

PROJECT HISTORY - 2021

ANTIFRAUD PLAN GUIDELINE (#1690)

1. Description of the Project, Issues Addressed, etc.

In 2020, the Antifraud (D) Task Force discussed implementation of the revised *Antifraud Plan Guideline* (#1690). Currently, 23 states require their insurers to file an Antifraud Plan with their insurance commissioner. The purpose of an Antifraud Plan is to describe in detail how the company detects, addresses and prevents insurance fraud.

2. Name of Group Responsible for Drafting the Model and States Participating

The Antifraud Technology (D) Working Group of the Antifraud (D) Task Force.

Chair: Utah. Participating states: Arizona, Arkansas, California, Florida, Louisiana, New Mexico, Ohio, Texas and Virginia.

3. Project Authorized by What Charge and Date First Given to the Group

On Dec. 10, 2019, the Antifraud Technology (D) Working Group was given the charge to “[r]eview and provide recommendations for the development of an Antifraud Plan Repository to be used by insurers to centrally file their antifraud plan to all states/jurisdictions.” The revision of Guideline #1690 was determined to be the first step in completing this charge. The Working Group continues to discuss potential recommendations for an Antifraud Plan Repository.

4. A General Description of the Drafting Process (e.g., drafted by a subgroup, interested parties, the full group, etc). Include any parties outside the members that participated.

The Antifraud Technology (D) Working Group initially sent a request for comments on Nov. 25, 2019, to the Antifraud (D) Task Force, interested state insurance regulators, and interested parties. The Working Group chair and the Ohio Working Group member drafted the initial revisions to Guideline #1690 that was exposed for comment in March 2020.

The Working Group met again Sept.17, 2020, to discuss additional comments received and review proposed revisions. The Working Group exposed a second draft for comment following the September call.

The Working Group met Oct. 14, 2020, to review the final draft and Oct. 29, 2020, to adopt the revised Guideline #1690.

Working Group members, state insurance regulators, and interested parties provided comments, and they were invited to participate in all Working Group calls. Revised drafts were released for comment following each Working Group call. The drafts were circulated via email and posted to the Task Force web page on the NAIC home page.

Written comments were received by the following groups:

Interested State Insurance Regulators

Minnesota, Ohio and Utah.

Interested Parties

The Center for Economic Justice (CEJ), the Coalition Against Insurance Fraud (CAIF), the National Association of Mutual Insurance Companies (NAMIC), and the National Insurance Crime Bureau (NICB).

5. A General Description of the Due Process (e.g., exposure periods, public hearings, or any other means by which widespread input from industry, consumers and legislators was solicited)

The initial draft of Guideline #1690 was exposed in December 2019. Comments were received until Dec. 31, 2019. The Antifraud Technology (D) Working Group met in March 2020 to discuss the comments received.

A second draft was distributed following the call in March. Due to the COVID-19 pandemic, the activity of the Working Group was temporarily delayed, and the comment period was extended until September. The Working Group met in September and October to finalize and adopt the revisions to Guideline #1690.

In October 2020, the Antifraud (D) Task Force exposed the revised draft for comment. No comments were received on the revised draft. The Task Force met Nov. 16, 2020, to discuss the proposed revisions and adopt the revised Guideline #1690.

The Market Regulation and Consumer Affairs (D) Committee adopted the revised Guideline #1690 during the 2020 Fall National Meeting.

6. A Discussion of the Significant Issues (items of some controversy raised during the due process and the group's response)

The purpose of Guideline #1690 is to bring greater uniformity among the states in antifraud plan requirements and to be used as a template in creating the Antifraud Plan Repository. This Antifraud Plan Repository is intended to streamline the process used by industry to submit their Antifraud Plans to all appropriate insurance departments and streamline the process for state review.

Ohio suggested incorporating a comprehensive narrative at the beginning of Guideline #1690 to explain its purpose as a best practice because not all states mandate the reporting of Antifraud Plans. Antifraud Technology (D) Working Group members, state insurance regulators, and industry representatives unanimously agreed that the language suggested by Ohio was not necessary. The Working Group decided to reorganize the structure of the existing Guideline #1690 and keep the existing language.

The Working Group added and changed definitions within Guideline #1690. The Antifraud (D) Task Force decided to modify these changes by using certain definitions from existing NAIC model laws.

The first definition added was "insurance commissioner" or "commissioner." The Working Group incorporated the definition used in the *Insurance Data Security Model Law* (#668).

The next definition added was for "insurer." In the initial draft, the Working Group defined "insurer" as a business entity who is in the process of obtaining or has obtained a certificate of authority to enter into arrangements of contracts of insurance or reinsurance and who agrees to: 1) pay or indemnify another as to loss from certain contingencies called "risks," including through reinsurance; 2) pay or grant a specified amount or determinable benefit to another in connection with ascertainable risk contingencies; 3) pay an annuity to another; or 4) act as surety. Except for using the language "including annuities," the Task Force decided to use language found in the *Suitability in Annuity Transactions Model Regulation* (#275) definition for "insurer." This

language states that an “insurer is a company required to be licensed under the laws of this state to provide insurance products, including annuities.”

The last definition added to was for the “NAIC” stating, “the NAIC is the organization of insurance regulators from 50 states, the District of Columbia and all participating U.S. territories.”

The Task Force members, state insurance regulators, and interested parties unanimously agreed that Guideline #1690 should not be considered a regulation but rather a guideline to assist states that currently require the submission of an Antifraud Plan and encourage the remaining jurisdictions to adopt a requirement for insurers’ submission of an Antifraud Plan.

7. Any Other Important Information (e.g., amending an accreditation standard).

None.