

**REPORT OF MARKET REGULATION EXAMINATION**



**Bankers Life and Casualty Company**

NAIC Company Code 61263

600 West Chicago Avenue  
Chicago, IL 60654

**NAIC Examination Tracking System Number ME 114-M5**

**Examination Period:**

**January 1, 2009 through December 31, 2010**

Pursuant to Title 24-A M.R.S.A. §§ 211 and 221, I have caused a targeted market conduct examination to be conducted of Bankers Life and 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  
Maine Bureau of Insurance

3/8/12

Date

March 8, 2012

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

Dear Superintendent Cioppa:

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

**Bankers Life and Casualty Company**

The Examination reviewed Bankers Life and Casualty Company's (hereinafter, "Company") Maine long-term care product line for its claims handling and complaint handling. The Examination covered the period from January 1, 2009, through December 31, 2010 (hereinafter, "Review Period"). The Maine Bureau of Insurance (hereinafter, "Bureau") staff conducted the on-site phase of the Examination, from June 20, 2011, through June 24, 2011, at the Company's offices located at 600 West Chicago Avenue; Chicago, IL 60654.

A preliminary review of information provided by the Company, transactional testing, and follow-up communications were also conducted at the offices of the Bureau.

The following report is respectfully submitted.

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## **COMPANY HISTORY**

The Company started as a mutual assessment company formed in 1932 as a result of the consolidation of Standard Life Insurance Company, Hotel Men's Mutual Benefit Association of the United States and Canada, and Bankers Life and Casualty Company. Standard Life Insurance Company, Chicago, was a stock company, formed in 1942. The oldest predecessor, Hotel Men's Mutual Benefit Association of the United States and Canada, a mutual assessment association, was incorporated on April 6, 1880.

In 1935, John D. MacArthur purchased the Company, and he maintained management and financial control through 1978. Upon his death, control of the Company was then transferred to The John D. and Catherine T. MacArthur Foundation, an Illinois not-for-profit corporation.

On October 30, 1984, the Company was acquired by I.C.H. Corporation, a Louisville Kentucky holding company, through a wholly owned subsidiary, Great Southern Life Insurance Company of Texas.

On November 9, 1992, Bankers Life Holding Corporation acquired through a subsidiary, Bankers Life Insurance Company of Illinois, all of the outstanding shares of common stock of the Company from I.C.H. Corporation. Bankers Life Holding Corporation was formed by Conseco Capital Partners, L.P. to acquire the Company.

Today, the Company is a wholly owned subsidiary of Bankers Life Insurance Company of Illinois, an intermediate life insurance holding company, which, in turn, is owned by Conseco, Inc. based in Carmel, Indiana.

On January 1, 2000, Certified Life Insurance Company ("Certified"), a Conseco subsidiary which was operating largely in California, merged into the Company and the Company assumed all of Certified's inforce business. In December 2002, Conseco, Inc. commenced a reorganization under Chapter 11 and emerged on September 10, 2003. As of December 31, 2009, the Company had net admitted assets of \$12.3 billion.

On November 20, 2007, Bankers Life Insurance Company of Illinois merged into the Company, and the Company assumed all of the inforce business of Bankers Life Insurance Company of Illinois.

Conseco, Inc. changed its name to CNO Financial Group, Inc on May 11, 2010.

## **EXECUTIVE SUMMARY**

A targeted multi-state market conduct examination (hereinafter "Multi-State Examination") was called on April 10, 2007, on behalf of 39 participating states, for the purpose of reviewing Conseco Inc.'s claims practices and procedures, complaint handling, and marketing and sales practices. The Multi-State Examination included, in part, a review of various aspects of Conseco Inc.'s long-term care line of business. The Company was included in the Multi-State Examination and, as a result, the Company

entered into a Regulatory Settlement Agreement (hereinafter, "RSA") in March, 2008. Maine participated in the Multi-State Examination, but elected not to be a signatory to the RSA.

As a result of internal complaint analysis and in follow-up to the Multi-State examination, the Bureau conducted the Examination, focusing on the areas of claims and complaint handling for the Company's long-term care line of business. The Examination tested the Company's compliance with Maine statutes, the National Association of Insurance Commissioners' Market Regulation Handbook Standards (hereinafter, "MRH"), and the Company's internal procedures.

For the Examination, "claim" means a request for benefits under the contract for services provided to the insured. For a sample of 448 claims that were measured, the Examination revealed the following findings<sup>1</sup>:

- 415 claims were investigated and resolved within 30 days of receipt of all requisite information (7.4% error rate);
- 402 claims were appropriately handled in accordance with policy provisions and Maine law (10.3% error rate);
- 433 claims were adequately documented (3.3% error rate).

### **SCOPE OF EXAMINATION**

The objective of the Examination was to review claims practices and complaint handling for the Company's long-term care product line. Transactional testing<sup>2</sup> was used to detect compliance with applicable claims handling statutes.

The Examination was conducted in accordance with 24-A M.R.S.A. §§ 211 and 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.

It should be noted that this report is by test rather than by exception, in that each test applied is stated and the results are reported.

### **METHODOLOGY**

Audit Command Language (hereinafter, "ACL") audit software was utilized for the Examination in order to obtain the claims sample. Electronic data files were provided by the Company, which contained individual long-term care claims for 277 Maine policyholders. All claims within the population were both initiated and closed during the Review Period. A sample of 60 policyholders was

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<sup>1</sup> The MRH strongly encourages states to use benchmark error rates of 7 percent for claim practices and 10 percent for other trade practices.

<sup>2</sup> Transactional testing is the review of actual claims being addressed in the Examination.

selected using ACL software. The sample parameters specify results at a 95% confidence level and a tolerable error ratio of 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 528 claims. Test procedures indicated that 63 claims were submitted by medical providers seeking reimbursement for bills not related to long-term care coverage. Additionally, 21 claims were found to be duplicates. Those claims were not included in the Examination results. Through testing, Examiners discovered that four claims had been omitted from the population. Those four claims were added to the test spreadsheet. Once the duplicate and non long-term care claims were removed from the sample, and the omitted four claims added, Examiners were left with 39 policyholders who had submitted 448 claims. Test steps measured compliance with standards set forth in the MRH and Maine insurance law.

## FINDINGS

### A. 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 32 complaints. Examiners identified two discrepancies with Bureau records. One complaint was recorded by the Company as "unjustified," though the Bureau found it to be "confirmed." The Company explained that the complaint register provided to Examiners was logged based on the facts available at the time the complaint was reported. For the complaint in question, a subsequent review was completed, and upon receipt of additional information, the claim was approved and benefits were paid.

The second complaint which differed from the Bureau's records involved a Medicare Advantage product that was not administered by the Company and, as such, was not applicable to the Examination.

**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

For the Review Period, six 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 five of the six complaints, the Company responded to the Bureau within the requisite time period. For one complaint, a period of 48 days was indicated between the initial letter from the Bureau and the Company's response. The Bureau's initial letter to the Company was dated May 4, 2010. On June 1, 2010, the Bureau sent a second letter to the Company, having not received a response to its May 4, 2010 letter. The Company's response, dated June 21, 2010, and faxed the same day, indicated that the Bureau's first letter had never been received by the Company.

## **B. CLAIMS STANDARDS**

Examiners reviewed 448 claims for compliance with standards set forth in the MRH and Maine insurance law. Examiners' comments for each of the tested files were communicated to the Company via electronic mail. For each of the files 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 failing.

**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 33 of the claims examined. The error rate was 7.4%.

**Standard: Claim files are adequately documented.**

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

Overall, the documentation provided by the Company was adequate to support the Examiners' findings. Fifteen claims were found to contain insufficient documentation; thus the error rate was 3.3%.



**Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, rules and regulations.**

*NAIC Market Regulation Handbook – Chapter XVI, Section G, Standard 6*  
24-A M.R.S.A. § 2164-D  
24-A M.R.S.A. § 2436

In the sample of 448 claims, Examiners found that the Company did not accurately pay benefits for 46 of the claims examined. The error rate was 10.3%. The following table outlines, in greater detail, the 46 errors identified under this standard:

<b>DESCRIPTION OF ERROR</b>	<b>NUMBER OF CLAIMS</b>
Benefits were paid for incorrect amount	20
Interest was not paid on late payment	19
Bill was received by the Company but was not paid	4
Denial of benefits was inappropriate	2
Elimination period was miscalculated	1
<b>TOTAL</b>	<b>46</b>

### **RECOMMENDATION**

The Examiners found that the majority of the Company's claims handling failures involved the payment of inaccurate benefit amounts and the failure to include interest on overdue payments. The RSA required that the Company and Conseco Senior Health (hereinafter, "CSH") develop a corrective action plan to address timeliness and accuracy of claims decisions. A claims re-adjudication plan was established for CSH to review some of the CSH claims files and make restitution where appropriate.

While certain benchmarks were established to measure CSH's progress in claims adjudication process improvements, comparable claims benchmarks were not established for the Company.

It is our recommendation that the Company review and revise its procedures to ensure that claims are investigated and resolved in a timely manner and that, in the case of overdue payments, interest is properly paid. The Bureau requires that the Company submit a detailed corrective action plan that addresses the aforementioned areas of concern. The corrective action plan must be submitted within 45 days of delivery to the Company of the final examination report.

### **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

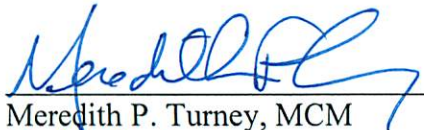
Meredith P. Turney, MCM, Examiner in Charge, being duly sworn according to law, deposes and says that in accordance with the authority vested in her by Eric A. Cioppa, Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, she has made an examination on the condition and affairs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

Bankers Life and Casualty Company

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

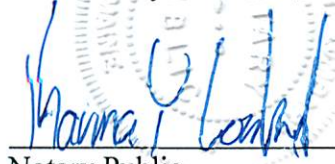
The following examiners from the Bureau assisted:

Allan C. Armstrong, CWCLA, MCM  
Mary Masi, MCM

  
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Meredith P. Turney, MCM  
Market Conduct Division Supervisor

Subscribed and sworn to before me

This 9th day of March, 2012

  
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Notary Public

My commission expires:

**KARMA Y. LOMBARD**  
Notary Public, Maine  
My Commission Expires June 12, 2016

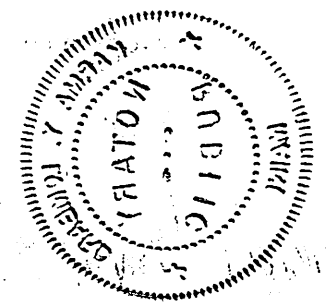
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