
Rules of
Department of Insurance
Division 300—Market Conduct Examinations
Chapter 2—Record Retention for Market Conduct
Examinations

Title	Page
20 CSR 300-2.100 File and Record Documentation for Claims	3
20 CSR 300-2.200 Records Required for Purposes of Market Conduct Examinations	3

**Title 20—DEPARTMENT OF
INSURANCE**

**Division 300—Market Conduct
Examinations**

**Chapter 2—Record Retention for Market
Conduct Examinations**

**20 CSR 300-2.100 File and Record Docu-
mentation for Claims**

PURPOSE: This rule effectuates or aids in the interpretation of section 375.936(10), RSMo regarding retaining claim records.

File and Record Documentation. The insurer's claim files shall be subject to examination by the director or by his/her duly appointed designees. These files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of these events can be reconstructed. Documentary material which is pertinent to the investigation and/or denial of a claim shall be legibly date stamped with the date of receipt whether it is from an insured, his/her agent, a claimant, the Missouri Department of Insurance or any other insurer.

AUTHORITY: sections 374.045 and 375.930–375.948, RSMo 1986. This rule was previously filed as 4 CSR 190-10.060(2). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. Rescinded and readopted: Filed Aug. 16, 1978, effective Dec. 11, 1978. Amended: Filed Sept. 11, 1980, effective Feb. 16, 1981. Amended: Filed Sept. 14, 1981, effective Jan. 15, 1982. Amended: Filed Aug. 4, 1986, effective Jan. 1, 1987. Amended: Filed Jan. 5, 1987, effective June 1, 1987. Amended: Filed Aug. 4, 1987, effective Dec. 24, 1987. Amended: Filed Dec. 9, 1988, effective April 28, 1989. Amended: Filed Nov. 2, 1989, effective Feb. 15, 1990. Emergency amendment filed Feb. 21, 1990, effective March 5, 1990, expired June 2, 1990. Amended: Filed Feb. 26, 1990, effective June 11, 1990. Amended: Filed Dec. 12, 1990, effective June 10, 1991.

**Original authority: 374.045, RSMo 1967; 375.930–375.948, RSMo 1959, amended 1978.*

**20 CSR 300-2.200 Records Required for
Purposes of Market Conduct Examinations**

PURPOSE: This regulation describes the requirements for recordkeeping for insurance companies and related entities doing business in this state. This regulation was adopted pursuant to the provisions of section 374.045, RSMo 1986 and to implement sections

287.350, 354.190, 354.465, 374.190, 374.210, 375.158, 379.343 and 379.475, RSMo 1986 and 144.027, 354.149, 354.717, 375.022, 375.150, 375.151, 375.926, 375.932, 375.938, 375.1002 and 375.1009, RSMo Supp. 1991.

(1) Definitions.

(A) The term "application" shall include any written or electronic application form, any enrollment form, any document used to add coverage under any existing policy, any questionnaire, telephone interview form, paramedical interview form, or any other document used to question or underwrite an applicant for any policy issued by an insurer or for any declination of coverage by an insurer. The term "application" does not include documents, questionnaires or notes generated in response to a request for a premium quote which did not result in an application for coverage.

(B) The term "business entity" shall mean a business entity as that term is defined in section 375.012.1(1), RSMo.

(C) The term "claim" shall mean a claim as that term is defined in section 20 CSR 100-1.010(1)(B).

(D) The term "customary core functions" means the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process or providing any information or assistance used in claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing process which have traditionally been performed by internal insurance company employees or producers.

(E) The term "department" shall mean the Missouri Department of Insurance.

(F) The term "examiner" shall mean a market conduct examiner authorized by the director to conduct an examination pursuant to section 374.202.2(4), RSMo.

(G) The term "inquiry" shall mean a specific question, criticism or request made in writing to an insurer by a market conduct examiner duly appointed by the director.

(H) The term "insurer" shall mean an insurer as that term is defined in sections 375.932 or 375.1002, RSMo.

(I) The term "policy" shall mean a policy as that term is defined in section 375.932(5), RSMo. The term "policy" shall also include any evidence of coverage issued by a health maintenance organization to an enrollee.

(J) The term "third party vendor or service provider" shall mean any person or entity not licensed under any of the insurance laws of the state of Missouri and participating for a fee or pursuant to a contract or mutual agreement with an insurer in the customary core

functions of the business of insurance. Third party vendors or service providers will include individuals or entities providing medical review, claim evaluation, case management, property or automobile evaluation and assessment, credit reporting or credit scoring, claim reporting, or medical health reporting services or databases to an insurer, are not independently licensed under the insurance laws of the state of Missouri to provide said services and are not employees of an entity licensed under the insurance laws of the state of Missouri to provide said services.

(2) Records Required.

(A) Every insurer, licensed to do business in this state shall maintain its books, records, documents and other business records in a manner so that the following practices of the insurer may be readily ascertained during market conduct examinations: the insurer's compliance with the standards outlined in the *NAIC Market Conduct Examiners' Handbook*, including, but not limited to, company operations and management, policyholder service, marketing, producer licensing, underwriting, rating, termination, complaint/grievance handling and claims practices.

(B) Every insurer, licensed to do business in this state, shall provide in a written contract entered into with any and all third party vendors or service providers which perform any of the customary core functions on behalf of that insurer that the insurer will have access to or retain a copy of the books, records, documents, and other business records used or relied upon by the third party vendor or service provider with whom it contracts in the performance of the third party vendors' or service providers' performance of the customary core functions on behalf of that insurer.

(C) During an examination, the insurer shall provide, as requested, its written contract entered into with each third party vendor or service provider and such documents as set forth in subsection (2)(B) of this section within the time frames set forth in section (6) of this rule.

(D) Every insurer must monitor every third party vendor or service provider with whom it contracts so as to justify to itself that the methods and procedures used in the performance of the customary core functions are actuarially, statistically, medically, scientifically, or practically sound and accurate and performed for an appropriate business purpose, as applicable, and do not violate the laws of this state. The insurer must be able to produce documentation and otherwise demonstrate how it monitored and verified

the accurateness, lawfulness, and appropriateness of the business practices performed by the third party vendor or service provider on its behalf within the time frames set forth in section (6) of this rule.

(E) It will be insufficient compliance with this regulation for the insurer to solely submit to the examiner a letter or affidavit from the third party vendor or service provider certifying the accuracy, appropriateness, and compliance with the laws of this state as it relates to the methods and procedures used in the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing processes without the accompanying documentation as set forth in subsections (2)(B), (2)(C), and (2)(D) of this rule.

(3) Records to be Maintained. The following records shall be maintained:

(A) A Missouri policy record file shall be maintained for each Missouri policy issued, and shall be maintained for the duration of the current policy term plus two (2) calendar years. Missouri policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. Missouri policy records need not be segregated from the policy records of other states so long as they are readily available to Missouri market conduct examiners as required under this rule. Missouri policy records shall include the following:

1. The actual, completed application for each contract.

A. The application shall bear the signature of the applicant whenever the insurer intends to retain any right to contest any warranty, representation or condition contained in the application.

B. The application shall bear a clearly legible means by which an examiner can identify any insurance producer involved in the transaction. The examiners shall be provided with any information needed to determine the identity of said insurance producer;

2. Any declaration pages (the initial page and any subsequent pages), the insurance contract, any certificates evidencing coverage under a group contract, any endorsements or riders associated with a policy, and any written or electronic correspondence to or from the insured pertaining to the coverage. If any of these records has already been filed with the department, a separate copy of the record need not be maintained in the individual policy files to which the record pertains, provided it is clear from the insurer's other records or systems that the record applies to a particular policy and that any data contained in the record relating to that policy can be retrieved or recreated;

3. Any binder with terms and conditions that differ from the terms and conditions of the policy subsequently issued; and

4. Any guidelines, manuals or other information necessary for the reconstruction of the rating and underwriting of the policy. The maintenance at the site of a market conduct examination of a single copy of each of the above shall satisfy this requirement. If any such rating or underwriting record is computer based, the records used to input the information into the computer system shall also be available to the examiners;

(B) A Missouri claim file shall be maintained for the calendar year in which the claim is closed plus three (3) years. The claim file shall be maintained so as to show clearly the inception, handling, and disposition of each claim. The claim file(s) shall be sufficiently clear and specific so that pertinent events and dates of these events can be reconstructed. A Missouri claim file(s) shall include the following:

1. Any notification of claim, proof of loss, claim form(s), proof of claim payment check/draft, notes, contract, declaration pages, certificates evidencing coverage under a group contract, endorsements or riders, work papers, any written communication, and any documented or recorded telephone communication related to the handling of a claim, including the investigation, payment and/or denial of the claim, and any claim manual(s) or other information necessary for reviewing the claim. Where a particular document pertains to more than one file, insurers may satisfy the requirements of this paragraph by making available, at the site of a market conduct examination, a single copy of each document;

2. Documents in a claim file received from an insured, the insured's insurance producer, a claimant, the department or any other insurer shall bear the initial date of receipt date-stamped by the insurer in a legible form in ink or some other permanent manner. Unless the company provides the examiners with written procedures to the contrary, the earliest date stamped on a document will be considered the initial date of receipt;

3. In cases of a total loss on property claims for a motor vehicle, trailer, boat or outboard motor, the claim file shall contain a copy of the certification described in section 144.027, RSMo attesting to the amount of the insurance proceeds and any deductible obligation paid by the claimant regarding the loss. The certification shall contain a statement informing the claimant that the sales tax credit is valid for only one hundred eighty (180) days; and

4. If an insurer, as its regular business practice, places the responsibility for handling certain types of claims upon company personnel other than its claims personnel, the insurer need not duplicate its files for maintenance by claims personnel. These claims records must be maintained as part of the records of the insurer's operations and must be readily available to examiners. Notwithstanding the definition of "claim" at subsection 20 CSR 100-1.010(1)(B), the time requirements for the retention of records for policy files stated at section 374.205.2(2), RSMo, apply to claims handled by the company's personnel who typically handle policy files;

(C) Records to be maintained relating to the insurer's compliance with Missouri's licensing requirements shall include the Missouri licensing records of each insurance producer associated with the insurer. Licensing records shall be maintained so as to show clearly the dates of the appointment and terminations of each insurance producer. In accordance with the provisions of section 375.158, RSMo, copies of the current licenses of each insurance producer not appointed by the insurer but to whom a commission will be paid shall be on file with the insurer prior to the payment of this commission. The date of the receipt by the insurer of the copy of the license shall be indicated by a date-stamp placed on the license. Unless the company provides the examiners with written procedures to the contrary, the earliest date stamped on a document will be considered the initial date of receipt;

(D) The Missouri complaint records required to be maintained under section 375.936(3), RSMo shall include a complaint log or register in addition to the actual written complaints. The complaint log or register shall show clearly the total number of complaints for a period of not less than the immediately preceding three (3) years, the classification of each complaint by line of insurance, the nature of each complaint, and the disposition of each complaint. The complaint log or register shall also contain a reference to the location of the file to which each complaint corresponds. If the insurer maintains the file in a computer format, the reference in the complaint log or register for locating such documentation shall be an identifier such as the policy number or other code. Such codes shall be provided to the examiners at the time of an examination;

(E) The insurer shall retain declined underwriting files for a period of three (3) years from the date of declination. The term "declined underwriting file" shall mean all written or electronic records concerning a

policy for which an application for insurance coverage has been completed and submitted to the insurer or its insurance producer but the insurer has made a determination not to issue a policy or not to add additional coverage when requested. A declined underwriting file shall include an application, any documentation substantiating the decision to decline an issuance of a policy, any binder issued without the insurer issuing a policy, any documentation substantiating the decision not to add additional coverage when requested and, if required by law, any declination notification. Notes regarding requests for quotations which do not result in a completed application for coverage need not be maintained for purposes of this regulation; and

(F) A copy of the contract that the insurer entered into with any and all third party vendors or service providers for the performance of the third party vendors' or service providers' duties in the claims handling, claims payment, complaint handling, termination, rating, underwriting, or marketing processes on behalf of the insurer.

(4) Form of Record.

(A) Any record required to be maintained by an insurer, may be in the form of paper; photograph; computer; magnetic, mechanical or electronic medium; or any process which accurately forms a durable reproduction of the record, so long as the record is capable of duplication to a hard copy that is as legible as the original document. Documents that require the signature(s) of the insured and/or insurer's insurance producer, shall be maintained in any format as listed above provided evidence of the signature(s) is preserved in that format.

(B) The maintenance of records in a computer based format shall be archival in nature only, so as to preclude, to the extent reasonable, the alteration of the record after the initial transfer to a computer format. Upon request of an examiner all records shall be capable of duplication to a hard copy that is as legible as the original document. Such records shall be maintained according to written procedures developed and adhered to by the insurer. Said written procedures shall be made available to the department's market conduct examiners in accordance with section (6) below.

(C) Photographs, microfilms or other image-processing reproductions of records shall be equivalent to the originals and may be certified as the same in actions or proceedings before the department unless inconsistent with 20 CSR 800-1.100.

(5) Location of Files. All records required to be maintained under this rule shall be kept in a location which will allow the records to be produced for examination within the time period required under section (6) of this rule. When, under normal circumstances, someone other than the insurer maintains a required record or type of record, the other person's or entity's responsibility to maintain the records shall be set forth in a written agreement, a copy of which shall be maintained by the insurer and shall be available to the examiners for purposes of examination.

(6) Time Limits to Provide Records and to Respond to Examiners.

(A) An insurer shall provide any record requested by any examiner within ten (10) calendar days. When the requested record is not or cannot be produced by the insurer within ten (10) calendar days, this nonproduction shall be deemed a violation of this rule, unless the insurer can demonstrate to the satisfaction of the director that the requested record cannot reasonably be provided within ten (10) calendar days of the request.

(B) As a means to facilitate the examination and to aid in the examination in accordance with section 374.205.2(2), RSMo, an insurer shall provide a written response to any inquiry submitted by any examiner within ten (10) calendar days. When the requested information is not provided by the insurer within ten (10) calendar days, a violation shall be deemed to have occurred, unless the insurer can demonstrate to the satisfaction of the director that the requested response cannot reasonably be provided within ten (10) calendar days of the inquiry.

(7) Examination Work Papers. Records required to be provided during a market conduct examination shall be returned to the insurer following the examination, unless such records relate to an inquiry made by a department examiner. Records related to an inquiry shall become a part of the work papers of the examination. Regulation 20 CSR 10-2.400 shall govern the public access to the work papers of the examination.

AUTHORITY: sections 144.027, 287.350, 354.190, 354.465, 354.717, 374.045, 374.190, 374.202, 374.205, 374.210, 375.012, 375.013, 375.149, 375.150, 375.151, 375.158, 375.932, 375.938, 375.948, 375.1002, 375.1009, 375.1018, 379.343, 379.475 and 536.016, RSMo 2000 and 375.022, 375.158, RSMo Supp. 2001. This rule was previously filed as 4 CSR 190-11.050. Original rule filed Dec. 20, 1974,*

effective Dec. 30, 1974. Amended: Filed Sept. 5, 1975, effective Sept. 15, 1975. Amended: Filed April 4, 1991, effective Oct. 31, 1991. Amended: Filed Dec. 1, 1998, effective July 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003.

**Original authority: 144.027, RSMo 1983, amended 1986, 1990, 1998; 287.350, RSMo 1939; 354.190, RSMo 1983; 354.465, RSMo 1983; 354.717, RSMo 1987; 374.045, RSMo 1967, amended 1993, 1995; 374.190, RSMo 1939, amended 1949, 1967, 1992; 374.202, RSMo 1992; 374.205, RSMo 1992, amended 1997, 1999; 374.210, RSMo 1939, amended 1949; 375.013, RSMo 1993, amended 1995; 375.022, RSMo 1967, amended 1981, 1991, 1998, 2000, 2001; 375.149, RSMo 1990; 375.150, RSMo 1990; 375.151, RSMo 1990; 375.158, RSMo 1939, amended 1965, 1967, 1993; 375.932, RSMo 1959, amended 1978, 1991, 2001; 375.938, RSMo 1959, amended 1978, 1991; 375.948, RSMo 1959, amended 1978, 1991; 375.1002, RSMo 1991; 375.1009, RSMo 1991; 375.1018, RSMo 1991; 379.343, RSMo 1972; 379.475, RSMo 1947; and 381.231, RSMo 1987, amended 1993, 1995, repealed 2000.*