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

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| In re:<br><br>ANTHEM BLUE CROSS AND BLUE SHIELD 2005 INDIVIDUAL RATE FILING FOR HEALTHCHOICE, HEALTHCHOICE STANDARD AND BASIC PRODUCTS<br><br>Docket No. INS-04-610 | ) | DECISION AND ORDER |

## INTRODUCTION

The Superintendent of Insurance issues this Decision and Order, after consideration of Anthem Blue Cross and Blue Shield's 2005 rate filing for individual HealthChoice, HealthChoice Standard and HealthChoice Basic products. Anthem is required, pursuant to the provisions of 24-A M.R.S.A. § 2736(1), to submit for the Superintendent's approval proposed policy rates for non-group health insurance projects.

In its filing, Anthem proposes revised rates for its HealthChoice products that would produce an average increase of 14.7% for currently enrolled members. The specific rate revisions requested range from a 4.2% decrease to a 106.5% increase, depending upon deductible level and type of contract. Anthem requests that those rate revisions become effective on January 1, 2005.

This Decision and Order constitutes final agency action on Anthem's filing.

## PROCEDURAL HISTORY

On September 17, 2004, Anthem Blue Cross and Blue Shield ("Anthem") filed for approval of proposed revised rates for individual HealthChoice, HealthChoice Standard and HealthChoice Basic products. The Bureau of Insurance designated the matter as Docket No. INS-04-610.

On September 21, 2004, the Superintendent issued a notice of pending proceeding and hearing. The notice set public hearing for November 12, 2004, outlined the purpose of hearing, set a deadline for intervention, and explained hearing procedure. Pursuant to 5 M.R.S.A. § 9052, notice to the public was accomplished by publication in newspapers of State-wide circulation and on the Internet. In addition, pursuant to 24-A M.R.S.A. § 2735-A, on or about September 27, 2004, Anthem provided direct written notice by mail to every affected policyholder, advising policyholders of the proposed rate increases, pending proceeding and the scheduled hearing.

On September 30, 2004, the Department of the Attorney General filed a motion for intervention pursuant to 5 M.R.S.A. § 9054(1). There was no opposition to that motion.

On October 8, 2004, the Superintendent issued a Procedural Order, in which he identified the parties as Anthem and the Attorney General and, in accord with Maine Bureau of Insurance Rule Chapter 350, § 2(A)(1), established procedures for the conduct of this proceeding. In his Procedural Order, the Superintendent also established deadlines for serving discovery requests and for submission of pre-filed testimony and exhibits.

Between October 8, 2004 and the October 22, 2004 discovery deadline set by the Superintendent's Procedural Order, the Bureau of Insurance and the Attorney General engaged in discovery. The Bureau served Anthem with a total of three pre-hearing discovery requests, to which Anthem filed responses. The Attorney General served Anthem with one discovery request. Anthem generally responded but objected to one of the 25 parts of the Attorney General's request. By Order dated November 4, 2004, the Superintendent sustained in part and overruled in part Anthem's objection.

With its original filing, Anthem requested confidentiality of certain information. Anthem asserted that the information was proprietary, because it revealed unique methodologies and strategies, included internal financial data and would benefit competitors unfairly if disclosed. On October 25, 2004, the Superintendent issued a Protective Order requiring that certain information contained in Anthem's filing be given confidential treatment and protection from public disclosure pursuant to Bureau of Insurance Bulletin 168 and 1 M.R.S.A. § 402(3)(B). In the course of subsequent pre-hearing proceedings, Anthem filed several additional requests for confidentiality, asserting the same grounds set forth in their original request. At hearing on November 12, 2004, the Superintendent granted those motions, because the motions pertained to the identical or same kind of information covered by the Superintendent's original Protective Order.

On November 12, 2004, the Superintendent held a public hearing on Anthem's filing. Members of the public had an opportunity to make either sworn or unsworn statements for consideration by the Superintendent. Ten individuals provided such statements. Members of the public also made approximately 180 submissions of written comments.

At hearing, Anthem presented testimonial evidence from a Regional Vice-President, the General Manager of its Maine operations and two actuaries. The Attorney General presented testimonial evidence from an actuary and a health policy and health finance consultant. The Superintendent admitted into evidence several exhibits offered by each of the parties and took official notice of Anthem's responses to discovery requests from the Bureau of Insurance and the Attorney General.

After both parties rested at hearing, the Superintendent requested that they submit supplemental materials for inclusion in the record: certain calculations by each party's actuary and a revision by Anthem of its proposed notice to policyholders. The parties complied with the Superintendent's request. Anthem notified the Superintendent of its objections to certain portions of materials submitted by the Attorney General (which notification the Superintendent need not consider, since this Decision and Order does not rely upon materials to which Anthem objected). After the record was closed, both parties submitted written closing arguments for the Superintendent's consideration.

## STANDARD of REVIEW

Anthem bears the burden of proving by a preponderance of the evidence that the proposed rates are not inadequate, excessive or unfairly discriminatory. Additionally, pursuant to 24-A M.R.S.A. § 2736-C(5), Anthem is required to show that in accordance with accepted actuarial principles or practices proposed rates should yield a loss ratio of at least 65%.

## DISCUSSION

Following is a discussion in which the Superintendent addresses certain specific components of Anthem's filing.

### I. Unpaid Claims Liability

The Attorney General suggests that Anthem's failure to adjust its initial estimate of experience period claims in light of more recently available information resulted in an unnecessary overstatement of its liability. Such an overstatement would result in an overestimate of rating period claims and, arguably, excessive premiums.

In estimating Anthem's liability, the Attorney General's actuarial consultant used data more recent than the data Anthem used in the filing. At least some of that data was not available when Anthem prepared the September 17 filing.

The filing used claims paid through July. The Attorney General's consultant used claims paid through September. As the Attorney General's closing argument points out, September claims would not have been available at the filing date, but August claims would have been available. Neither Anthem nor the Attorney General's consultant provided an estimate of the unpaid claims liability using claims paid through August.

Anthem argues that updating the filing to reflect more recent data would require new notices to policyholders, thereby delaying the rating process. Taken to the extreme, this could lead to an endless cycle of updates and notices. The Attorney General counters that, if the more recent data makes a material difference, the filing should be updated, citing Actuarial Standard of Practice No. 8 ("ASOP 8"), section 5.5. That Standard states in part, "Prior claim reserve

estimates should be updated to reflect claim development experience to date when the difference is material." However, from the context, this appears to mean updating estimates at the time a filing is prepared. There is no specific reference in ASOP 8 to updating filings after they have been submitted. Nonetheless, it stands to reason that some changes that occur after the filing date, in either direction, could be so large that a revised filing would be warranted. It is a matter of judgment how large a change would warrant this.

In the current case, using the more recent data cited by the Attorney General would reduce the rate increase by roughly two percentage points. Pursuant to the Superintendent's request at hearing, Anthem provided an estimate based on the more recent data used by the Attorney General's expert. While Anthem's methodology produced a somewhat higher estimate than that of the Attorney General's expert, even when the same data was used, either methodology is reasonable. It does not appear that Anthem's methodology is inherently more conservative.

Anthem questions why this factor and not other aspects of the filing should be updated. The answer is simply that this is the only one shown to have changed materially.

## II. Investment Income

The Attorney General suggests that Anthem has understated its investment income credit, thus providing an insufficient offset to projected claims experience. Anthem's calculation of the investment income credit appears reasonable, however. While the Attorney General raises questions about apparent inconsistencies between Anthem's representations about investment income and data reported in its annual statements, it seems unlikely that the answers to those questions would result in any significant change. The Attorney General also argues that HealthChoice policyholders should be credited for investment income on Anthem's surplus. The surplus belongs to Anthem's stockholders, however, and it is logical that the income earned on it should also belong to stockholders.

## III. Commissions

The Attorney General points out that Exhibit I to Anthem's filing states that the $1.21 commission expense is on a per contract per month basis while Exhibit I calculations include a commission expense of $1.21 per member per month. The Attorney General's closing argument asserts that this means the total required premium is overstated. However, review of the calculation of this factor (Bates Stamp page 19 of the filing) makes it clear that the per contract reference is a labeling error and the $1.21 was in fact calculated to be per member per month.

## IV. Supplemental Accident and Preventive Care Rider

Anthem's Supplemental Accident and Preventive Care Rider waives the deductible for claims relating to accidents or preventive care. In the past, Anthem has applied the same percentage increase to the Rider's rate as the average increase applied to the base policy. A November 8, 2002 Decision and Order of the Superintendent provides, "Anthem…shall include in all future rate filings experience data for the Supplemental Accident & Preventive Care rider." In re: Anthem Blue Cross and Blue Shield 2003 Individual Rate Filing for HealthChoice, HealthChoice Standard and HealthChoice Basic Products and Individual HMO Standard and Basic Products, Consolidated Docket No. INS-02-785 at Part V, ¶ 4. Anthem has not complied with that Order, in this case. Instead, it re-rated the Rider, resulting in a proposed 13% rate decrease. Any decrease in the Rider's rate results in an increase in the rate for the base policy, since rates are calculated to achieve the required revenue for the block as a whole. Thus, the net effect of Anthem's proposal is to lower rates for policies with the Rider while raising rates for those without the Rider.

For the preventive care portion, Anthem provides total claims divided between policies with the Rider and those without it, resulting in a rate reduction for the Rider. If those two pools were similar, the difference in experience could be attributed to the Rider. However, Anthem stated at hearing that it believes that insureds whose policies have the Rider are more likely to seek preventive care on a regular basis and are therefore healthier. This means that some of the difference in claims experience is due to lower claims on the base policy offsetting claims under the Rider. To the extent that insureds seek regular care because their policies have the Rider, it may be appropriate to reflect their better health status in the Rider rates. However, to the extent that insureds chose to buy the Rider because they already sought preventive care regularly (and therefore were already healthier) charging them lower rates -- stated another way, charging those without the Rider higher rates -- can be viewed as inconsistent with community rating.

For the accident portion, Anthem does not provide total claims divided between policies with and without the Rider. It bases proposed rates on assumptions provided by actuarial consultants.

## V. Rate Relativities

Anthem's filing separates its HealthChoice book of business into three distinct blocks: HealthChoice Marketed Options, HealthChoice Renewable Only Options and HealthChoice Mandated Standard and Basic. The plans vary, based on benefit differences. Differences in proposed rates for the plans exceed the maximum possible difference in benefits among the plans. Maine Bureau of Insurance Rules, Chapter 940,
§ 8(B)(1) provides in pertinent part:

Unless the Superintendent grants an exception in accordance with this subsection, rates for different benefit plans that vary based on benefit differences may not exceed the maximum possible difference in benefits…. The Superintendent will grant exceptions based on the following criteria and conditions:

1. The rate differential between plans must be justified based on actual or reasonably anticipated differences in utilization that are independent of differences in health status or demographics….While it may not be possible to definitively determine how much of the difference in utilization is related to health status and demographics, the carrier must make a good faith effort to make this distinction.

Anthem seeks an exception to the requirement of Rule 940 that differences in rates between plans not exceed the maximum possible difference in benefits

## A. Renewable Only versus Marketed Options

Anthem's position is that none of the difference in utilization between the Marketed Options and the Renewable Only Options is due to differences in health status or demographics and that the three designated blocks of business are "naturally distinguishable." Its summary analysis of age differences and utilization, produced in response to discovery requests, does not establish that rate differentials are independent of health status or demographics. In short, Anthem's assertion that Rule 940's requirements are satisfied is not credible. With respect to Rule 940, its submission does not constitute the good faith effort required.

Anthem's closing argument asks the Superintendent what further information is needed to justify the rate differentials. It is doubtful that any available information could justify rate differentials of the size requested. However, it is likely that rate differentials that exceed the benefit differentials by a modest amount could be justified. Several possible methods for justifying such modest rate differentials were alluded to at the hearing. The two basic possibilities are:

1. Estimate the impact on utilization of the incentives created by higher cost sharing, or
2. Estimate the impact on utilization of differences in health status and demographics and back out the remaining differences attributable to other factors.

One approach to the first suggested method for justifying rate differentials is to use data from the Rand Health Insurance Experiment. Anthem's closing argument notes that the cost sharing levels examined in that study were much lower than those today, but when adjusted for inflation, they would be more comparable. To the extent differences remain, it would certainly be possible to extrapolate to estimate the effect of higher cost sharing.

One approach to the second suggested method for justifying rate differentials is to use Anthem's data on demographics and claims. Morbidity factors by age and sex are available in the actuarial literature or from consulting firms or could be based on Anthem's own experience. A weighted average factor could be determined for each block. This could then be divided by the weighted average of the age rating factors (i.e., 0.8, 1.0, and 1.2) applicable to each block to

estimate the impact of demographics on experience. Claims data could probably be used in a number of ways to estimate differences in health status. One way would be to determine the proportion of each block that has a serious medical condition, e.g., cancer or heart disease. Another way would be to focus on utilization of services that are not discretionary and therefore not likely to be affected by the incentives of different cost sharing provisions.

Regardless of what method for justifying rate differentials is used, the groupings of plans proposed in this filing is not acceptable, primarily because the highest deductible in the Renewable Only group ($4,000) is higher than the lowest deductible in the Marketed Options group ($2,250). A higher rate for the $4,000 deductible could not possibly be justified based on incentives provided by cost sharing, since those incentives would be in the opposite direction. That is, insureds with the $4,000 deductible would have greater incentive to constrain utilization than those with the $2,250 deductible. The $2,000 deductible plan is similarly problematic. While having a slightly lower deductible than the $2,250 plan, it also has coinsurance of up to $1,000, so the potential cost sharing is still higher.

Anthem bases its groupings on the fact that the Renewable Only Options have coinsurance provisions while the Marketed Options do not. This distinction is not relevant, although coinsurance does enter into the calculation of the maximum possible difference in benefits. It would be preferable to treat each deductible separately, rather than grouping plans. If grouping is to be used, then it must be done on a more logical basis.

Even in the unlikely event that Anthem can justify rate differentials that greatly exceed benefit differentials, it would be inappropriate to implement them all at once. Rate increases of the magnitude Anthem proposes for the Renewable Only Options would exacerbate the deterioration of the claims experience for that block, since insureds in relative good health are more likely to drop coverage, while those anticipating substantial claims are more likely to maintain coverage.

## B. Mandated versus Marketed Options

Anthem’s closing argument asserts that the Mandated Options have not historically been subsidized by the Marketed Options “within the construct of Rule Ch. 940.” It is true that the requirements of Rule 940 regarding rate relativities do not apply to the rate differentials between the Marketed and Mandated Options, because the plan designs are sufficiently different to make it impossible to define a maximum possible difference in benefits. However, it is also true that Anthem’s past rating practices have resulted in a subsidy of the Mandated Options.

Exhibit I of Anthem's filing shows that premiums for the Mandated Options for the year ending June 30, 2004 were not even enough to cover claims, let alone administrative expenses and profit, while claims for the Marketed Options were

only 71% of premium. While there is no prohibition against Anthem rating each of these blocks separately, a change of this magnitude should be made more gradually. As with the Renewable Only Options, rate increases of the magnitude Anthem proposes for the Mandated Options would exacerbate the deterioration of claims experience.

## VI. Profit and Risk Margin

Past filings by Anthem have included a combined profit and risk margin. The current filing contains separate profit and risk margin proposals. Either combining or separating profit and risk margins is acceptable and has no impact on the rates or anything else, if the combined margin is simply the sum of the separate margins. The significant factor is the size of the combined margin.

The HealthChoice line has contributed substantially to the increase of Anthem's surplus in recent years. The filing's Exhibit III shows that, for the period 2000-2003, the HealthChoice operating gain before federal income tax was equal to 9.8% of revenue. Other factors to consider in determining an appropriate margin are the degree of uncertainty in the projections of claims and administrative expenses and the need to keep premiums as affordable as possible.

## VII. Disclosure Form

In the event a Rule 940 exception is granted,

> it must be clearly disclosed to prospective policyholders and renewing policyholders. A copy of the disclosure to be used and a description of when and how it will be distributed must accompany the proposed rate filing.

Bureau of Insurance Rules, Chapter 940, § 8(B)(2). The Superintendent deemed the disclosure form filed with Anthem's application inadequate and requested at hearing submission of a revised text. The fifth paragraph of the revised disclosure reads:

> Please note that due primarily to the high cost of health care associated with your plan, your particular option is priced higher than other plans that we offer with similar benefits. This means that you may be able to obtain similar benefits as your current coverage affords, but at a lower cost than the cost of your current plan. You have a choice – you may keep your current plan option – or select an alternative plan option. You are not required to change plans. We have included with this letter a representative sample of other options available with their associated monthly costs for your review.

While this revision is an improvement from the disclosure text originally proposed, its reference to "similar benefits" is inappropriate, since the plans that will save money are those with higher deductibles.

## VIII. Non-Compliance with the 2002 Decision and Order

### A. Supplemental Accident and Preventive Care Rider

As noted above in Point IV, in this filing, Anthem has failed to comply with a November 8, 2002 Order of the Superintendent requiring that it file experience data for the Supplemental Accident and Preventive Care Rider. In response to a discovery request, Anthem asserted that it is difficult, if not impossible, to segregate that experience. Anthem explained that it is not apparent whether claim payment was due to the rider or a result of the deductible having been met. Assuming the validity of this late explanation, at hearing, Anthem confirmed that it nonetheless had unilaterally decided not to comply with the November 8, 2002 Order without prior explanation or a request for relief from the Order's requirements.

### B. Mixed-Age Contracts

Anthem's 2002 filing changed the way rates are determined for contracts covering two adults (with or without children). Previously, the rates reflected the ages of both adults. Now rates are based on the age of the primary policyholder. Therefore, while it had previously made little difference which spouse was designated as primary insured, it is now advantageous for policyholders to designate the younger spouse as the primary insured. In order to make policyholders aware of this, The Superintendent's November 8, 2002, Decision and Order provides at Part V, ¶ 3:

> Anthem and Maine Partners shall take vigilant measures ensure that affected policyholders under mixed-age contracts are aware of their opportunity to make the younger spouse the policyholder by means of initial direct mail notification, follow-up direct mail notification where a policyholder is non-responsive to the initial mailing, and a single telephone notification if a policyholder continues to be non-responsive. This requirement applies both to those policyholders initially affected by the change and to those who are affected in the future as the older spouse reaches an older age band. Anthem… also shall take similarly vigilant measures to ensure that those applying for family coverage are aware of the savings available by making the younger spouse the policyholder.

Anthem's response to a Bureau of Insurance discovery request in this proceeding reveals that it has failed to follow this Ordered procedure.

According to Anthem, it sent one mail notice in 2002 to the 795 policyholders affected in 2003. It sent no second letter. It made calls to "over 300" policyholders. Presumably, the calls were to all of the policyholders who did not respond to the letter, though this was not made clear. Anthem was unable to determine how many members ultimately changed the primary policyholder and how many did not.

According to Anthem, it sent an initial mail notice to 296 policyholders in 2003 for 2004 effective dates. It sent a second notice to 119 policyholders who did not respond. Presumably, this means that 177 (296 - 119) changed after the

first notice. Eventually, 185 changed and 17 terminated, leaving 94 policyholders paying higher rates than they needed to pay. It appears that only eight (185 - 177) changed after the second notice, which tends to indicate that little, if any, harm resulted from skipping the second written notice in 2002 and going right to phone contact.

At hearing, Anthem offered time constraints as an excuse for some of its failure to comply with the 2002 Order's notice requirements but was unable to provide a complete explanation of its noncompliance. Anthem does not dispute that it did not seek relief from the Superintendent's Order or provide the Superintendent notice of its noncompliance.

## FINDINGS and CONCLUSIONS

On the basis of a preponderance of the credible evidence before him, the Superintendent makes the following findings and conclusions:

1. For reasons set forth above in DISCUSSION, Points I, V and VI, Anthem's proposed base rates are excessive and unfairly discriminatory.
2. For reasons set forth above in DISCUSSION, Point IV, it is impossible to determine whether Anthem's proposed rate for the Supplemental Accident and Preventive Care Rider is inadequate, excessive or unfairly discriminatory.
3. Weighing all relevant factors, the appropriate combined margin for profit and risk in this filing is 3% before federal income tax.
4. For the reasons set forth above in DISCUSSION, Points IV and VIII(A), Anthem has violated the mandate set forth in ¶ 4 of Part V of the Superintendent's November 8, 2002 Order in In re: Anthem Blue Cross and Blue Shield 2003 Individual Rate Filing for HealthChoice, HealthChoice Standard and HealthChoice Basic Products and Individual HMO Standard and Basic Products, Consolidated Docket No. INS-02-785. Whatever reason Anthem may now articulate for this violation is no excuse, in light of Anthem's failure to advise the Superintendent of relevant circumstances in a timely fashion and seek relief from the Order by appropriate means.
5. For the reasons set forth above in DISCUSSION, Point VIII(B), Anthem has violated the mandate set forth in ¶ 3 of Part V of the Superintendent's November 8, 2002 Order in In re: Anthem Blue Cross and Blue Shield 2003 Individual Rate Filing for HealthChoice, HealthChoice Standard and HealthChoice Basic Products and Individual HMO Standard and Basic Products, Consolidated Docket No. INS-02-785.

## ORDER

Pursuant to the provisions of 24-A M.R.S.A. §§ 12-A(6), 2736 and 2736-A and authority otherwise conferred by law, the Superintendent hereby ORDERS:

1. Approval of the rates filed September 17, 2004 by Anthem Blue Cross and Blue Shield for individual HealthChoice, HealthChoice Standard and HealthChoice Basic products is DENIED.
2. In any refiling of rates for HealthChoice and other products, to calculate unpaid claims liability, Anthem shall use the most recent data available at the time of refiling.
3. In any refiling of rates in this proceeding, Anthem shall make no change to the current (2003) rates for the Supplemental Accident and Preventive Care Rider.

4. Prior to any filing rates for HealthChoice products for future years, Anthem shall consult with the Bureau of Insurance to determine the correct methodology for rating the Supplemental Accident and Preventive Care Rider.

5. In any refiling of rates in this proceeding, Anthem shall revise rate relativities between and within the Renewable Only and Marketed Options. Anthem shall limit the increase for any of these plans to the lesser of (a) the increase that can be justified consistent with Rule 940 and DISCUSSION, Point V(A), above or (b) 25%, exclusive of age changes.

6. In any refiling of rates in this proceeding, Anthem shall limit the increase for any of the Mandated Options plans to no more than 25%, exclusive of age changes.

7. With any refiling of rates for HealthChoice products, Anthem shall submit a new revision of the notice to policyholders required by Bureau of Insurance Rules, Chapter 940, § 8(B)(2). What is presently the fifth paragraph of Anthem's proposed notice shall be rewritten to read as follows:

   You can save money by switching to a plan with a higher deductible. The premium savings over the course of a year will be more than the increase in the deductible. This means that, even if you have to pay the entire deductible for health care expenses, you will be able to pay that deductible from your premium savings and still have money left over. You have a choice: you may keep your current plan option *or* select an alternative plan option. You are not required to change plans. Included with this letter is a representative listing of other options available to you and the monthly costs associated with each of those alternative options. Please review the enclosed listing carefully.

   This paragraph shall be in 14 point bold print.

8. Anthem shall take measures to address its noncompliance with ¶ 3 of Part V of the Superintendent's November 8, 2002 Order in In re: Anthem Blue Cross and Blue Shield 2003 Individual Rate Filing for HealthChoice, HealthChoice Standard and HealthChoice Basic Products and Individual HMO Standard and Basic Products, Consolidated Docket No. INS-02-785. Immediately, Anthem shall:

   a. Telephone the 94 policyholders who did not respond to either written notice in 2003 (excluding any who have since terminated), offer to make the change in primary policyholder retroactive to January 2004 and refund the excess premium paid since the retroactive date.
   b. Put in place verifiable protocols ensuring that requirements of ¶ 3 of Part V of the Superintendent's November 8, 2002 Order, as amended below, are being and will continue to be met.
   On or before February 1, 2005, Anthem shall report to the Superintendent:
   a. The number of policies affected in January 2003 that still have the older spouse as the primary policyholder.
   b. The number of calls made to policyholders who did not respond to either written notice in 2003, the number of those policies for which there was a change of primary policyholder and the number of policies for which there was no change of primary policyholder.
   c. The number of written notices sent to those affected in January 2005, the number of those affected who responded requesting a change of primary policyholder, the number of telephone calls made to those affected, the number of those calls resulting in a change of primary policyholder and the number of calls not resulting in a change of primary policyholder.

   Beginning in 2005, no later than November of each year , Anthem shall send a written notice to each policyholder who has a covered spouse who will be in a younger age band as of the following January. Anthem shall follow up by telephone with those who do not respond. This Order amends the November 8, 2002 Order by eliminating the second mail notice required therein.

## NOTICE of APPELLATE RIGHTS

This Decision and Order is final agency action of the Superintendent of Insurance, within the meaning of the Maine Administrative Procedure Act, 5 M.R.S.A. § 8002(4). It may be appealed to the Superior Court in the manner provided for by 24-A M.R.S.A. § 236, 5 M.R.S.A. §§ 11001 through 11008 and M.R. Civ.P. 80C. Any party to the proceeding may initiate an appeal within thirty days after receiving this notice. Any aggrieved non party whose interests are substantially and directly affected by this Decision and Order may initiate an appeal within forty days of the issuance 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 this 16th day of December 2004 at Gardiner, Maine.

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ALESSANDRO A. IUPPA
Superintendent