



REPORT HIGHLIGHTS

Department of Commerce's Civil Insurance Complaint Investigations

The Department of Commerce has typically investigated complaints related to civil insurance fraud and unfair or deceptive insurance practices in a timely way, but its lack of comprehensive, written policies has contributed to inconsistent practices.

Key Findings

- Commerce's Enforcement Division largely focuses on *responding* to allegations of insurance fraud or misconduct, rather than on *preventing* insurance fraud or misconduct. (p. 14)
- By law, insurers are required to notify Commerce when they institute or modify their antifraud plan, but the department does not enforce this requirement for all insurers. (p. 16)
- The Consumer Service Center (CSC) and Insurance Enforcement Team (IET) completed most investigations within a reasonable period of time, although some investigations lasted several years. (pp. 33, 37)
- The Enforcement Division has not adopted written policies to guide certain aspects of its civil insurance complaint investigations. Policies it *has* developed reflect some, but not all, key National Association of Insurance Commissioners (NAIC) recommendations. (p. 28)
- IET lacks formal policies to guide its investigations, and based on our review, investigators do not always follow consistent practices. (pp. 35-36)
- CSC has adopted written policies that guide some key aspects of its work, but policies have not been well-communicated to staff and some are not currently in use. (pp. 28, 31)

Key Recommendations

- The Department of Commerce should (1) ensure all insurance companies notify the department when they institute or modify their antifraud plans, as required by law, and (2) coordinate antifraud plan review efforts across teams. (p. 17)
- The Legislature should review Commerce's responsibilities related to antifraud plans and ensure requirements outlined in law meet the Legislature's expectations. (p. 17)
- The Department of Commerce should (1) adopt policies, informed by NAIC recommendations, that outline investigation and documentation standards for key components of civil insurance investigations; (2) clearly communicate these policies to staff; and (3) ensure investigators consistently follow policies. (p. 43)
- The Department of Commerce should adopt policies that include guidance for: assigning complaints for investigation, prioritizing complaints for investigation, establishing formal timelines for completing key investigative activities, and communicating with complainants and respondents. (pp. 23, 25, 44-45)

Background

Statutes charge the Department of Commerce with enforcing insurance laws in Minnesota. As part of its responsibilities, Commerce's Enforcement Division responds to consumer questions, investigates consumer and industry complaints, and reviews regulated businesses' practices. When the division discovers violations of Minnesota law, it may pursue administrative action.

Within the division, the Consumer Service Center (CSC) and Insurance Enforcement Team (IET) investigate civil insurance complaints: those related to civil fraud, unfair or deceptive insurance practices, or other noncriminal violations of law. CSC and IET closed about 16,000 complaints in fiscal years 2017 through 2021.

Summary

Commerce’s Enforcement Division engages in some limited proactive activities to prevent and detect insurance fraud. While statutes *allow* but do not *require* Commerce to review insurers’ antifraud plans—overviews of insurers’ policies and practices to prevent, detect, investigate, and report insurance fraud—three teams within Commerce review some insurance companies’ antifraud plans under certain circumstances. At the same time, these reviews are not coordinated across teams, and Commerce officials indicated that current staffing allows them to review the plans of only a small fraction of the insurance companies operating in the state. In addition, state law requires insurers to notify Commerce when they institute or modify antifraud plans. But, the department does not enforce this requirement for all insurers.

Most of the Enforcement Division’s insurance-related activities focus on resolving complaints. The division’s Consumer Service Center (CSC) and Insurance Enforcement Team (IET) closed an average of 3,200 civil insurance complaints each year in fiscal years 2017 through 2021. Even for complaints in which investigators may have determined that a full investigation was unnecessary—such as complaints outside Commerce’s jurisdiction—most received at least a limited investigation. Commerce data indicate that investigators performed at least one investigative activity, such as corresponding with respondents or complainants, for nearly 90 percent of complaints. CSC closed investigations within a median of 35 days and IET closed them within a median of 58 days. IET may pursue administrative action, and it often takes on more complex civil insurance complaint investigations than CSC.

Written policies for civil insurance complaint investigations are important to establish supervisor expectations, provide guidance for investigators, and ensure consistency across investigations. However, IET has not adopted written policies to guide its civil insurance complaint investigations. Officials told us that IET investigators are expected to follow certain practices, such as writing memorandums that outline recommendations for administrative actions. But in our review of a sample of complaint files, investigators did not consistently follow expectations. Despite adopting written policies for CSC’s work, our survey of CSC investigators indicated that some investigators are unaware of certain policies. In addition, not all of CSC’s written policies are currently in use, and CSC investigators are expected to follow certain practices *not* included in written policies.

Summary of Agency Response

In a letter dated February 2, 2022, Department of Commerce Commissioner Grace Arnold wrote that she appreciated OLA’s “constructive feedback for improving our processes and policies.” She noted that Commerce “attempts to strike an appropriate balance between instituting sufficient policies and procedures” and allowing for investigator and/or supervisor discretion to allocate resources in response to “sometimes rapidly changing needs of Minnesotans.” The commissioner stated that the department “acknowledges the need to review, refine, and supplement its current operating procedures and policies.” She also wrote that Commerce “understands the OLA’s concerns about preventing insurance fraud in Minnesota,” noting that the licensing process, market conduct exams, and other department activities play “a significant role in preventing fraud.” She stated, “In an effort to enhance anti-fraud measures,” the department will work on its own processes and with insurance companies primarily regulated in Minnesota “to ensure insurers follow Minnesota anti-fraud plan reporting requirements.” Commissioner Arnold signaled support for OLA’s recommendation “that the legislature consider and clarify its intent behind requiring Minnesota domiciled insurance companies to notify the Department of its anti-fraud plans.”