Department of Motor Vehicles

Allocation, Billing, and Collection of Expenses of Administering the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act

Report 2019-S-5 | December 2019

OFFICE OF THE NEW YORK STATE COMPTROLLER

Thomas P. DiNapoli, State Comptroller

Division of State Government Accountability

Audit Highlights

Objective

To determine if the Department of Motor Vehicles (Department) is appropriately allocating, billing, and collecting the expenses of administering the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act (collectively, "Acts"). The audit covered the period April 1, 2014 through August 20, 2019.

About the Program

The Department administers the Acts pursuant to Articles VI and VII of the Vehicle and Traffic Law. These Acts help ensure that the operators of motor vehicles registered in New York possess adequate insurance coverage, or are financially secure, to compensate persons they might injure or whose property they might damage as a result of an accident. Department activities relating to the Acts fall into three program areas: the Dedicated Bridge and Highway Safety Program, the Compulsory Insurance Services Program, and the Accident Prevention Course Program. Under the Acts, the Department is required to annually estimate the expenses of administering the related programs and assess these expenses on insurance carriers in proportion to their reported premiums. Certain fees paid by self-insurers and for bonded vehicles reduce the assessable expenses.

Key Findings

- In general, the Department is appropriately allocating, billing, and collecting nearly all the expenses related to administering the Acts. However, we identified areas for improvement. For example, the Department could better ensure the accuracy of its allocation and billing practices by analyzing reported premium data and, where indicated, taking appropriate follow-up actions.
- The Department did not bill $126,493 in assessable expenses due to its practice of not adjusting its billing to account for amended premiums reported by insurers. It also lacks a method for carrying prior period balances forward to subsequent periods and, as of August 2019, had not collected $25,265 that it had billed to insurers.

Key Recommendations

- Enhance the accuracy and reliability of reported premium data by analyzing premium data and taking follow-up action where appropriate.
- Take steps to bill insurance carriers for, and collect, all assessable expenses under the Acts.

Office of the New York State Comptroller
Division of State Government Accountability

December 13, 2019

Mark J.F. Schroeder
Commissioner
Department of Motor Vehicles
6 Empire State Plaza
Albany, NY 12228

Dear Mr. Schroeder:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for the tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Allocation, Billing, and Collection of Expenses of Administering the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Division of State Government Accountability

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Glossary of Terms

Term	Description	Identifier
Acts	Motor Vehicle Financial Security Act and Motor Vehicle Safety Responsibility Act	*Law*
Department	Department of Motor Vehicles	*Auditee*
DFS	Department of Financial Services	*Agency*
FM-11	Statement of Premiums for Assessment	*Key Term*
SFY	State Fiscal Year	*Key Term*

Background

The Department of Motor Vehicles (Department) administers the Motor Vehicle Financial Security Act and the Motor Vehicle Safety Responsibility Act (collectively, “Acts”) pursuant to Articles VI and VII of the Vehicle and Traffic Law. These Acts help ensure that the operators of motor vehicles registered in the State possess adequate insurance coverage, or are financially secure, to compensate persons they might injure or whose property they might damage as a result of an accident. Department activities relating to the Acts fall into three program areas. The Dedicated Bridge and Highway Safety Program is responsible for enhancing transportation safety through the licensing, education, and oversight of vehicle operators and businesses involved in selling, repairing, and inspecting motor vehicles. The Compulsory Insurance Services Program ensures that vehicle owners comply with mandated liability insurance coverage and maintains a vehicle information database to confirm registered vehicles have mandated insurance coverage. The Accident Prevention Course Program grants point and insurance reduction benefits to those who take a defensive driving course.

According to the Acts, each insurance carrier that issues certain policies or contracts is required to pay a portion of the expenses the Department incurs in administering the related programs. The Department annually estimates the cost to implement these programs and assesses this amount on insurance carriers in proportion to their reported premiums for policies or contracts related to automobile and bodily injury. Assessable expenses include costs for personal service, maintenance and operations, retirement contributions, workers’ compensation premiums, real estate rent, and all other direct and indirect costs. Certain fees paid by self-insurers and for bonded vehicles reduce the assessable expenses.

The Department generally bills the insurance carriers quarterly for estimated expenses and then determines the final assessable expenses at year-end. (Carriers that are expected to owe less than $100 for the year are not required to make quarterly payments.) The Department requires that each insurance carrier submit an annual Statement of Premiums for Assessment (FM-11) as soon as possible after January 1 so that it can calculate the expense allocation rate to use in allocating the assessable expenses from the prior State Fiscal Year (SFY) among the carriers (the Department allows insurers to amend their FM-11s to report corrected premium amounts). To calculate the annual expense allocation rate, the Department divides the total expenses it incurred in administering programs under the Acts by the gross premiums reported by insurance carriers on the FM-11s, as shown in the following formula:

Expense Allocation Rate = Assessable Expenses/Gross Premiums

For example, if the Department's assessable expenses of administering the Acts for a given year totaled $20 million, and the premiums reported by insurance carriers for the same period totaled $7 billion, then the expense allocation rate would be $20 million/$7 billion, or .0029. The related allocation for an insurer that reports $8.5 million in premiums for that period would be $8.5 million × .0029, or $24,650.

Under the Acts, if an insurance carrier's final assessment amount is less than the amount of its estimated payments, the Department issues a refund of the overpayment; if it is more, the carrier has 30 days to remit payment for the difference to the Department. About 550 carriers are subject annually to the assessment.

Audit Findings and Recommendations

In general, the Department is appropriately allocating, billing, and collecting nearly all the expenses related to administering the Acts. However, the Department could do more to ensure that reported premium information is accurate and that it bills and collects additional assessable expenses owed from insurers. For example, the Department could better ensure the accuracy of its allocation and billing practices by analyzing reported premium data and, where indicated, taking appropriate follow-up actions. In addition, the Department could adjust its billing to account for amended premiums reported by insurers. By not doing so, the Department did not bill for $126,493 in assessable expenses. The Department could also implement a method to carry prior period balances forward to subsequent periods. Because the Department doesn't, it did not collect $25,265 that it had billed to insurers prior to August 2019.

Allocation and Billing

We found that the Department could benefit from analyzing available premium data to identify potential areas for follow up and that it did not bill all assessable expenses for the three SFYs ended March 31, 2017.

Analyzing Premium Data

Department personnel annually compare the premium information that insurance carriers report on the FM-11s with the premium information they receive from the Department of Financial Services (DFS) as a way to test the accuracy of the premiums reported. If the two data sets agree, the Department accepts the information as is; if they don't agree, the Department requests clarification from the respective carrier(s), which may result in a carrier submitting an amended FM-11. However, if the carrier does not respond or does not adequately explain the difference in reported amounts, the Department uses the higher premium in calculating the expense allocation rate. We reviewed the Department's comparison of the two data sets for the four SFYs ended March 31, 2018 and identified 35 instances in which a carrier did not submit an FM-11 and 14 instances in which a carrier submitted an FM-11 that reflected $0 in premiums collected for the year. In total, these 49 carriers reported $217.3 million in premiums collected to DFS and either $0 in premiums collected or no FM-11 (and therefore no premium information) to the Department. We verified that the Department followed up on the 49 discrepancies.

Although the Department does the above comparisons for a given year, it does not analyze its available year-to-year premium data to help identify trends and significant variances in reported premiums for follow up. Using the same information available to the Department, we identified noteworthy variances, including three carriers that reported large differences among reported premiums for the three SFYs ended March 31, 2016. In one example, a carrier reported more than $62 million in premiums collected for 2014, followed by no collections for 2015 and about $35 million for 2016. We recommend the Department analyze its available data to identify relevant variances and patterns and take follow-up action where appropriate. In response to our observations, Department officials indicated they will analyze this data beginning with the assessment for the SFY ended March 31, 2019.

Treatment of Amended Premiums

The Department applies the expense allocation rate to the premiums reported by each insurance carrier to calculate each carrier's assessment amount for a given year. If a carrier reports higher or lower premiums on an amended FM-11 after the rate has already been established, the Department rebills the affected carrier but does not change the rate and rebill the remaining carriers. Depending on the net change in reported premiums that results from amended FM-11s, this may result in the Department not billing all assessable expenses or billing an amount greater than the total assessable expenses. For the three SFYs ended March 31, 2017 (as of August 2019, the assessable expenses for the SFY ended March 31, 2018 had not yet been billed to carriers), we calculated the assessable expenses that the Department did not bill to carriers as $126,493, as shown in the following table. In response to our finding, Department officials stated that this practice helps them avoid having to rebill several hundred insurance carriers. They added, however, that they expect these occurrences to be reduced as they move to an annual billing process.

Net Assessable Expenses Compared to Billed Expenses

State Fiscal Year	Initial Net Assessable Billings	Revised Assessable Billings	Difference
2016-17	$20,490,386	$20,476,137	$(14,249)
2015-16	20,531,362	20,527,258	(4,104)
2014-15	19,593,751	19,485,611	(108,140)
Totals	**$60,615,499**	**$60,489,006**	**$(126,493)***

*After applying other Department adjustments totaling $14,522, the net amount not billed to insurance carriers totaled $111,971 for the three SFYs ended March 31, 2017.

Collection

We found the Department appropriately collected and deposited payments for assessable expenses for nearly all the amounts we tested, which included both estimated and final assessments. Of the 160 estimated payments we tested for the four SFYs ended March 31, 2018, which totaled $43.3 million, Department documentation supported that it appropriately collected and deposited 151 payments totaling $41.4 million, or about 96 percent of the total. The Department could not locate documentation for the remaining nine payments, which totaled $1.9 million. Of the ten payments we tested from the November 2018 final assessment for the three SFYs ended March 31, 2017, which totaled $4.6 million, Department documentation supported that all ten were appropriately collected and deposited.

The Department does not carry balances owed by insurance carriers from prior periods forward to the subsequent year(s), and has not collected all assessed amounts due. We determined that, as of August 20, 2019, the net uncollected amounts due the Department totaled $25,265, including $25,236 for the final assessment for the three SFYs ended March 31, 2014 and $29 for the three SFYs ended March 31, 2017 (the Department has not yet billed carriers for the final assessment for the SFY ended March 31, 2018). In one case, this practice resulted in the Department refunding a carrier for a final assessment despite the carrier owing nearly the same amount for prior years' assessments whose balances were not carried forward. Department officials told us they're in the process of sending notices to carriers that owe balances from prior periods.

Recommendations

1. Enhance the accuracy and reliability of reported premium data by analyzing premium data and taking follow-up action where appropriate.
2. Take steps to bill insurance carriers for, and collect, all assessable expenses under the Acts.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine if the Department is appropriately allocating, billing, and collecting the expenses of administering the Acts. Our audit covered the period April 1, 2014 through August 20, 2019.

To achieve our audit objective and assess relevant internal controls, we reviewed laws, regulations, and Department policies related to administering the Acts. We also met with Department officials to gain an understanding of their allocation, billing, and collection practices related to expenses of administering the Acts.

To determine whether the Department's allocation rates and amounts it billed to insurance carriers were accurate, we reviewed the spreadsheets the Department used to calculate these amounts. The Department annually compares the premium data it receives on the FM-11s with the premium information it receives from DFS, and we reviewed this comparison for each of the four years ended March 31, 2018 and inquired about differences the comparisons identified and any actions the Department took in response. We also analyzed premium data maintained by the Department to identify relevant trends or variances.

To determine the reliability of the Department's collection data, we judgmentally selected a sample of insurance carriers' estimated and final assessment payments. We selected the ten highest-dollar estimated payments in each calendar quarter for each of the four SFYs ended March 31, 2018. This resulted in a sample of 160 of 5,530 estimated payments, representing $43.3 million of the $82.9 million in payments collected by the Department. Of the 153 final assessment payments, we selected the 10 highest-dollar payments from the final assessment completed in November 2018 for the three SFYs ended March 31, 2017. The sample represented $4.6 million of the $6.6 million in payments collected by the Department. We found the data to be reliable for purposes of our concluding on reporting assessable expenses collected. Our sample results were not designed to be projected – and we did not project them – to the entire population of reported collections. The results of our sampling and other work supports the findings, conclusions, and recommendations in this report.

Statutory Requirements

Authority

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal written response. We considered their response in preparing this final report and have included it in its entirety at the end of it. Department officials were responsive to our recommendations, and indicated the actions they will take to address them.

Within 180 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Motor Vehicles shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Agency Comments

NEW YORK STATE | Department of Motor Vehicles

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November 29, 2019

Stephen Gross
Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street- 11th Floor
Albany, NY 12236

Re: 2019-S-5 Draft Audit Report

Dear Mr. Gross:

This letter is in reference to the New York State Comptroller's draft audit findings which address the Allocation, Billing, and Collection of Expenses of Administering the Motor Vehicle Financial Security Act and Motor Vehicle Safety Responsibility Act.

Please note the following concerning the audit recommendations:

1. Enhance the accuracy and reliability of reported premium data by analyzing premium data and taking follow-up action where appropriate.

   Response: After a review of DMV procedures, it was determined that DMV could take steps to assist DFS in the review process of premium data provided by carriers. For the FY 2018-19 assessment forward, DMV will compare the annual insurance carrier files to identify any unusual reporting patterns from previous submissions.

2. Take steps to bill insurance carriers for, and collect, all assessable expenses under the Acts.

   Response: The Department has amended procedures in relation to the quarterly billing process to list any outstanding balance on subsequent bills issued. At the end of the year, a final outstanding balance due statement will be sent to any insurance company who is still carrying an unpaid balance.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of New York. If you have any questions concerning this matter, please contact me at (518) 473-9324.

Sincerely,

Rick Gigliotti
Director of Financial Administration

www.dmv.ny.gov

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