

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:

Case No. INS-21-0072

PROGRESSIVE UNIVERSAL INSURANCE
COMPANY, a Wisconsin Corporation,

ORDER TO CEASE AND DESIST,
ORDER ASSESSING CIVIL
PENALTIES, AND CONSENT TO
ENTRY OF ORDER

Respondent.

THIS IS A FINAL ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting by and through the Division of Financial Regulation (“Division”), in accordance with Oregon Revised Statutes (“ORS”) 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750, and the Oregon Administrative Rules (“OARs”) promulgated thereunder (“Oregon Insurance Code”) has determined that Progressive Universal Insurance Company (“PUIC”) engaged in activities constituting violations of the Oregon Insurance Code.

Respondent wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the authorized signatures subscribed on this Order, PUIC hereby CONSENTS to entry of this Order upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter.

FINDINGS OF FACT

The Director FINDS that:

1. PUIC is a Property and Casualty carrier that provides Property and Casualty insurance in Oregon. PUIC’s NAIC Company Code Number is 21727. PUIC’s Oregon license number is 3241.

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1 2. PUIC's business address is 6300 Wilson Mills Road, E61A, Mayfield Village,
2 Ohio 44143.

3 The Claim Delay Investigation

4 3. On May 10, 2019, the Division received a complaint alleging claim delays on
5 the part of PUIC. The complaint arose out of a motor vehicle accident on June 18, 2018,
6 involving two motorcycles and a pickup truck. Both vehicles were insured by PUIC.
7 Nevertheless, at the time of the complaint (approximately 326 days after the accident),
8 PUIC had not made a liability determination.

9 4. In investigating this complaint, the Division noted deficiencies in the
10 communications between PUIC and the complainant. Specifically, although PUIC had sent
11 the complainant the 30-day update letter required under OAR 836-080-0235 (4), PUIC had
12 failed to provide the updates required by that rule every 45 days thereafter while the
13 liability determination remained pending.

14 5. As part of the Division's investigation, PUIC was required to provide data
15 concerning its claims in Oregon between June 2, 2019 and December 31, 2020, among
16 other timeframes.

17 6. In reviewing the June 2, 2019 to December 31, 2020 data, the Division found
18 that PUIC had processed 409 claims regarding policies owned by Oregon consumers. Of
19 those 409 claims, PUIC had failed to send the required 30-day delay notification letter in
20 12 instances. PUIC had also failed to send the required 45-day update letter in 429
21 instances.

22 CONCLUSIONS OF LAW

23 The Director CONCLUDES the following:

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1 Failure to Send 30-Day Delay Notification

2 7. Pursuant to OAR 836-080-0235(1), an insurer must “advise the claimant of the
3 acceptance or denial of the claim” not later than “the 30th day after its receipt of properly
4 executed proofs of loss from a first party claimant.”

5 8. If the insurer requires more time to make a determination, OAR 836-080-
6 0235(4) requires the insurer to notify the claimant “not later than the 30th day after receipt
7 of the proofs of loss, giving the reason more time is needed.”

8 9. During the time frame from June 2, 2019 to December 31, 2020, PUIC violated
9 OAR 836-080-0235(4) in 12 instances by failing to provide first-party claimants with the
10 required 30-day notice when PUIC required more than 30 days to make a liability
11 determination.

12 Failure to Send 45-day Delay Notification

13 10. Pursuant to OAR 836-080-0235(4), if the insurer still has not reached a liability
14 determination within the 45 days following the initial 30-day notice, the insurer must
15 “notify the claimant in writing of the reason additional time is needed for investigation.”
16 From that point, the insurer must send an additional written notification “of the reason
17 additional time is needed for investigation” every 45 days thereafter until the investigation
18 is complete.

19 11. During the time frame from June 2, 2019 to December 31, 2020, PUIC violated
20 OAR 836-080-0235(4) in 429 instances by failing to provide first-party claimants with the
21 required 45-day notice when PUIC required more than 45 days from the previous notice to
22 make a liability determination.

23 Cease and Desist Authority

24 12. Under ORS 731.252 (1), because the Director has reason to believe that PUIC
25 has engaged in violations of OAR 836-080-0235 (4), the Director may issue an order to
26 PUIC to cease and desist from violations of OAR 836-080-0235 (4).

1 Civil Penalties Authority

2 13. Under ORS 731.988(1), the Director may impose a civil penalty in an amount
3 not to exceed \$10,000 for each violation of the Insurance Code. Each violation is a separate
4 offense.

5 ORDERS

6 Now therefore, the Director issues the following Orders:

7 Cease and Desist

8 14. As authorized by ORS 731.252 (1), the Director ORDERS PUIC to CEASE
9 AND DESIST from violating OAR 836-080-0235 (4).

10 Civil Penalties

11 15. As authorized by ORS 731.988(1), the Director hereby ORDERS that PUIC be
12 subject to a CIVIL PENALTY of \$22,050 as follows:

- 13 (a) \$600 for violating OAR 836-080-0235(4) by failing to provide
14 the required 30-day notice to first-party claimants within 30 days
15 of receipt of proof-of-loss; and
16 (b) \$21,450 for violating OAR 836-080-0235(4) by failing to
17 provide the required 45-day notice.

18 16. The Director hereby SUSPENDS payment of \$11,050 of the CIVIL PENALTY
19 imposed on PUIC for a period of three years from the effective date of this Order, provided
20 PUIC complies with the following terms:

- 21 (a) Within 60 days of the execution of this Order, PUIC shall
22 provide the Division with documentation detailing the
23 procedures PUIC has adopted to ensure:
24 (i) That liability determinations are not unreasonably
25 delayed; and
26 (ii) That all required notices are timely sent to first-party
claimants;

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- (b) The Division may require PUIC to make reasonable modifications to the procedures, as it deems appropriate;
- (c) For the three years following the effective date of this Order, PUIC shall commit no new violations of OAR 836-080-0235 (4), or of any rules adopted pursuant to the Insurance Code.

17. The \$11,000 non-suspended CIVIL PENALTY assessed herein against PUIC is due and payable at the time this Order is returned to the Division.

18. The \$11,050 suspended CIVIL PENALTY will be waived three years from the effective date of this Order, provided PUIC has complied with the forgoing Order terms and does not commit any further violations of OAR 836-080-0235 (4) during the three year period. The Director reserves the right to immediately assess and collect the suspended civil penalty upon a determination that PUIC has violated any term of this Order or has committed any further violation of OAR 836-080-0235 (4).

19. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that provision, the entry of this Order does not limit other remedies that are available to the Director under Oregon law.

SO ORDERED this 14th day of June, 2022.

Andrew R. Stolfi, Director
Department of Consumer and Business Services

s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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ENTITY CONSENT TO ENTRY OF ORDER

I, Karen A. Kosuda, state that I am an officer of PROGRESSIVE UNIVERSAL INSURANCE CO. (“PUIC”) and authorized to act on its behalf. I have read the foregoing Order and that I know and fully understand the contents hereof. I have been advised of PUIC’s right to a hearing and right to be represented by counsel in this matter. PUIC voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Order. PUIC understands that the Director reserves the right to take further actions against it to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Insurance Code by PUIC. PUIC will fully comply with the terms and conditions stated herein.

PUIC understands that this Consent Order is a public document.

Signature: s/ Karen A. Kosuda

Position Held: Assistant Secretary

State of _____

County of _____

Signed or attested before me on this _____ day of _____, 2022

By _____.

Notary Public

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