WEST VIRGINIA CODE: §33-46-8

§33-46-8. Premium collection and payment of claims.

(a) All insurance charges or premiums collected by an administrator on behalf of or for an insurer, and the return of premiums received from that insurer, shall be held by the administrator in a fiduciary capacity. The funds shall be immediately remitted to the person entitled to them or shall be deposited promptly in a fiduciary account established and maintained by the administrator in a federally or state-insured financial institution. The written agreement between the administrator and the insurer shall provide for the administrator to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business underwritten by the insurer.

(b) If charges or premiums deposited in a fiduciary account have been collected on behalf of or for one or more insurers, the administrator shall keep records clearly recording the deposits in and withdrawals from the account on behalf of each insurer. The administrator shall keep copies of all the records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to the deposits and withdrawals.

(c) The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. Withdrawals from the account shall be made as provided in the written agreement between the administrator and the insurer. The written agreement shall address, but not be limited to, the following:

(1) Remittance to an insurer entitled to remittance;

(2) Deposit in an account maintained in the name of the insurer;

(3) Transfer to and deposit in a claims-paying account, with claims to be paid as provided for in subsection (d) of this section;

(4) Payment to a group policyholder for remittance to the insurer entitled to the remittance;

(5) Payment to the administrator of its commissions, fees or charges; and

(6) Remittance of return premium to the person or persons entitled to the return premium.

(d) All claims paid by the administrator from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer.

WV Legislature