

**STATE OF MAINE
BUREAU OF INSURANCE**

IN RE:

PROGRESSIVE
NORTHWESTERN INSURANCE
COMPANY

Maine License No. PCF27738
NAIC Code 42919

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CONSENT AGREEMENT
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Docket No. INS 10-236

INTRODUCTION

Progressive Northwestern Insurance Company ("Progressive"), a Maine-licensed insurance company, the Maine Superintendent of Insurance ("the Superintendent"), and the Office of the Maine Attorney General hereby enter into this Consent Agreement pursuant to 10 M.R.S. § 8003(5)(B) to resolve, without an adjudicatory proceeding, the Superintendent's findings of violations of the Maine Insurance Code under a license issued by the Bureau. As more fully set out below, the Superintendent finds Progressive violated the Maine Insurance Code by unfairly discriminating against applicants for automobile liability insurance who were over the age of 75 years.

PARTIES

1. The Superintendent of Insurance is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Bureau of Insurance is the administrative agency with such jurisdiction. The Superintendent has jurisdiction over this matter pursuant to 24-A M.R.S. §§ 12-A and 211.
2. Progressive has been licensed in Maine as a foreign property and casualty insurance company since June 7, 1990. Progressive's Maine Certificate of Authority number is PCF27738. Its NAIC Code is 42919.

STATUTORY AUTHORITY

3. Under 10 M.R.S. § 8003(5)(A) and 24-A M.R.S. § 12-A, the Superintendent may issue a warning, censure, or reprimand to an insurer, may suspend, revoke or refuse to renew the license of an insurer, may impose conditions of probation on the insurer, may levy a civil penalty, or may take any combination of such actions, for violating any insurance laws, or violating any rule, regulation, subpoena, or order of the Superintendent.
4. Pursuant to 10 M.R.S. § 8003(5)(B), the Superintendent may resolve a complaint by entering into a consent agreement with a licensee and with the agreement of the Attorney General.

FACTS

5. In early 2009, officials from Progressive contacted the Bureau of Insurance indicating that the company wanted to begin charging rates supported by the company's actuarial data for individuals aged 75 and older. The company's data indicated higher rates were appropriate.
6. Bureau staff informed Progressive that the Bureau would not allow this increased pricing based on age.
7. In June 2009, Progressive instituted a premium down payment practice in its Agency channel whereby it required all applicants for automobile liability insurance in Maine aged 75 years and older to make their premium down payment by either credit card or debit card and would not permit them to pay by cash or check.
8. Progressive notified its Maine agents of this practice in a notice on its For Agents Only web site, in part as follows: "Maine does not allow us to adjust rating factors with age, as many other states do . . .so we have implemented what we hope to be a temporary pay plan restriction."
9. Under this practice, these applicants would not learn about the limits on their payment options until they had completed all other parts of the application.
10. Under this practice, Progressive denied individuals aged 75 years or older the opportunity to purchase automobile liability insurance coverage through its Agency channel unless they made the premium down payment by either a credit card or debit card.
11. Under this practice, Progressive still permitted individuals under the age of 75 years to apply for automobile liability insurance coverage in Maine without having to make their premium down payment by means of either credit card or debit card.

COVENANTS

12. Progressive consents to the Facts as stated above and acknowledges its duty to comply with all applicable laws and regulations of the State of Maine. The Superintendent finds the following violations occurred:
 - a. Pursuant to 24-A M.R.S.A. § 2152 by engaging in an unfair or deceptive act or practice in the business of insurance;
 - b. Pursuant to 24-A M.R.S. § 2162(2) by making or permitting unfair discrimination between insureds having like insuring or risk characteristics in the terms and conditions of the insurance;
 - c. Pursuant to 24-A M.R.S. § 2902-C by refusing to issue motor vehicle liability insurance to applicants aged 75 years or older unless they made their first premium payments by credit card or debit card without imposing the same condition for obtaining insurance on applicants under the age of 75 years.
13. Progressive accepts the Superintendent's findings in paragraph 12 above.
14. Progressive accepts as disciplinary action the imposition of a civil penalty in the amount of One Hundred Thousand Dollars (\$100,000.00). Progressive shall remit payment of this civil penalty within thirty (30) days after the date of the last signature to this Consent Agreement. Payment shall be by certified check or money order made out to "Treasurer, State of Maine" and delivered to the Bureau.

15. Progressive agrees that it will not adopt any procedures or impose any conditions for issuing motor vehicle liability insurance that have the effect of excluding or discouraging persons 65 years of age or older from obtaining coverage.
16. The Parties to this Consent Agreement understand that nothing herein shall affect any rights or interest that any person not a party to this Agreement may possess.
17. In consideration of Progressive's execution of and compliance with the terms of this Consent Agreement, the Superintendent and Office of the Attorney General agree to forgo pursuing against Progressive any further disciplinary measures or other civil or administrative sanctions available under the Maine Insurance Code concerning the specific conduct described in this Consent Agreement, other than those agreed to herein.
18. This Consent Agreement is enforceable by an action in Maine Superior Court.
19. This Consent Agreement is not subject to appeal. Progressive waives any further hearings or appeals regarding the matters that are the subject of this Consent Agreement.
20. This Consent Agreement may be modified only by a written agreement executed by all of the parties hereto. The parties each retain absolute discretion to reject any request to modify, continue, or terminate any or all of the provisions of this Consent Agreement.
21. This Consent Agreement is a public record subject to the provisions of the Maine Freedom of Access Law, 1 M.R.S. §§ 401 through 410, will be available for public inspection and copying as provided for by 1 M.R.S. § 408, and will be reported to the Regulatory Information Retrieval System database at the National Association of Insurance Commissioners.
22. Progressive agrees that it has read the Agreement, that it understands the Agreement, that it has reviewed the statutory provisions set forth herein, that it has been advised of its right to consult with counsel and has had an opportunity to consult with counsel before signing the Agreement, and that it enters into the Agreement voluntarily and without coercion of any kind from any person.

**PROGRESSIVE NORTHWESTERN
INSURANCE COMPANY**

Dated: 7-26, 2011

Its Authorized Representative
By:

Print Name and Title

Subscribed and sworn to before me this ____ day of _____, 2011

Notary Public

Printed

Date commission expires

Dated: July 29, 2011

**THE MAINE SUPERINTENDENT OF
INSURANCE**

By: _____
Eric Cioppa
Acting Superintendent of Insurance

Dated: July 29, 2011

**THE MAINE OFFICE OF THE
ATTORNEY GENERAL**

By: _____
Andrew L. Black
Assistant Attorney General