

UNUM LIFE INSURANCE COMPANY  
OF AMERICA

2211 CONGRESS STREET  
PORTLAND, MAINE 04122

NAIC GROUP CODE - 0565  
NAIC COMPANY CODE - 62235

**RESPONSE TO MARKET CONDUCT**

**REPORT OF EXAMINATION**

**AS OF**

**JUNE 30, 2001**

Unum Life Insurance Company of America would like the following comments shown in boldface type to be attached as an addendum to the final market conduct examination report. The Company's comments correspond with specific issues identified in the Pertinent Factual Findings and Standards Section of the Maine examination report.

**Standard A-6**

Records are adequate, accessible, consistent and orderly and comply with state record retention requirements.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section A, Standard 6*

Inadequate, disorderly, inaccessible, or inconsistent records can lead to inappropriate handling of claims, inappropriate underwriting decisions, inappropriate rates and other issues. The Company's policies and procedures in this area are an important part of the internal control environment.

Examiners reviewed the current record retention policies and procedures of the Company and noted that these policies meet the requirements of the State of Maine. Maine Statutes Chapter 24-A §3408 states that "Every domestic insurer shall have and maintain its principal place of business and home office in this state, and shall keep therein accurate and complete accounts and records of its assets, transactions and affairs in accordance with the usual and accepted principals and practices of insurance accounting and record keeping as applicable to the types of insurance transacted by the insurer". During testing, examiners noted several areas where the Company was not able to provide complete or adequate documentation as noted below:

1. During review of the ID terminations, declinations and cancellations, one policy was noted as having been cancelled due to lack of payment. The Company advised that the notification of the termination would have been included as part of the billing notices, but

they were unable to locate a copy of the notice that was sent to this insured. **The Company notes that a hardcopy of the termination notice was not provided because billing invoices are stored electronically. The Company provided an electronic copy of the invoice, and offered to provide the examiners with a paper copy, if needed. The electronic copy contained a message advising the policy owner that the grace period had expired and it directed them to the reverse side of the notice for a complete explanation.**

2. During review of the UNUM Direct terminations, declinations and cancellations, we noted seven items in the sample were missing cancellation notices in the files. The current process for UNUM Direct files does not require the retention of the standard lapse notice or cancellation letter. **The Company notes that UnumProvident Direct uses a standard form letter to notify policyholders of a cancellation. The content of this letter does not vary by customer. The only information that changes is contact information. The Company has not retained individual, hardcopies of these letters in the past because the letters are all the same. The Company, however, notes in the system (electronic record) that the letter was sent and on what date. During the exam, the Company provided the specific cancellation dates for the examiners' reference.**
3. Three additional ID exceptions were noted in that the Company was unable to locate three cancellation notification letters for policies cancelled at the request of the insured.
4. Finally, one ID application was declined based upon a review of medical records. The declination appears to be reasonable due to underwriting standards; however, the declination letter was missing from the file. Both Company policy and Maine Statutes Section 2212 require formal written notification to an insured in the event of the denial of coverage.
5. During review of the Group terminations, declinations and cancellations, two exceptions were noted in that the Company could not locate cancellation letters for two policies that had been cancelled. **The Company notes that on one file the *electronic* records indicated detailed correspondence was sent to the policyholder regarding the possible termination date. With regard to the other file, termination was initiated by the policyholder. Company procedures do not require a termination letter be sent when the policyholder initiates the action for rate or service issues, unless there are premium impacts.**
6. Also in the Group sample, three policies were noted as terminated, however, there was no documentation supporting the reason or notification included in the files.
7. In the UNUM Direct sample, three policies were listed as terminated, however there was no documentation included in the files provided to the examiners supporting termination. **The Company notes that the electronic records indicate these policies were cancelled for non-payment of premium. In each case, the customer was notified by form letter that the policy was cancelled. A record is kept in the system of when the policy was cancelled. During the exam, the Company provided the examiners with the specific cancellation.**
8. During review of the denied claims sample, it was noted that 4 files out of 50 denied claims did not include documentation to evidence the reason why the Company had denied the claim, including a copy of the final denial letter.

9. Also noted, for six additional files out of 50 denied claims, the file did not contain a copy of the final denial letter to the claimant. **In response to item numbers 8 and 9, the Company notes that the majority of claim files did not contain a copy of the denial letter because the Company did not receive the information that was requested from the claimant. If the requested information had been received at a later date, the claims would have been reopened. In one instance, the claim was withdrawn by the insured because it was a work-related claim and not covered under the STD policy.**
10. It was noted that for one file selected for review, the Company was unable to provide supporting documentation of the original claim submission information received from the claimant. The Company was able to provide evidence of the denial of the claim, but the original claim form and supporting documents were not able to be located. **The Company notes that they were unable to provide the supporting documentation because the information was never received by the Company. During the exam, the Company provided a full explanation regarding attempts to obtain the supporting claim documentation from the employer and the insured . The information was never submitted.**

## Standards Marketing and Sales

### Standard C-1

All advertising and sales materials are in compliance with applicable statutes, rules and regulations.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section C, Standard 1*

This standard is designed to evaluate the representations made by the Company about its products. Based upon review of the above sample, the following comments and exceptions were noted:

During review of the advertisement sample, various test steps were developed based upon Maine Rule 140.

It was noted by the examiners that in accordance with Maine Rule 140, insurers are required to file an annual certification executed by an authorized officer of the insurer wherein it is stated that to the best of his/her knowledge, information and belief, the advertisements which were disseminated by the insurer during the preceding statement year complied with or were made to comply in all respects with the insurance laws of the State of Maine as implemented and interpreted by Maine Rule 140. Examiners noted that the Company had not previously filed such certification with the Maine Bureau of Insurance. **The Company also notes that the certification is completed for numerous states. Items inserted in the annual report package are gathered based on a checklist developed and published by the state. The checklist did not specify the advertising certificate of compliance, therefore it was not submitted.**

During review of the Company's record keeping for their Internet web sites, it was noted that documentation of past Internet advertisements was not available. The Company's response

indicated that the current process for back-up and retention of the e-advertisements on the web sites was that IBM makes a tape backup of website files and retains the last four web iterations. The Company also indicated that they were currently reviewing this archive process. Electronic or hard copies of the Company's web pages should be maintained.

Because the State of Maine has no statutes, rules or regulations relating to replacement requirements and the Company has advised that their internal policy only relates to individual life policies and that they do not market individual life policies in Maine, this standard would not be applicable.

### **Standard D-3**

Termination of producers complies with applicable standards, rules and regulations regarding notification to the producer and notification to the state, if applicable.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section D, Standard 3*

Examiners selected a random sample of terminated producers and verified that these producers were no longer soliciting new business for the Company.

During this review, the Company was requested to provide the examiners with copies of termination letters sent to providers upon termination of their appointment. The Company advised that they do not retain copies of the letters. The provision applicable during the exam period, Title 24-A Section 1441-B states in part that the insurer "shall provide 90 days" advance written notice of the termination. Accordingly, examiners were unable to determine whether proper notification per Section 1441-B had been given for 19 items in our sample of 19. In addition, the Company has advised that their current producer agreement stipulates the "[T]he agreement will terminate at the sole discretion of either party, upon thirty (30) days written notice of termination given by either party to the other". This agreement also seems in violation of Section 1441-B(1), the applicable law for the period examined. **The Company notes that as a result of the exam requests, a new business practice was implemented to retain copies of all producer termination letters.**

## **Standards**

### **Underwriting and Rating**

### **Standard F-7**

The Company's underwriting practices are not unfairly discriminatory. The Company adheres to applicable statutes, rules and regulations, and Company guidelines in selection of risks.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section F, Standard 7*

Inconsistent handling of rating or underwriting practices, even if not intentional, can result in unfair discrimination. A review of a sample of underwriting files indicated that there appears to be no instances of unfair discrimination. However, the following exceptions were noted during the review.

During review of the sample of individual products (LTD, STD, LTC, ID and Life) Examiners noted the following:

One application in the ILTC sample also appeared to have taken an unusually long period of time for review and denial. The application was signed and dated on February 16, 2000, but the denial letter in the file was dated May 10, 2000. A deposit premium was also given with the application and was not returned until May. Information in the Company's underwriting system indicated that the application had been originally denied for asthma, although supporting documentation in the file was unavailable. **The Company notes that the delay in sending the denial resulted from the agent's late submission of the application. Apparently, the agent held the file for a month awaiting resolution of the applicant's workers' compensation case.**

The ID terminations, declinations, and cancellations review noted one exception where the termination effective date requested by the insured did not agree with the system termination effective date. The insured had requested termination effective on June 1, 2000, but the policy was not terminated until June 6, 2000. The termination delay resulted in an additional return premium being due to the insured as of the date of this examination.

Also, during review of the ID terminations, declinations and cancellations, one policy was noted as having been terminated at the insured's request. The Company incorrectly calculated the return premium based upon the wrong effective date, but subsequently corrected the error. The correct amount was ultimately returned to the insured; however, a revised notification letter was not prepared and sent to the insured in accordance with Company policy.

## **Standards Claims**

### **Standard G-1**

The initial contact by the Company with the claimant is within the required time frame.

*NAIC Market Conduct Examiners Handbook - Chapter VII, Section G, Standard 1*

Maine Statutes Title 24-A, Section 2164-D require acknowledgement with reasonable promptness to pertinent written communication with respect to claims arising under its policies. This section also requires the Company to provide forms, accompanied by reasonable explanation for their use, necessary to present claims within 15 calendar days of such a request.

The examiners used seven samples to examine the Company's claims (as noted above). The examination disclosed that in general the Company appears to be making a good faith effort to contact its claimants within the required time frames.

During review of the paid life claims, it was noted that 5 claims out of a sample of 50 did not contain an acknowledgement of the claim in accordance with the Company's Customer Care Center customer service guidelines. The guidelines state that if a claim is turned around within 3 to 5 business days, the need for claim receipt acknowledgement is eliminated. For the 5 claims noted, the claim was not processed within the 3 to 5 business day timeframe and no

acknowledgment was included in the file. **The company notes that the guidelines were published in April 2000. With one exception, each of these claims was received prior to the implementation of the guidelines.**