

REPORT OF MARKET REGULATION EXAMINATION



Continental Casualty Company

NAIC Code 20443

333 South Wabash Ave
Chicago, IL 60604

NAIC Examination Tracking System ME114-M4

**Examination Period:
January 1, 2009 through December 31, 2010**

Pursuant to Title 24-A M.R.S. § § 211 and 221, I have caused a Targeted Market Conduct Examination to be conducted of Continental Casualty Company. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

Honorable Eric A. Cioppa
Superintendent of Insurance
Maine Bureau of Insurance

Date_____

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August 2, 2012

The Honorable Eric A. Cioppa
Superintendent of Insurance
Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Superintendent Cioppa:

Pursuant to Title 24-A M.R.S.A. §§ 211 and 221 and in accordance with your instructions, a targeted market conduct examination (“Examination”) has been made of:

Continental Casualty Company

The Examination was a review of Continental Casualty Company’s (“Company”) Maine Long-term Care product line for their claims and complaint handling. The Examination covered the time period (“Period”) from January 1, 2009, through December 31, 2010 (“Review Period”). The staff at the Maine Bureau of Insurance (“Bureau”) conducted the on-site phase of the Examination, from June 6, 2011, through June 10, 2011, at the Company’s offices located at:

333 South Wabash Ave
Chicago, IL 60604

A preliminary review of information provided by the Company, transactional testing, and follow-up communications were also conducted at the Bureau’s offices. The Examination is as of December 31, 2010.

The following report is respectfully submitted.

EXECUTIVE SUMMARY

The Bureau conducted a Targeted Market Conduct Examination of the Company, examining the following functional areas: Claims and Complaint Handling. The focus was on the Company's Long-term Care line of business to determine compliance with Maine statutes, the National Association of Insurance Commissioners' ("NAIC") Market Regulation Handbook Standards ("MRH"), and the Company's procedures.

The Examination results obtained through transactional testing¹ of randomly selected claims showed that the Company is not in substantial compliance with all tested criteria. As explained more fully below, testing identified a number of claims wherein payments were made late, and as a result, interest was due and payable. In a number of these claims interest due was not paid. The examiners identified three (3) claims wherein the Company incorrectly applied their Nationwide Home Health Care Rider (form number 15205) which has a 5 day elimination period rather than the approved Maine specific form which has a 3 day elimination period. The result of this error was an underpayment.

The examiners reviewed the findings with the Company throughout the Examination process. As a result of this dialogue, the Company proactively undertook an internal audit of their processes and identified and corrected a manual process that contributed to this non-compliant behavior. Further, the identified Maine policy holders not selected as part of the exam, but who had the improper Nationwide Home Health Care Rider have now been paid amounts due including interest.

The Examination revealed the following non-compliant findings²:

- The Company's response to the Bureau's request for disclosure of regulatory actions was not consistent with data developed by the Bureau.

For the sample of claims examined:

¹ Transactional testing is the review of actual transactions being addressed in the Examination.

² The MRH strongly encourages states to use benchmark error rates of 7 percent for claim practices and 10 percent for other trade practices.

- 9.4% were not denied within 30 days
- 7.7% were not timely investigated

For the Examination, “claim” means a request for benefits for services provided to the insured.

COMPANY HISTORY

The Company was incorporated under the laws of Illinois in 1948 under the temporary title of Concasco Casualty Insurance Company to act as the vehicle for the transfer of the corporate domicile of the Continental Casualty Company from Indiana to Illinois. The predecessor company was incorporated under the laws of Indiana and began business under the title Continental Assurance Company of North America in 1897. The present title was adopted November 1, 1900³. The Company’s offices are located in Chicago, Illinois, and it is a subsidiary of CNA Financial, a holding company, whose ultimate parent is Loews Corporation. The Company is licensed to sell in all 50 states and the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The Company was licensed in Maine in 1996 and is authorized to write the following lines of business: health; fire; allied lines; homeowners & commercial multiple peril; ocean & inland marine; financial guaranty; medical malpractice; earthquake; workers’ compensation; other liability; products & auto liability; auto physical damage; aircraft (all perils); surety; glass; burglary & theft; boiler & machinery; and credit. The Company discontinued the sale of Individual Long Term Care Insurance in 2003; however, they still have an active Group Long Term Care business⁴.

For 2010, the Company reported written premiums for its Maine long term care line of business in the amount of \$3,324,182, which represents a 5.46% market share in Maine⁵.

³ A.M. Best Company, Inc.: Company Credit Report

⁴ 2003 Annual Statement of Continental Casualty Company, combined Management’s Discussion and Analysis

⁵ NAIC, Internet-State Interface Technology Enhancement

SCOPE OF EXAMINATION

This Examination is a Targeted Market Conduct Examination. The object of the Examination was to review claims practices and complaint handling for the Long Term Care product line. Transactional testing was used to detect compliance with applicable claim handling statutes. This report is by test, rather than by exception. That is, each test applied is stated and the results are reported.

The Examination was conducted in accordance with Title 24-A M.R.S.A. § 221 and the MRH for purposes of sample determination and overall guidance. Some unacceptable or non-compliant practices may not have been discovered in the course of the Examination. Failure to identify or criticize specific practices does not constitute acceptance of such practices by the Bureau.

METHODOLOGY

The Audit Command Language (“ACL”) audit software was utilized for this Examination in order to obtain the random claims sample. The ACL software was applied to electronic data files provided by the Company, which contained individual long-term care claims for 143 Maine policyholders. These policy holders evidenced 10,910 claims that were opened and paid or denied during the Review Period. For this examination, each bill submitted to the Company was considered a separate claim (i.e. if a policyholder was receiving daily services which were billed separately it would be possible for the policyholder to have 30 claims in a one month period).

The sample parameters specified resulted in a 95% confidence level and a tolerable error ratio of not more than 5%. Examiners tested 100% of the claims related to the sampled 60 policyholders that were both initiated and either paid or denied within the Review Period. The sample of 60 policyholders included 1,748 claims. Test steps measured compliance with standards set forth in the MRH and Maine insurance law.

FINDINGS

A. OPERATIONS AND MANAGEMENT

Standard: All data required to be reported is complete and accurate.

*NAIC Market Regulation Handbook - Chapter XVI, General
Examination Standards*

Examiners requested a list of pending or concluded regulatory actions of any nature against the Company for January 1, 2009, through March 31, 2010. The Company's initial response was "None" whereas there were a number of regulatory actions that should have been acknowledged. The Examiners brought this apparent discrepancy to the attention of the Company. The Company amended their response to include the regulatory actions.

B. COMPLAINT HANDLING STANDARDS

Examiners reviewed the Company's Complaint Register for compliance with standards set forth in the MRH and the Company's internal complaint handling procedures.

Standard: All complaints are recorded in the required format on the regulated entity's complaint register.

*NAIC Market Regulation Handbook - Chapter XVI, Section B,
Standard 1*

For the Review Period, the Company recorded and responded to 4 complaints. The Examiners found that the Company's records were in agreement with the records maintained by the Bureau.

Standard: The time frame within which the regulated entity responds to complaints is in accordance with applicable statutes, rules and regulations.

*NAIC Market Regulation Handbook - Chapter XVI, Section B,
Standard 4*

24-A M.R.S.A. § 220

24-A M.R.S.A. § 223

For the Review Period, four complaints had been previously reported by consumers to the Bureau. Title 24-A M.R.S.A. § 220 requires that the Company respond to the Bureau within 14 days of receipt of an inquiry relating to the resolution of consumer complaints. For all four of the complaints, the Company responded to the Bureau within the requisite time period.

C. CLAIM STANDARDS

Examiners reviewed 1,748 claims for compliance with standards set forth in the MRH and Maine insurance law. Examiners' comments for each of the tested claims were communicated to the Company via electronic mail. For each of the claims that were found to be non-compliant, the Company responded to the Examiners' comments with either additional information for the Examiners' consideration or an acknowledgement of the non-compliance.

Standard: Claims are investigated and resolved in a timely manner.

*NAIC Market Regulation Handbook - Chapter XVI, Section G,
Standards 2 and 3
24-A M.R.S.A. § 2164-D*

Examiners tested against Maine's Unfair Claims Practices statute and applied a 30 day reasonableness standard. Examiners found that the Company did not pay or deny claims within 30 days of receipt of all requisite information for 135 of the claims examined. The error rate was 7.7%.

Standard: The regulated entity responds to claims correspondence in a timely manner.

*NAIC Market Regulation Handbook - Chapter XVI, Section G,
Standard 4
24-A M.R.S.A. § 2164-D*

Examiners tested against Maine's Unfair Claims Practices statute and applied a 30 day reasonableness standard. Examiners found that the Company did not respond to a request within 30 days for 31 of the claims examined. The error rate was 1.7%.

Standard: Claim files are adequately documented.

*NAIC Market Regulation Handbook - Chapter XVI, Section G,
Standard 5
24-A M.R.S.A. § 2164-D*

Examiners tested against Maine's Unfair Claims Practices statute and found that 15 claims lacked documentation sufficient to allow the Examiners to understand the reason for the Company's action. The error rate was 0.85%.

Standard: Denied and closed without payment claims are handled in accordance with policy provisions and state law.

*NAIC Market Regulation Handbook - Chapter XVI, Section G,
Standard 9
24-A M.R.S.A. § 2164-D*

Examiners tested against Maine's Unfair Claims Practices statute and found that of the 520 denied claims examined, 49 were not denied within 30 days. The error rate was 9.4%.

ADDITIONAL STANDARDS FOR CONDUCTING A LONG TERM CARE EXAMINATION

Standard: Claim files are handled in accordance with policy provisions and applicable statutes, rules and regulations.

*NAIC Market Regulation Handbook- Chapter XXII
24-A M.R.S.A. § 2164-D*

Examiners tested against Maine's Unfair Claims Practices statute and found that of the 1,228 paid claims 86 were not paid within 30 days. The error rate was 7.0%. Of the 86 claims not paid within 30 days, 11 were not paid interest due. The error rate was 12.8%.

ACKNOWLEDGMENT

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

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Allan C. Armstrong, CWCLA, MCM, Examiner in Charge, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Eric A. Cioppa, 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

Continental Casualty Company

as of December 31, 2010, and that the foregoing report of Examination, subscribed to by him, is true to the best of his knowledge and belief.

The following examiners from the Bureau assisted:

Paige Turney, MCM
Lindsay Laxon, ESQ

Allan C. Armstrong, CWCLA, MCM
Manager, Market Conduct Division

Subscribed and sworn to before me

This 2nd day of August, 2012

Brenda Cadwallader, Notary Public

My commission expires: