

# Report of Market Regulation Examination



## ESIS Incorporated

436 Walnut Street  
Philadelphia, PA 19106-3703

FEIN: 95 2210809  
License Number TAF34553

**Limited Scope Examination Period:  
January 1, 2006 through December 31, 2009**

Pursuant to Title 24-A M.R.S.A. § 221, a Targeted Market Conduct Examination was conducted of ESIS Incorporated. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

Eric A. Cioppa  
Superintendent of Insurance  
Maine Bureau of Insurance

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September 12, 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 the certification of findings in accordance with Title 39-A M.R.S.A. § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of Title 24-A M.R.S.A. § 221 and in conformity with your instructions, a limited scope targeted market conduct examination has been made of:

**ESIS INC.**

License Number TAF34553

hereinafter referred to as the "Company". The examination covered claims with dates of injury between January 1, 2006 and December 31, 2008, for employees residing in the State of Maine or claimants involved in losses in the State of Maine.

The following report is respectfully submitted.

**SUMMARY**

The pattern of questionable claims handling techniques relating to failure to pay or pay timely benefits awarded by mediation agreements, board decrees, consent decrees or lump sum settlements has not come to a halt.

- Twenty-nine (29) claims were reviewed. This examination identified one or more violations of 39-A M.R.S.A. § 324(1) on eighteen (18) of those claims.

**HISTORY OF ENGAGEMENT**

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established a Monitoring, Audit & Enforcement ("MAE") division. The functions of the MAE division include but are not limited to audits of payment timeliness and claims-handling practices of insurers in accordance with 39-A M.R.S.A. § 359. The WCB MAE Division's limited-scope audit was prompted by two (2) Complaint for Audit forms, which alleged that the Company had violated 39-A M.R.S.A. § 324(1). That audit culminated with a WCB Compliance Audit Report issued August 16, 2005, confirming the allegations. The report's findings relevant to 39-A M.R.S.A. § 359 (2) included:

- Failure to pay benefits awarded by mediation agreements or board decrees

- Failure to pay benefits awarded by mediation agreements or board decrees timely

This examination is pursuant to the certification of findings to the Superintendent of Insurance in accordance with 39-A M.R.S.A. § 359(2), as described in a December 20, 2007 consent decree between the WCB and the Company. Title 39-A M.R.S.A. § 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 responsibilities set forth in 39-A M.R.S.A. § 359(2), the Superintendent had to determine whether or not the patterns of questionable claims-handling techniques found by the WCB had come to a halt. Therefore, an examination was planned in accordance with the National Association of Insurance Commissioners' Market Regulation Handbook ("Handbook"). Bureau examiners developed compliance verification procedures based on the Handbook to measure whether the Company had brought itself into compliance with 39-A M.R.S.A. § 324(1). Specifically, the scope of the examination was limited to a review of claims that were resolved by mediation agreements, board decrees, consent decrees or lump sum settlements that had a date of injury from January 1, 2006 through December 31, 2008.

### **METHODOLOGY**

The limited scope of this examination presented a unique challenge in determining the appropriate population of claims to be considered. Bureau staff started by running an electronic search of WCB records for claims that had a date of injury from January 1, 2006 through December 31, 2008 that were resolved by mediation agreements, board decrees, consent decrees or lump sum settlements. Seventy (70) claims met the search criteria. Bureau staff then manually reviewed those claims to identify claims that resulted in benefit payments to injured workers. The manual search identified twenty-nine (29) claims for examination.

### **STANDARD**

The following Handbook standard was the basis for developing the examination procedure.

#### **Standard G-3**

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

Determine if benefit payments pursuant to WCB agreements are made in a timely manner.

Standard G-3 establishes a general framework for the timely payment of claims in accordance with 39-A M.R.S.A. § 324(1).

## **APPLICATION OF TEST**

This section outlines the application of the test to the claims selected. The results of testing those claims during the examination period are delineated in the following table:

<b>Claims</b>	<b>Benefits paid Timely</b>	<b>Benefits Not Timely</b>	<b>Compliant</b>
29	11	18	38%

## **COMMENTS AND RECOMMENDATIONS**

### **Comment # 1:**

The above test was designed to verify that payments pursuant to WCB agreements are made in accordance to 39-A M.R.S.A. § 324(1). The compliance percentage during the examination period was 38%. The issues that led to late payments were the result of various actions including:

- Lack of understanding of the requirement to pay medical bills within ten (10) days of an agreement
- Not correctly tracking incoming medical bills on denied claims
- Lack of understanding of the requirement to pay interest

### **Recommendation:**

**It is recommended that the Company implement certain policies and procedures to ensure that claims adjusters are aware of the Maine statutes, rules and regulations governing workers' compensation claim payments.**

### **Comment # 2:**

The aforementioned WCB Compliance Audit Report identified one or more violations of Section 324(1) arising from thirty (30) of the forty-two (42) claims mediation agreements and WCB decrees reviewed. The compliance percentage for the WCB audit is 28%. While the Company has improved compliance since the WCB audit by ten (10) percentage points, the current compliance level of 38% is not at an acceptable level.

### **Recommendation:**

It is recommended that the Company implement certain policies and procedures to ensure that medical bills on denied claims are tracked and coded properly.

**CONCLUSION**

This examination reviewed twenty-nine (29) claims that met the requirement of the scope of the exam. The compliance percentage during the examination period was 38%. Based on the results of this examination, Bureau examiners found that the pattern of questionable claims handling techniques established by the WCB has not halted.

**ACKNOWLEDGMENT**

The courtesy 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

Mary Masi, duly sworn according to law, deposes and says that in accordance with the authority vested in her by Eric A. Cioppa, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, she has made an examination on the condition and affairs of the

**ESIS INC.**

of Philadelphia, PA, for the claims with dates of injury from January 1, 2006 through December 31, 2008, and that the foregoing report of examination, subscribed to by her, is true to the best of her knowledge and belief.

The following examiner from the Bureau of Insurance assisted:

Linette Gamache, Senior Insurance Examiner

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Mary Masi, MCM  
Senior Market Conduct Examiner

Subscribed and sworn to before me

This     day of                     , 20

\_\_\_\_\_  
Notary Public

My commission expires: