

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

IN RE:	)	DECISION AND ORDER
	)	
AMERICAN PROGRESSIVE LIFE &	)	
HEALTH INSURANCE COMPANY	)	
OF NEW YORK 2004 RATE FILINGS	)	
FOR INDIVIDUAL STANDARDIZED	)	
MEDICARE SUPPLEMENT POLICIES	)	
	)	
Docket No. INS-04-600	)	

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

**I. THE RATE FILING**

By correspondence dated March 19, 2004, American Progressive Life & Health Insurance Company of New York (NAIC #80624) (hereinafter referred to as "American Progressive") submitted with the Superintendent proposed rate increases for individual standardized Medicare supplement policies, Form MS-602 Plans A through G and Hi F. American Progressive requests a rate increase of 10.0% for these policies, with a proposed effective date of the next policy anniversary on or following July 1, 2004.

**II. PROCEDURAL HISTORY**

The Superintendent determined that it would be in the best interest of the public to hold a hearing. Pursuant to his Notice of Pending Proceeding and Hearing issued April 27, 2004, the Superintendent ordered a hearing to be held at 9:00 a.m. on May 28, 2004, in the Central Conference Room of the Maine Department of Professional and Financial Regulation in Gardiner, Maine. The Notice of Pending Proceeding and Hearing provided a process by which interested persons could intervene as parties to the proceeding. No person submitted an application for intervention.

The Superintendent issued a First Discovery Request on May 10, 2004, for which American Progressive submitted responsive information by correspondence dated May 24, 2004.

On May 28, 2004, the Superintendent held a public hearing. Assisting the Superintendent were Richard Diamond, Life and Health Actuary Maine Bureau of Insurance, Mary Hooper, Actuarial Assistant Maine Bureau of Insurance, and the Superintendent's legal counsel, Thomas Sturtevant, Assistant Attorney General. In support of its filing, American Progressive provided telephonic testimony by Gary R. Reed, ASA, MAAA and the

Company's Vice President and Actuary. In addition to American Progressive's March 19, 2004, rate filing, the Superintendent admitted additional documentary evidence into the record comprised of American Progressive's responses to the First Discovery Request of the Superintendent. Benton Cash from the public attended the hearing telephonically and provided a sworn public statement.

The record was held open following the close of the hearing to allow for the filing and admission into the record of further documentary evidence by American Progressive in response to oral information requests of the Superintendent made at the hearing. The further documentary evidence was provided by American Progressive under communication dated June 9, 2004.

### III. LEGAL STANDARD

American Progressive is required by 24-A M.R.S.A. § 2736(1) and Maine Bureau of Insurance Regulation chapter 275 § 14(C) to file with the Superintendent proposed policy rates for its individual Medicare supplement insurance products. American Progressive bears the burden of proving by a preponderance of the evidence that the proposed rates are not inadequate, excessive, or unfairly discriminatory. In addition, American Progressive is required pursuant to 24-A M.R.S.A. § 5004, 24-A M.R.S.A. § 2413(1)(F), and Maine Bureau of Insurance Regulation chapter 275 § 14(A)(1) to show that in accordance with accepted actuarial principles and practices its proposed rates for standardized Medicare supplement policies should yield a loss ratio of at least 65% for the individual policies for the entire period for which the rates are computed to provide coverage. Pursuant to Regulation chapter 275 § 14(A)(2), American Progressive must also demonstrate that the expected loss ratio when combined with the experience to date complies with this loss ratio standard.

### IV. EVIDENCE

Information contained in the record relevant to the proposed rate increases is illustrated in the following table:

<b>PLAN OPTION</b>	<b>POLICIES IN-FORCE IN MAINE AS OF 12/31/03</b>	<b>CURRENT AVERAGE ANNUAL RATE</b>	<b>PROPOSED AVERAGE ANNUAL RATE</b>	<b>PROPOSED RATE CHANGE DOLLARS</b>	<b>PROPOSED RATE CHANGE PERCENT</b>
<b>A</b>	39	\$1,109	\$1,220	\$111	+10.0%
<b>B</b>	101	\$1,540	\$1,694	\$154	+10.0%
<b>C</b>	758	\$1,878	\$2,066	\$188	+10.0%
<b>D</b>	69	\$1,803	\$1,984	\$181	+10.0%
<b>E</b>	306	\$1,564	\$1,721	\$157	+10.0%
<b>F</b>	1,476	\$1,881	\$2,069	\$188	+10.0%

<b>G</b>	4	\$1,636	\$1,800	\$164	+10.0%
<b>Hi F</b>	68	\$725	\$798	\$73	+10.0%

The following table illustrates the projection assumptions upon which American Progressive based its proposed 10% increase and the resulting projected profit margin.

<b>PLANS</b>	<b>IN-FORCE POLICIES</b>	<b>INTEREST RATE</b>	<b>LAPSE RATE</b>	<b>CLAIM COST TREND</b>	<b>PROJECTED FUTURE LOSS RATIO</b>	<b>PROJECTED PRETAX PROFIT MARGIN</b>
<b>A – F and Hi F</b>	2,817	4.5%	20%	9%	71%	7 %
<b>G</b>	4	4.5%	20%	9%	66%	7%

## V. FINDINGS AND CONCLUSIONS

Upon review and analysis of the record in this proceeding, the Superintendent finds and concludes that:

1. The proposed rates for American Progressive's individual standardized Medicare supplement policies A through G and Hi F are neither excessive nor inadequate.
2. The relationships among the proposed rates for different plans are unfairly discriminatory.
3. American Progressive has established in accordance with accepted actuarial principles and practices that the proposed rates for American Progressive's individual standardized Medicare supplement policies Plans A through G and Hi F will yield loss ratios of at least 65%.

The only benefit that Plan C offers that Plan E does not is a Medicare Part B deductible benefit that currently pays a maximum benefit of \$100.00 annually. American Progressive proposes rates for Plan C that exceed the rates for Plan E by more than the \$100.00 value of the Medicare Part B deductible benefit. While some rate differential over and above the \$100.00 Part B deductible amount (\$110.00 in 2005) may be justified by higher utilization on plans that cover this benefit, it should be limited. Although Plan E does have lower commissions in later renewal years, the impact on the plan is small. The proposed rates for Plan E should be raised to reflect the appropriate value difference between Plans C and E.

The rate increase for Plan E should be 14.5% so that the rate for Plan C exceeds that for Plan E by no more than \$175 annually in order to mitigate the rate relativity problems between Plans C and E. The proposed increase for the other plans should be adjusted to 9.5% to produce an aggregate increase of 10% as originally proposed.

Because the rate differential between Plans C and E, and between Plans C and G, exceeds the maximum possible difference in benefits, the rate

differential should be clearly disclosed in writing to prospective policyholders as well as to renewing policyholders under the more expensive plan. At a minimum, this disclosure should be displayed on the outline of coverage and renewal notices. American Progressive shall promptly provide a copy of this disclosure to the Superintendent.

#### VI. ORDER

Pursuant to the provisions of 24-A M.R.S.A. §§ 2736 and 2736-B, the Superintendent hereby ORDERS that:

1. The proposed 2004 rates for American Progressive's individual standardized Medicare supplement policies Plans A through G and Hi F are DENIED.
2. American Progressive may submit revised rate filings on or before July 15, 2004, for review by the Superintendent. The revised rates shall be effective the next policy anniversary on or following August 1, 2004, if found by the Superintendent to be consistent with the terms of this Decision and Order.

#### 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 may be appealed 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 and Order may initiate an appeal within forty (40) days of the date of this Decision and Order. There is no automatic stay pending appeal; application for stay may be made in the manner provided in 5 M.R.S.A. § 11004.

### **PER ORDER OF THE SUPERINTENDENT OF INSURANCE**

DATED: June 25, 2004

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ALESSANDRO A. IUPPA  
Superintendent