

Rules of
Department of Insurance
Division 300—Market Conduct Examination
Chapter 1—Sampling and Error Rates

Title	Page
20 CSR 300-1.100 Unfair Claims Settlement Rates	3
20 CSR 300-1.200 Fraudulent or Bad Faith Conduct Rules	3

**Title 20—DEPARTMENT OF
INSURANCE**

**Division 300—Market Conduct
Examinations**

Chapter 1—Sampling and Error Rates

20 CSR 300-1.100 Unfair Claims Settlement Rates

PURPOSE: This rule effectuates or aids in the interpretation of section 375.1007, RSMo regarding detection of frequency to indicate a business practice.

(1) Definitions. When used in this regulation—

(A) Time error rate refers to any one (1) of the following:

1. Acknowledgment time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(2), RSMo or violated 20 CSR 100-1.030;

2. Investigation time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(3), RSMo or violated 20 CSR 200-1.040; and

3. Determination time error rate, the percentage of claims in which the insurer has performed an act described in section 375.1007(7), RSMo or violated 20 CSR 200-1.050(1)(A); and

(B) Unfair settlement rate means the percentage of claims in which the insurer has performed an act described in section 375.1007(1), (5)–(6), (8)–(15), RSMo or violated 20 CSR 200-1.020 and 20 CSR 200-1.050(1)(B) or 20 CSR 200-1.050(2).

(2) The time error rates and unfair settlement rate will be important in determining whether the insurer has engaged in an unfair settlement practice as that phrase is used in section 375.1007, RSMo; however, other relevant factors will be considered in making the determinations. No attempt is made in this regulation to list other relevant factors because these factors depend on the facts of each case and no exhaustive or comprehensive list of other factors can be made.

(3) The time error rates and unfair settlement rate may be established by census or by an appropriate random sample. Whether a random sample was appropriate will be determined on a case-by-case basis.

AUTHORITY: sections 374.045, RSMo (Cum. Supp. 1996) and 375.1000–375.1018, RSMo (1994). * This rule was previously filed as 4 CSR 190-10.060(1), (8) and (9). Original

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*Original authority: 374.045, RSMo (1967), amended 1993, 1945 and 375.1000–375.1018 see Missouri Revised Statutes 1984.

20 CSR 300-1.200 Fraudulent or Bad Faith Conduct Rules

PURPOSE: This rule sets forth acts or practices which may constitute conducting business fraudulently or constitute not carrying out contracts in good faith within the scope of section 375.445, RSMo (1986) and sets forth acts which may constitute misrepresentations and false advertising of insurance policies within the scope of section 375.936(6), RSMo (1986). The acts or practices prohibited by this regulation are not intended to be an exhaustive list of acts or practices prohibited by section 375.445 or 375.936(6), RSMo (1986).

(1) Definitions.

(A) Claims error rate means the percentage of claims in which the insurer violated any statute or Department of Insurance regulation except section 375.1007, RSMo or 20 CSR 100-1.010, 20 CSR 100-1.020, 20 CSR 100-1.030, 20 CSR 100-1.040, 20 CSR 100-1.050, 20 CSR 100-1.100, 20 CSR 300-1.100 and 20 CSR 300-2.100 or accepted or denied claims other than in accordance with the terms of an applicable policy, contract, certificate, endorsement or rider except where that acceptance or denial has already been included in the claims error rate as a violation of statute or Department of Insurance regulation.

(B) CND error rate means the percentage of cancelled and nonrenewed policies and declined policy applications in which the insurer cancelled, nonrenewed or declined in violation of any statute, Department of Insur-

ance regulation or the terms of the insurer's policy, contract, certificate, endorsement or rider, or underwriting manuals or guidelines on file with the Department of Insurance.

(C) Post claims underwriting index, in life or accident or health insurance, means the ratio which the contestible policies or certificates which are rescinded by an insurer after a claim has been made or in which a claim has been resisted on the grounds of misrepresentation as divided by the total contestible policies or certificates on which claims have been made bears to the applications for insurance declined or rejected by the insurer as divided by the total applications for insurance.

(D) Quotation error rate means the percentage of personal lines property and casualty policies, contracts, certificates, endorsements or riders in which the premium quoted by the agent of the insurer is more than five dollars (\$5) different than the premium actually charged by the insurer, excluding policies, contracts, certificates, endorsements or riders in which the information relied on by the agent is substantially different than the information relied on by the insurer.

(E) Rating error rate means the percentage of policies, contracts, certificates, endorsements or riders in which the premium actually charged the insured is more than five dollars (\$5) different than the premium which should have been charged had the insurer calculated the premium in accordance with its policies, contracts, certificates, endorsements, riders and rating manuals or schedules on file with the Department of Insurance.

(2) The rates and index set forth in this regulation will be important in determining whether a violation of section 375.445, RSMo (1986) has occurred and the quotation error rate may also be considered in determining whether misrepresentations and false advertising of insurance policies within the meaning of section 375.936(6), RSMo (1986) has occurred. However, other relevant factors will be considered in making these determinations. No attempt is made in this regulation to list other relevant factors because other factors depend on the facts of each case and no exhaustive or comprehensive list of other relevant factors can be made.

(3) The rates or index may be established by census or by an appropriate random sample. Whether a random sample was appropriate will be determined on a case-by-case basis.

AUTHORITY: section 374.045, RSMo (Cum. Supp. 1996). * This rule was previously filed as 4 CSR 190-10.080. Original rule filed



Aug. 4, 1986, effective Jan. 1, 1987. Amended: Filed Oct. 1, 1996, effective June 30, 1997.

**Original authority 375.045, RSMo (1967) amended 1993, 1995.*