

**Market Conduct Examination**  
**ARCH INSURANCE COMPANY**  
**300 First Stamford Place**  
**Stamford, CT 06902**

**Examination Period:**  
**1/1/06 - 12/31/06**

**STATE OF MAINE**

***BUREAU OF INSURANCE***

***IT IS HEREBY CERTIFIED THAT THE ANNEXED REPORT OF EXAMINATION FOR***

**Arch Insurance Company**

has been compared with the original on file in this bureau and that it is a correct transcript thereof and of the whole of said original.

***IN WITNESS WHEREOF,***

I have hereunto set my hand and affixed the official seal of this Office at the City of Augusta this

25 day of February, 2008

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Eric A. Cioppa  
Acting Superintendent  
Bureau of Insurance

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I hereby certify that the attached report of a targeted market conduct examination dated January 8, 2008 shows the condition and affairs of Arch Insurance Company, as described in the scope of examination section of the report and has been filed in the Bureau of Insurance as a public document.

This report has been reviewed.

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Kendra Godbout  
Director Financial Analysis

This 25 day of February, 2008

January 8, 2008

The Honorable Eric A. Cioppa  
Acting Superintendent of Insurance  
State of Maine  
Bureau of Insurance  
State House Station #34  
Augusta, ME 04333

Dear Sir:

Pursuant to the certification of findings in accordance with 39-A M.R.S.A § 359(2) from the State of Maine Workers' Compensation Board (WCB) and under the authority of 24-A M.R.S.A. § 221 and in conformity with your instructions, a targeted market conduct examination has been made of:

**Arch Insurance Company  
(NAIC Company Code: 11150)**

hereinafter referred to as the "Company". The examination covered indemnity claims that were open between January 1, 2006 to December 31, 2006, for employees residing in the State of Maine or claimants involved in losses in the State of Maine. The onsite phase of the examination was conducted at the offices of the TPA responsible for servicing Maine businesses:

**Cambridge Integrated Services, Inc.  
1420 Mineral Springs Avenue  
North Providence, R.I. 02904**

The following report is respectfully submitted.

**HISTORY OF ENGAGEMENT**

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established an audit, enforcement and monitoring program. The functions of the audit and enforcement program include but are not limited to auditing timeliness of payments and the claims-handling practices of insurers including the requirements of 39-A M.R.S.A. § 359. The WCB audited claims for the period of January 1, 2004 thru December 31, 2004 and reported its results in a Compliance Audit Report dated August 16, 2005. Findings outlined in the audit report included non-filing of forms, late and inaccurate filing of forms, untimely and inaccurate indemnity payments. The WCB determined that the pervasiveness and magnitude of the findings constituted a pattern of questionable claims-handling techniques. In September 2005, the WCB and the Company entered into a Consent

Decree establishing the patterns of questionable claims-handling techniques and assessing fines therefor.

In accordance with 39-A M.R.S.A. § 359(2), the WCB certified the audit findings to the Superintendent of Insurance. Section 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

### **SCOPE OF EXAMINATION**

In order to meet the statutory responsibilities of the Superintendent of Insurance, a determination as to whether or not the "pattern of questionable claims-handling techniques" found by the WCB still exists is in order. The examination was conducted in accordance with Title 24-A M.R.S.A. and the National Association of Insurance Commissioners (NAIC) Market Conduct Examiners' Handbook and Guidelines (the "Handbook") for purposes of sample determination and overall guidance. Specific procedures from the Handbook that apply to verifying the Company's compliance with certain form filing and claim processing procedures, as outlined in Title 39-A M.R.S.A. and the WCB Rules and Regulations, were used as part of this examination. Specifically, the scope of the examination consisted of reviewing all indemnity claims that were open during the examination period of January 1, 2006 thru December 31, 2006 and had dates of injury on or after January 1, 1993, to determine if all Workers' Compensation Board forms were filed timely and accurately and if indemnity claims were paid in a timely and accurate manner.

### **METHODOLOGY**

The Company writes only a small book of business in Maine. All workers' compensation claims are processed by TPA's, Cambridge Integrated Services, Inc. being the primary. There were a total of 5 claims that met the review criteria. There were no new indemnity claims during the period of examination. All claims reviewed had 2004 dates of injury and all were processed by Cambridge Integrated Services, Inc.

### **STANDARDS**

The following standards were applied and tested through review of the selected claims. All references are from either Title 39-A M.R.S.A., WCB Rules and Regulations or WCB Protocols of the Monitoring, Audit & Enforcement Division. The specific Handbook standards and tests developed by the examiners are outlined in this section.

**(1) Standard G-4**

**The Company responds to claim correspondence in a timely manner.**

**Test Step 1:** Determine if correspondence (e.g. WCB forms) related to claims is responded to (filed) as required by applicable statutes, rules, regulations or protocols.

|  |   |
|--|---|
| WCB-1, First Report of Injury  | 39-A M.R.S.A. § 303<br>Rules & Regs, Ch 8 §<br>13 |
| WCB-2, Wage Statement  | 39-A M.R.S.A. § 303                               |
| WCB-2A, Schedule of Dependent(s) And<br>Filing Status                            | 39-A M.R.S.A. § 303                               |
| WCB-3, Memorandum of Payment   | Rules & Regs, Ch 1 §<br>1.1                       |
| WCB-4, Discontinuance or Modification of<br>Compensation                         | Rules & Regs, Ch 8 §<br>11                        |
| WCB-4A, Consent Between Employer and<br>Employee                                 | Rules & Regs, Ch 8 §<br>18                        |
| WCB-8, (21 Day) Certificate of<br>Discontinuance or<br>Reduction of Compensation | 39-A M.R.S.A. § 205<br>(9)                        |
| WCB-9, Notice of Controversy (NOC)   | Rules & Regs, Ch 1 §<br>1.1                       |
| WCB-11, Statement of Compensation Paid   | Rules & Regs, Ch 8 § 1                            |

Standard G-4 establishes a general framework for the timely correspondence of claim documentation. Failure to file any WCB forms within established time frames is a violation of 39-A M.R.S.A. § 360(1)(A) or (B).

**(2) Standard G-3**

**Claims are resolved in a timely manner.**

**Test Step 2:** Determine if initial and subsequent claim payments are made in a timely manner.

Standard G-3 establishes a general framework for the timely settlement of claims in accordance with 39-A M.R.S.A. § 205(2).

**(3) Standard G-5**

**Claim files are adequately documented.**

**Test Step 3:** Determine if quality of the claim documentation (e.g. wage statements, schedule of dependents and filing status) is sufficient to support or justify the ultimate claim determination (**accuracy of payment**) and meets state requirements.

Standard G-5 establishes a general framework for the adequacy of claim file documentation to correctly calculate claim payments in accordance with 39-A M.R.S.A. § 212, § 213 and § 215.

### APPLICATION OF TESTS

This section outlines the application of the tests to the claims selected. The results of testing those open indemnity claims during the examination period are delineated in the following tables:

**TEST 1: Verify the timely filing of the following forms with the Workers' Compensation Board in accordance with the applicable Statute, Rules & Regulations, or Protocol:**

|      | Form Type | Filed Timely | Not Filed Timely | Not Filed | N/A | % In Compliance | 2004 Audit (A) |
|------|-----------|--------------|------------------|-----------|-----|-----------------|----------------|
| Test | WCB-1     | 0            | 0                | 0         | 5   | NA              | 22%            |
| Test | WCB-2     | 0            | 0                | 0         | 5   | NA              | 25%            |
| Test | WCB-2A    | 0            | 0                | 0         | 5   | NA              | 0%             |
| Test | WCB-3     | 0            | 0                | 0         | 5   | 0               | 12.5%          |
| Test | WCB-4     | 0            | 0                | 0         | 5   | NA              | 57%            |
| Test | WCB-8     | 0            | 0                | 0         | 5   | NA              | 0%             |
| Test | WCB-9     | 0            | 0                | 0         | 5   | NA              | 0%             |
| Test | WCB-11    | 2            | 0                | 0         | 3   | 100%            | 25%            |

(A) - For comparative purposes, these compliant percentages are taken from the WCB Compliance Audit Report conducted on January 1, 2004 thru December 31, 2004 data. It should be noted that the total number of lost time claims reviewed by the Board in their audit was nine.

**TEST 2: Verify that initial and subsequent indemnity payments were made in accordance with 39-A M.R.S.A. § 205 (2).**

|                     | Paid Timely | Not Paid Timely | N/A | % In Compliance | 2004 Audit |
|---------------------|-------------|-----------------|-----|-----------------|------------|
| Initial Payment     | 0           | 0               | 5   | NA              | 50 %       |
| Subsequent Payments | 2           | 0               | 3   | 100%            | 82 %       |

The data in the table representing Test 2 refer to claim files rather than individual subsequent payments.

**TEST 3: Verify that the average weekly wages are calculated accurately and the subsequent indemnity payments are calculated accurately for both total and partial incapacity.**

|                                  | <b>Calculated Correctly</b> | <b>Calculated Incorrectly</b> | <b>NA</b> | <b>% of Compliance</b> | <b>2004 Audit</b> |
|----------------------------------|-----------------------------|-------------------------------|-----------|------------------------|-------------------|
| <b>Average Weekly Wage (AWW)</b> | 1                           | 0                             | 4         | 100%                   | 87.5%             |

|   | <b>Paid Accurately</b> | <b>Not Paid Accurately</b> | <b>N/A</b> | <b>% In Compliance</b> | <b>2003 Audit</b> |
|---|------------------------|----------------------------|------------|------------------------|-------------------|
| <b>Partial &amp; Total Indemnity Payments</b> | 1                      | 0                          | 4          | 100%                   | 50%               |

Numbers in this table represent number of claims rather than each specific calculation or payments.

In reviewing the information contained in this report, it is important to keep in mind the WCB's benchmarks for routine monitoring of claims. The benchmark for timely initial indemnity payments is 80% compliance and for timely filing of memorandum of payments (WCB-3) the benchmark is 75% compliance.

### **CONCLUSION**

This report does not contain a section on Comments and Recommendations for the Company primarily because of the small population of claims available for review. We note that the Company used a third-party administrator, Cambridge Integrated Services, Inc. (CISI), which the Bureau also examined at the same time. The Company is responsible for its TPA's performance. We recommend that the Company take steps to monitor the TPA's compliance with the WCA.

### **ACKNOWLEDGMENT**

The courtesy and cooperation extended by the officers and employees of the Company during the course of the Examination is hereby acknowledged. The Examination was conducted and is respectfully submitted by the undersigned.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Van E. Sullivan, being duly sworn according to law, deposes and says that in accordance with the authority vested in he by Eric A. Cioppa, Acting Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made an examination on the condition and affairs of the

**Arch Insurance Company**

As described in the scope of examination section of the report, subscribed to by him, is true to the best of his knowledge and belief.

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Van E. Sullivan  
Market Conduct Division Supervisor

Subscribed and sworn to before me  
This 25 day of February, 2008

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Patricia A. Galouch, Notary Public

My commission expires: March 2, 2014