

**STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE**

IN RE: )  
 )  
WASHINGTON NATIONAL INSURANCE )  
COMPANY 2003 RATE FILINGS FOR )  
INDIVIDUAL MAJOR MEDICAL EXPENSE ) DECISION AND ORDER  
POLICIES )  
 )  
Docket No. INS-03-403 )  
 )

Alessandro A. Iuppa, Superintendent of the Maine Bureau of Insurance issues this Decision and Order in the above-captioned matter.

**I. THE RATE FILINGS**

By letter dated November 27, 2002, Washington National Insurance Company ("Washington National") submitted to the Superintendent a proposed rate increase for its individual major medical policies. Washington National requests an average increase of 47.4% for policy forms CC3720, CC4161, and CC4162 and proposes that the new rates be effective on the earlier of April 1, 2003, or 31 days after approval of the filing.

**II. PROCEDURAL HISTORY**

The Superintendent determined that it would be in the best interest of the public to hold a hearing. On January 21, 2003, the Superintendent issued a Notice of Pending Proceeding and Hearing that set a hearing on the matter for February 25, 2003. This Notice further established a process by which interested persons could intervene as parties to the proceeding. No one applied to become an intervenor.

On February 25, 2003, the Superintendent held a hearing. Assisting the Superintendent were: Richard Diamond, Life and Health Actuary Maine Bureau of Insurance; Carl Loeffel, Senior Insurance Analyst Maine Bureau of Insurance; and the Superintendent's legal counsel, Andrew Black, Assistant Attorney General.

Christopher Roach, Esq. represented Washington National. Testifying for Washington National were Ron Kotowski, Vice President of Product Approval and Compliance for Bankers Life and Casualty (an affiliate of Washington National) and Frances Jones, Vice President Actuarial for Conseco Services (an affiliate of Washington National).

Ed Rackliff, a policyholder, testified at the public portion of the hearing.

At the hearing, the Superintendent requested that Washington National provide him with certain additional information, which Washington National did on February 27, 2003. Through an order dated March 13, 2003, the Superintendent made a further request for information and ordered that the

record in the proceeding remain opened until Washington National responded. Washington National responded to this request on March 13, 2003.

### III. THE LEGAL STANDARD

Washington National is required by 24-A M.R.S.A. § 2736(1) to file with the Superintendent proposed policy rates for its non-group health insurance products. Washington National bears the burden of proving by a preponderance of the evidence that the proposed rates are not inadequate, excessive, or unfairly discriminatory. In addition, Washington National is required pursuant to 24-A M.R.S.A. § 2736-C(5) to show that in accordance with accepted actuarial principles and practices its proposed rates should yield a loss ratio of at least 65%.

### III. EVIDENCE AND ANALYSIS

In its filing of November 27, 2002, Washington National represented that it had made written notification of its proposed rate increase to all of its Maine policyholders on November 21, 2002.

Filings by Washington National indicated that it had 584 policies in force in Maine as of December 31, 2002, and that these policies were a closed block of business. At the hearing, Washington National introduced the following chart (Exhibit 9) depicting the historical experience of the subject policy forms in Maine.

<b>Year</b>	<b>Earned Premium</b>	<b>Incurred Claims</b>	<b>Loss Ratio</b>	<b>Actual/Expected</b>
1995	838,338	414,977	49.5%	0.81
1996	3,946,027	2,462,321	62.4%	1.06
1997	8,621,670	6,216,224	72.1%	1.15
1998	6,727,700	6,831,000	101.5%	1.53
1999	5,066,659	6,109,156	120.6%	1.75
2000	3,982,540	4,883,674	122.6%	1.76
2001	2,349,075	2,320,000	98.8%	1.42
2002	2,149,000	2,877,000	133.9%	1.93
Total	33,681,009	32,114,352	95.3%	1.45

At the hearing, Jones testified that Washington National's expenses and commissions amounted to 19% of the total premium. She further testified that it had allocated 2.5% to risk and that its profit target was 5%. Its target loss ratio was 81.0% without risk and profit and, therefore, 73.5% with risk and profit. Nevertheless, Jones testified that the projected loss ratio after the rate increase on these policies would be 97%, assuming no anti-selection effect and 105% with anti-selection effect and that, therefore, Washington National would be losing money on these policies. Jones explained that Washington National desires to reach this target loss ratio through a series of rate increases over more than one year rather than an immediate increase in excess of 50%.

Jones testified that she determined that the projected loss ratio would be 97 percent by using the loss ratio of 124% for active policyholders for the last three quarters of 2002 (when the 2002 rates were in effect), applying the current medical trend of 17%, and applying the 50% increase. Under

questioning, Jones admitted that the policies contained calendar year deductibles that would generally lead to a lower loss ratio during the first quarter of the year as compared to other quarters. Accordingly, the Superintendent requested 2002 first quarter data on this group of active policyholders to determine whether this seasonality effect would materially alter the projected loss ratio calculation.

Washington National's response showed that earned premium for the active policyholders for the first quarter of 2002 was \$369,000 and incurred claims were \$469,000 for a loss ratio of 127.1%. Adjusting these premiums so as to include the 2002 rate increase, however, would increase the earned premiums to \$535,875 and yield a loss ratio of 87.5%. Accordingly, the adjusted calendar year loss ratio would be approximately 114.6% instead of the 124% used by Washington National.

Washington National also provided a post-hearing exhibit indicating that from December 31, 2001, to December 31, 2002, it had increased its claim reserves from \$331,000 to \$779,000. In its response to the Superintendent's subsequent request, Washington National explained that the two causes for this increase were (1) the use of more conservative completion factors in 2002 for all major medical business due to nonrenewal actions and (2) the factors were applied to claims paid through the end of the year that were incurred during the last six months of the year, which, in Maine increased from 598 to 836. The legitimacy of the first of these factors is questionable because Washington National ultimately did not nonrenew its Maine business.

Adjusting for the seasonality effect and disregarding any increase in claims reserves for the conservative completion factors due to nonrenewal actions, the Superintendent determines that the projected loss ratio would be at least 83.8% and, thus, still in excess of Washington National's break-even loss ratio of 81.0%.

## V. FINDINGS

With respect to the rates submitted by Washington National for approval, the Superintendent finds as follows:

1. The rates are in compliance with the loss ratio requirements of Rule 940;
2. The rates are not excessive;
3. The rates are not inadequate; and
4. The rates are not unfairly discriminatory.

## VI. ORDER

Pursuant to 24 M.R.S.A. §§ 2736 and 2736-B, it is hereby ORDERED that the 2003 filed rates for Washington National's individual major medical expense policies are APPROVED.

## VII. NOTICE OF APPEAL RIGHTS

This Decision and Order is a final agency action of the Superintendent of Insurance within the meaning of the Maine Administrative procedure Act. It is appealable to the Superior Court in the manner provided in 24-A M.R.S.A. § 236, 5 M.R.S.A. § 11001-11007, and M.R.Civ.P. 80C. Any party to the proceeding may initiate an appeal within thirty (30) days after receiving this notice. Any aggrieved non-party whose interests may be substantially and directly affected by this Decision may initiate an appeal within forty (40) days of the date of this Decision. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S.A. § 11004.

DATED: March 21, 2003

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ALESSANDRO A. IUPPA  
Superintendent of Insurance