CASUALTY) Market Conduct Investigation No. 404634
 INSURANCE COMPANY (NAIC #30210))

ORDER OF THE DIRECTOR

NOW, on this 22nd day of November, 2024, Director Chlora Lindley-Myers, after consideration and review of the Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) entered into by the Division of Insurance Market Regulation (hereinafter “Division”) and Esurance Property & Casualty Insurance Company (NAIC #30210) (hereinafter “Esurance”), relating to the market conduct investigation no. 404634, does hereby issue the following orders:

This order, issued pursuant to §374.046.15¹ and §374.280 RSMo, is in the public interest.

IT IS THEREFORE ORDERED that the Director does hereby approve the Stipulation as agreed to by Esurance and the Division.

IT IS FURTHER ORDERED that Esurance shall not engage in any of the violations of statutes and regulations set forth in the Stipulation, shall implement procedures to place it in full compliance with the requirements in the Stipulation and the statutes and regulations of the State of Missouri, shall maintain those corrective actions at all times, and shall fully comply with all terms of the Stipulation.

¹ All references, unless otherwise noted, are to Revised Statutes of Missouri 2016.

IT IS FURTHER ORDERED that Esurance shall pay, and the Department of Commerce and Insurance, State of Missouri, shall accept, the Voluntary Forfeiture of \$2,000.00, payable to the Missouri State School Fund.

IT IS SO ORDERED.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my office in Jefferson City, Missouri, this 22nd day of November, 2024.



Chlora Lindley Myers

Chlora Lindley-Myers
Director

**IN THE DEPARTMENT OF COMMERCE AND INSURANCE
STATE OF MISSOURI**

In Re:

**ESURANCE PROPERTY & CASUALTY
INSURANCE COMPANY (NAIC #30210)**

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Market Conduct Investigation No. 404634

STIPULATION OF SETTLEMENT AND VOLUNTARY FORFEITURE

It is hereby stipulated and agreed by the Division of Insurance Market Regulation (hereinafter the “Division”), and Esurance Property & Casualty Insurance Company (hereinafter “Esurance”), as follows:

WHEREAS, the Division is a unit of the Missouri Department of Commerce and Insurance (hereinafter the “Department”), an agency of the State of Missouri, created and established for administering and enforcing all laws in relation to insurance companies doing business in the State of Missouri;

WHEREAS, Esurance has been granted a certificate of authority to transact the business of insurance in the State of Missouri;

WHEREAS, the Division conducted a market conduct investigation of Esurance, investigation no. 404634; and

WHEREAS, based on the market conduct investigation of Esurance the Division alleges that:

1. Esurance is taking into consideration violations and accidents when determining premium for Uninsured Motorist and Comprehensive coverages in violation of §379.470 (1)¹ and 20 CSR 500-2.700 (1).

2. In one instance, Esurance did not conduct a reasonable investigation prior to issuing claim denial letters implicating the provisions of §375.1007 (6).

¹ All statutory references, unless otherwise noted, are to the 2016 Revised Statutes of Missouri.

3. In three instances, Esurance did not effectuate a prompt settlement of claims when liability was clear implicating the provisions of §375.1007 (4).

4. In one instance, Esurance did not send the insured a compliant 45-day letter in violation of 20 CSR 100-1.050 (1) (C).

5. In 12 instances, Esurance utilized policy language stating that the Company would only pay for expenses incurred and reported within one year from the date of the accident, with no language tying the one-year limitation to instances where the rights of the insurer are prejudiced. The language utilized violates §375.1007 (1), §375.1005 and 20 CSR 100-1.020 (D).

6. Esurance has policy language allowing for a reduction in claim payments issued under Medical Payments (hereinafter “MP”) coverage due to a setoff with payments issued under Uninsured Motorist (hereinafter “UM”) coverage in violation of §375.1007 (1) and §375.1005.

7. In three instances, Esurance reduced claim payments for UM Coverage due to a setoff issued under MP Coverage, implicating the provision of §375.1007 (4) and violating 20 CSR 500-2.100 (2) (G) 1.

8. In one instance, a complaint was missing from Esurance’s Complaint Register, implicating the provisions of §375.936 (3) and in violation of 20 CSR 100-8.040 (3) (D).

WHEREAS, the Division and Esurance have agreed to resolve the issues raised in the market conduct investigation as follows:

A. **Scope of Agreement.** This Stipulation of Settlement and Voluntary Forfeiture (hereinafter “Stipulation”) embodies the entire agreement and understanding of the signatories with respect to the subject matter contained herein. The signatories hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and acknowledge that the terms and conditions of this agreement are contractual and not a mere recital.

B. **Remedial Action.** Esurance agrees to take remedial action bringing it into compliance with the statutes and regulations of Missouri and agrees to maintain those remedial actions at all times. Such remedial actions shall include the following:

1. Esurance agrees to file with the Department revisions to its Uninsured Motorist and Comprehensive factors in the Tier Factor and Drivers Point Matrix factor so that the insured's driving record of violations or accidents do not affect premium. Such filing shall be made within 30 days of the date of the Order approving this Stipulation. The filing shall include a statement explaining that the filing is being made as a result of a Missouri Market Conduct Investigation.

2. Esurance agrees to review all policies from September 1, 2021, to the date of the Order approving this Stipulation to determine if violations and accidents were utilized in rating Uninsured Motorist or Comprehensive Coverages. Where such factors were utilized, Esurance agrees to refund the difference between the premium charged for these coverages and the premium that would have been charged absent the use of such factors. Interest, in an amount to be determined pursuant to §374.191, shall be included with the refund. For each insured that elected electronic payment and electronic delivery of communication, the payment shall be refunded electronically and accompanied by a letter sent to the policyholder via email through the Esurance document portal stating it was owed as a result of a Missouri Market Conduct Investigation. For each failed electronic refund and for each insured who did not elect electronic payment, Esurance will send a paper check and a letter to the insureds last known address. Esurance agrees to provide the Division with proof that electronic payment has been received by the insured.

3. Esurance agrees to review internal claims handling guidelines to assure that adjusters are given correct guidance on sending 45-day status letters, and particularly that the letters include the specific reasons why more time is needed to process the claim.

4. Esurance agrees to file with the Department revised policy language or an amendatory endorsement to the language in “Part II: Medical Payments Coverage” that complies with 20 CSR 100-1.020 (D). Such filing shall be made within 30 days of the date of the Order approving this Stipulation. The filing shall include a statement explaining that the filing is being made as a result of a Missouri Market Conduct Investigation.

5. Esurance agrees to file with the Department revised policy language or an amendatory endorsement to the language in “Part II: Medical Payments Coverage” and “Part III Uninsured Motorist Coverage” that complies with 20 CSR 500-2.100 (2) (G) 1 and clarifies that claim payments may not be reduced by a setoff of payments issued under either coverage. Such filing shall be made within 30 days of the date of the Order approving this Stipulation. The filing shall include a statement explaining that the filing is being made as a result of a Missouri Market Conduct Investigation.

6. Esurance agrees to review all first party claims from September 1, 2021, to the date of the Order approving this Stipulation to determine if claim payments for UM were reduced due to a setoff with claim payments issued for MP or if claim payments for MP were reduced due to a setoff with claim payments issued for UM. If the UM or MP claim payment was reduced, Esurance agrees to refund the difference between the amount that would have been paid on the UM or MP claim absent the setoff and the amount of the actual payment made. Interest, in an amount to be determined pursuant to §374.191 shall be included with the refund. Each payment shall be accompanied by a letter stating that it was determined that an additional payment on the claim was owed as the result of a Missouri Market Conduct Investigation.

7. Esurance agrees to review, and if needed update, established procedures to ensure that Department of Insurance complaints are properly logged and coded to the Company’s Complaint Register.

C. **Compliance.** Esurance agrees to file documentation pursuant to § 374.190 with the

Division, in a format acceptable to the Division, within 90 days of the entry of an Order approving this Stipulation, of any remedial action taken to implement compliance with the terms of this Stipulation, including the payment of restitution to policyholders and claimants.

D. **Voluntary Forfeiture.** Esurance agrees, voluntarily and knowingly, to surrender and forfeit the sum of \$2,000 (two thousand dollars), such sum payable to the Missouri State School Fund, in accordance with §§374.049.11 and 374.280.2, within fifteen (15) days of the date the Director of the Department (hereinafter “Director”) signs the Order approving this Stipulation.

E. **Non-Admission.** Nothing in this Stipulation shall be construed as an admission by Esurance, this Stipulation being part of a compromise settlement to resolve disputed factual and legal allegations arising out of the above referenced market conduct investigation.

F. **Waivers.** Esurance, after being advised by legal counsel, does hereby voluntarily and knowingly waive any and all rights to procedural requirements, including notice and an opportunity for a hearing, and review or appeal by any trial or appellate court, which may have otherwise applied to the market conduct investigation no. 404634.

G. **Amendments.** No amendments to this Stipulation shall be effective unless made in writing and agreed to by authorized representatives of the Division and Esurance.

H. **Governing Law.** This Stipulation shall be governed and construed in accordance with the laws of the State of Missouri.

I. **Authority.** The signatories below represent, acknowledge and warrant that they are authorized to sign this Stipulation, on behalf of the Division and Esurance, respectively.

J. **Counterparts.** This Stipulation may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single document. Execution by facsimile or by electronically transmitted signature shall be fully and legally effective and binding.

K. **Effect of Stipulation.** This Stipulation shall not become effective until entry of an Order by the Director approving this Stipulation.

L. **Request for an Order.** The signatories below request that the Director issue an Order approving this Stipulation and ordering the relief agreed to in the Stipulation, and consent to the issuance of such Order.

DATED: November 13, 2024



Teresa Kroll
Chief Market Conduct Examiner
Division of Insurance Market Regulation

DATED: 11/12/24

Matthew Gough
Name: Matthew Gough
Title: State Manager
Esurance Property & Casualty Insurance Company