



Illinois Department of Insurance

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Illinois Department of Insurance fines former Berkshire Hathaway companies 250-thousand dollars for selling unapproved workers' comp policies to small businesses

Chicago – The Illinois Department of Insurance (IDOI) fined Continental Indemnity Company and Applied Underwriters, Inc. for overcharging some Illinois small businesses for workers' compensation insurance. The Department conducted a market conduct examination in 2019 and found that the companies marketed and sold unapproved workers' compensation policies, packaged with side agreements, in violation of the law.

Continental Indemnity Company and Applied Underwriters Inc., both subsidiaries of Berkshire Hathaway at the time of the investigation, were selling a workers' comp product with an unlawful side agreement that changed the obligations of the employer under the policy. The companies sold Reinsurance Participation Agreements (RPAs) as part of its workers comp insurance to small businesses without approval from IDOI. The Department found that the companies' packaging of RPAs with workers' comp insurance mislead policyholders into assuming all of the risk, effectively insuring themselves, and resulted in policyholders paying more for the reinsurance part of the package than for the workers comp policy itself.

Furthermore, the RPAs lacked standard information about premium amounts, used complex and confusing calculations for costs, including deposits and premiums due, charged penalties for cancellations and required arbitration for policyholders to free themselves from the agreement.

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The exam also cited an instance of Continental Indemnity Company's failure to follow underwriting guidelines with a standard workers' comp policy which resulted in a premium overcharge of \$8,310.09.

"Small business owners who follow the rules and purchase workers' comp insurance to protect their employees should not be overcharged in a complex scheme that mislabels a side agreement as insurance" said IDOI Director Robert Muriel. "Continental Indemnity and Applied Underwriters sought to side-step regulatory oversight, and this fine serves as notice to companies that we're here to protect Illinois' small businesses and properly regulate insurance products sold in this state."

Continental Indemnity Company and Applied Underwriters, Inc. are no longer selling the RPAs in Illinois, and as part of the settlement the companies agreed to file any new insurance products and rates with IDOI. The companies also paid fines for selling similar products in other states, including California, New Jersey and New York.

The Market Conduct Exam for Continental Indemnity Company can be found here:

<https://insurance.illinois.gov/MarketConductExam/marketConductExamPC.html>

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