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Bureau of Insurance Consumer Health Care Division Annual Report to the Legislature for the Year 2004



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Governor

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Acting Commissioner

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Superintendent



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I. Overview

This report is being issued pursuant to 24-A M.R.S.A. §4321(J). The Consumer Health Care Division (CHCD) is one of several work units in the Maine Bureau of Insurance (the Bureau), which is within the Department of Professional and Financial Regulation (PFR). The CHCD focuses its efforts on consumer assistance, outreach, and oversight of insurer compliance with the Insurance Code (Title 24-A) and Bureau regulations. On December 1, 2004 the Life and Disability unit was merged into the CHCD. This resulted in three additional full time staff being added to the CHCD with the responsibilities of investigating life and disability complaints and the review of forms.

The Division is responsible for the following activities:

- Review and approval of health insurance forms (Policy Language) ,
- Investigation and resolution of consumer health insurance complaints,
- License Approvals for medical utilization review entities (UREs),
- Review and approval of long-term care insurance forms,
- Review and approval of disability and life insurance forms,
- Oversight of the Bureau's external review process,
- Drafting and review of health insurance regulations,
- Bringing enforcement actions against health insurance carriers and other licensed entities when violations occur,
- Review of managed care plans for compliance with provider network adequacy measures,
- Approving the licenses for preferred provider arrangements (PPOs),
- Approving the licenses of viators,
- Developing outreach and educational materials,
- Drafting reports on issues involving health policy,
- Participating on the Interagency Task Force for the Quality Oversight of Commercial Health Maintenance Organizations (HMOs),
- Tracking, trending, and analyzing data,
- Responding to consumer inquiries through the toll-free Consumer Assistance Hotline (800-300-5000), Email and one on one conferences,
- Analyzing consumer complaint data for trending purposes,
- Review of complex complaints that include determinations of medically necessary care and complex health questions,
- Conducting outreach to a variety of groups including other state agencies,
- Providing information to consumers regarding health care plan options and obtaining health care coverage and services, and
- Assisting health plan enrollees in understanding their rights and responsibilities.

"Many, many thanks for your tireless efforts to resolve my struggle with [carrier]. You were a great advocate for me and worked above and beyond the proverbial call of duty to help me! Thanks again."
Consumer

II. Accomplishments

A. Consumer Assistance

- **Inquiries**

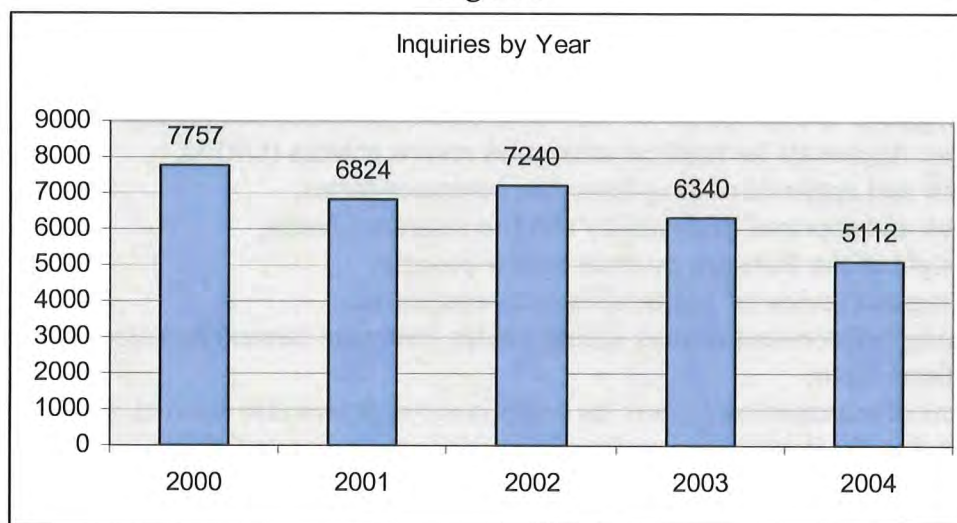
CHCD staff responded to 5,112 telephone inquiries during 2004. The most frequent inquiries related to:

- Medicare Supplement insurance
- Individual insurance
- Claim denials
- Long Term Care.

"I can't thank you enough for your help with this matter. ... You don't know what a relief this is. Thank you again.." ... *Consumer*

Figure 1 illustrates the number of telephone inquiries received for the years 2000 – 2004.

Figure 1



The CHCD staff responded to 36 requests for consumer assistance from state and federal legislative officials who had been contacted by constituents. Like the telephone inquiries, these requests for assistance on behalf of constituents encompass a wide range of health insurance related issues.

Staff are able to immediately assist consumers with inquiries by providing verbal information, referring callers to the Bureau's web site (www.MaineInsuranceReg.org), and/or mailing issue-related brochures. For issues not within the Bureau's jurisdiction, consumers are referred to the appropriate agency, such as the Maine Department of Human Services (regarding MaineCare or elder issues, for example) and the U.S. Department of Labor (regarding such federal laws as ERISA, COBRA or HIPAA). Many times, CHCD staff can contact the carriers to get immediate resolution or to expedite the appeals process.

- **Complaints**

During 2004, the CHCD responded to 484 written health insurance complaints filed by health plan enrollees, policyholders, insurance producers, and health care providers. The complaints concerned health insurance carriers, utilization review entities, and third party administrators. Enrollee and policyholder complaints most often concern a denial of a claim or a service.

Complaint investigation is time consuming, as issues related to health care and insurance coverage are often complex. The CHCD requests that enrollees sign a consumer complaint form authorizing the CHCD staff to contact insurance company and health care providers in order to resolve the dispute.

Often, the complaint is with an employer or company not within the Bureau's jurisdiction. In those instances the complaint is forwarded to the regulatory agency with jurisdiction to investigate and enforce the provisions of the health insurance contract.

In conducting complaint investigation, the carrier is directed to respond to the allegations and determine if errors were made by the company. The insurance carrier response and supporting documentation are reviewed by CHCD staff to determine if the processes used by the carrier comply with the terms of the insurance policy, as well as Maine law and regulations. The enrollee is kept informed of the progress of the investigation and at times is requested to provide additional information.

It is not uncommon for consumers to request immediate Bureau intervention when carriers deny services perceived as urgent by consumers and their providers. These situations generally occur when a surgical procedure or an inpatient stay has been denied by a carrier or health plan. CHCD staff has been able to resolve some of those situations immediately when it is evident that the carrier's denial is flawed or contrary to specific requirements in the consumer's insurance policy or contained in Maine law. During 2004, the CHCD staff was instrumental in assisting with the recovery of \$763,407 for enrollees and policyholders. Most often, the recovered funds are from previously denied claims.

"I want to thank you so much for your advice and help yesterday when we talked in the morning by phone. Its really great knowing there are excellent people like you in the state government looking out for the welfare of Maine's citizens." ...Consumer

Frequently the staff is able to assist consumers in achieving their desired results; however, there are instances when the Bureau is unable to assist the enrollee or policyholder to their satisfaction. There are also instances when CHCD staff must explain the basis and rationale for the carrier's decision and to inform enrollees that the carrier has not violated Maine law. Generally, these cases include situations where the carrier is appropriately administering contract exclusions or the plan is exempt from state regulation due to federal law. Even when federal law takes precedent, however, staff takes the opportunity to provide the consumer with information regarding insurance law, their rights and responsibilities, and the terms of their coverage. They also refer those consumers to the U.S. Department of Labor or other agencies, as appropriate.

The CHCD staff works proactively with the insurance carriers to identify trends in consumer complaints in order to remedy the problems before they result in violations of the Insurance Code. Despite these preventative measures, the Superintendent entered into several consent agreements with carriers in 2004 stemming from consumer complaints received and investigated

"YOU WON'T BELIEVE IT...I CERTAINLY DON'T!!!! I JUST SPOKE WITH [CARRIER REPRESENTATIVE]. I AM APPROVED!!!!!! CAN YOU BELIEVE IT!!!! I AM THE HAPPIEST PERSON IN THE WORLD RIGHT NOW. I OWE THIS ALL TO YOU!!! I TRULY BELIEVE WITHOUT YOUR ENCOURAGEMENT I WOULD HAVE GIVEN UP. THANK YOU. THANK YOU. YOU ARE AN ANGEL ON EARTH." ...Consumer

by CHCD. The result was \$50,000 dollars in fines levied against insurance companies. Copies of consent agreements can be found on the Bureau of Insurance webpage at the following weblink:
<http://www.state.me.us/pfr/ins/consent.htm>.

In the CHCD's analysis of the consumer complaints and inquiries, two trends emerged:

- Maine residents contacted the CHCD in search of affordable health insurance coverage;
- Many residents who contact the CHCD are often confused about their benefits, and the steps they must take to receive the maximum benefits under their policy.

"Several months into the frustrating process I sent a letter to the Bureau of Insurance about my travails. I received a prompt reply from Diane at the Bureau.... The claim was settled and the credit goes to Diane for her perseverance." ...Consumer

- **Outreach and Education**

One of the principal objectives of the CHCD is to educate consumers regarding how to advocate for themselves so they are comfortable with the system and aware of their rights. The CHCD encourages communication between carriers and providers during outreach activities.

Division staff participated in several public speaking events this year, including;

- Living with Cancer Conference;
- Cancer Community Center – South Portland;
- Society of Financial Examiners;
- Bath Senior Citizens Center workshop;
- Public Forums in Ellsworth, Presque Isle and South Portland
- Bureau of Elder and Adult Services Regional Coordinators; and
- Health Insurance Partnership (National Panel).

"Hi, I got a check on Saturday from [Carrier] for \$656.95! I am thrilled! Thank you so much for your efforts!!!" ...Consumer

In 2004, the CHCD initiated a consumer outreach program that included a visit to each of Maine's 16 counties. Legislators in the area where the outreach was scheduled were invited to participate and refer their constituent's to the outreach activity. The CHCD's first county outreach meeting was held in Androscoggin County at the Lewiston Public Library. CHCD staff provided educational materials and developed presentations for interested consumers when visiting each community. A sample of the advertising for this outreach is listed in the Appendices at the end of this report.

- CHCD staff also provides information to consumers by developing written educational materials, both for the Bureau website and hard-copy distribution.

"There are not words – but I will try. Thank you for being an advocate for me- for fighting the battle that at times I wanted to bow out on. Thank you for helping to make life today & tomorrow better, easier, freeing for me and my family. If you ever wonder if what you do changes lives – my husband and I are getting ready to close on a house. All the best! ... Consumer

Finally, the Division promotes coordination with other organizations that assist consumers, including the Maine Department of Human Services, the Maine Health Data Organization and the Maine Advisory Council on the Education of Children with Disabilities.

B. External Review

Policyholders and enrollees have the right to request an external review when a health insurance carrier or HMO denies benefits for medically necessary health care services after exhausting the internal appeals process established by their insurance company or HMO. The review is an external review because a contracted review organization, which has no

affiliation with the insurance carrier, conducts the review. The decision of the external review is binding only on the carrier; policyholders and enrollees can seek private legal action if they choose.

The Bureau contracted with two independent external review organizations for 2004 and 2005, The Center for Health Dispute Resolution and Hayes Plus.

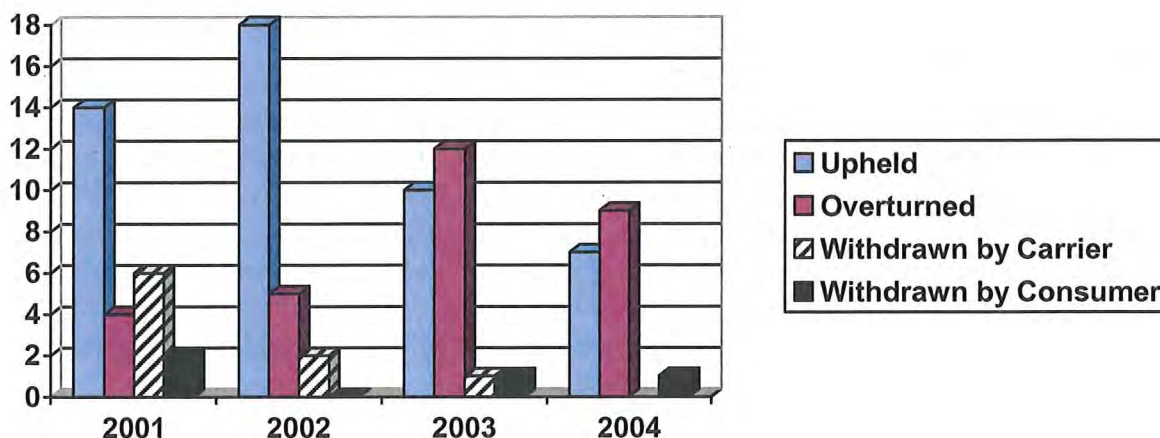
The Bureau processed 16 qualified requests for external review during 2004. Of these cases, nine (56%) were completely overturned (the carrier's original decision to deny coverage was entirely reversed), and seven (44%) upheld the carriers decision. One request for an external review was withdrawn by the consumer before the external review was conducted.

The CHCD received additional requests for external review that did not qualify as eligible under the statute, either because the consumer had not exhausted both levels of the insurance carrier's internal appeal process or because the denial was based on issues other than validity of the carrier's medical decisions.

Figure 2 illustrates the number of external reviews that were overturned, upheld or withdrawn by either the carrier or consumer prior to the review for the years 2001, 2002, 2003, 2004.

Figure 2.

External Review Outcomes By Year



“Thank You Thank You Thank You, I really appreciate all of the work you did for me...it is great to know that there is someone out there looking out for us. I have never really needed to use my insurance before, and I was beginning to wonder why I was paying for it. This is great news. Thanks Again.”...*Consumer*

C. Licensing Activity

At the end of 2004, there were 72 medical utilization review entities (UREs) licensed in Maine. Applicants must certify compliance with Maine's UR requirements, licenses are issued based on the company's representation of compliance with all applicable standards. A list of Maine licensed UREs can be found on the Bureau's web site under *Producer/Business Entity Information*.

The CHCD policy development specialist reviews and registers preferred provider arrangements (PPAs). In addition to the 21 PPAs previously registered, 9 new arrangements applied for registration in 2004, but only six met the requirements to be registered. Preferred provider arrangements are reviewed for compliance with Maine statutes regarding: accessibility, utilization review, grievance and appeal procedures, provider compensation, consumer notification, and emergency access requirements. A list of Maine licensed preferred provider arrangements can be found on the Bureau's web site under *Producer/Entity Information*.

The CHCD staff reviews managed care entities' provider networks to determine if they comply with the accessibility standards set forth in Maine law and regulation. Managed care entity applications to expand their geographic service area are also reviewed by CHCD staff to determine if an adequate network of providers is available to render medical services to enrollees. The staff is often apprised when contractual relationships between the insurance carrier and the provider community dissolve, creating the possibility that enrollees may not have access to a participating provider. CHCD staff monitors the situation to assure that enrollees are provided adequate notice and opportunity to find alternative providers and to make sure that continuity of care for enrollees currently receiving medical services is addressed by the carrier.

“Thank you very much for your input and we're glad you're there to help people who are being taken advantage of and who don't question. Too many people don't even know where to go for help.”... *Consumer*

D. HMO Quality Oversight

Maine's Insurance Code assigns regulatory oversight of commercial HMOs operating in Maine to the Department of Professional and Financial Regulation (PFR), the Bureau of Insurance, and the Department of Human Services (DHS), Bureau of Medical Services. In August 1998, PFR and DHS signed a memorandum of understanding to “clarify their respective areas of responsibility, identify overlapping responsibilities, and establish a cooperative, non-duplicative and efficient regulatory framework for the oversight of commercial HMOs in Maine....” To implement this goal, the Inter-Agency Task Force (IATF) for HMO Quality was established by PFR and DHS to perform joint agency functions as set by the memorandum of understanding.

Each year pursuant to Title 24-A M.R.S.A. § 4215, the IATF notifies each HMO to be examined that the Bureau of Insurance and DHS will conduct a coordinated, on-site State examination of the quality of the carrier's health care and customer services. The CHCD director chairs the IATF, and its policy development specialist leads the examination team. To minimize duplication of time and resources, IATF examinations are coordinated with each HMO's triennial National Committee for Quality Assurance (NCQA) accreditation review cycle. (Although participation in NCQA's accreditation and certification programs is voluntary, more than half the nation's HMOs, including those operating in Maine, currently participate.)

In 2004, the IATF examination team consisted of:

- Joanne Rawlings-Sekunda, M.P.P., Policy Development Specialist, Bureau of Insurance
- Diane Williams, R.N., C.I.C., C.P.H.Q., Nurse Consultant, Bureau of Insurance
- Joan Lancaster, R.N., Bureau of Medical Services, Department of Human Services (DHS)
- Lillian Phillips, R.N., Bureau of Medical Services, Department of Human Services (DHS)
- Margaret Ross, R.N., consultant, former Director of DHS's Surveillance Utilization Review Services

One of the original members of the State exam team could no longer participate, and three new members joined. An orientation was held in October 2004 to familiarize new members with the examination process.

The State exam team conducts HMO examinations using a two-part process.

- First, the team observes the on-site National Committee for Quality Assurance (NCQA) accreditation review. Once the team receives a copy of the HMO's NCQA accreditation report several months later, it uses the NCQA's findings to credit the HMO for compliance with any State standards that are equivalent to the NCQA standards.
- Second, the team returns to the HMO to assess the HMO's compliance with State-specific standards not covered by NCQA. The team then develops a report of its findings.

In 2004, the IATF conducted a quality review of activities for two HMOs doing business in Maine:

- *Aetna Healthcare, Inc.* In September, the State exam team reviewed NCQA's accreditation report, and participated in an on-site review to target areas specific to Maine statutes and regulations. A draft report was prepared, circulated internally, and then submitted to Aetna. Aetna did not make suggestions or corrections; the report was finalized and posted on the Bureau of Insurance website.
- *CIGNA Healthcare of Maine, Inc.* In October, the State exam team reviewed NCQA's accreditation report, and participated in an on-site review. A draft report was prepared, circulated internally, and then submitted to CIGNA. CIGNA did not make suggestions or corrections; the report was finalized and posted on the Bureau of Insurance website.

These HMO reviews represented the second round of reviews by the IATF. (The first round of reviews was done as follows: Aetna – 2001; CIGNA, Anthem Blue Cross and Blue Shield, and Maine Partners – 2002; and Harvard Pilgrim Health Care – 2003). Therefore, before participating in these reviews, the IATF updated its data collection tool to comply with the latest changes in State statutes and regulations. The IATF

engaged the Muskie School of Public Service (University of Southern Maine) and an NCQA consultant to assist with this effort.

Since the IATF had completed its first reviews of all Maine's major carriers, the Muskie School was also tasked with conducting a "lessons learned" analysis of the IATF, analyzing the State's examination process for possible recommendations for improvement. Interviews have been conducted with IATF members, health carrier staff, State staff, and other interested parties; data is currently being analyzed.

Advisory Council

The Consumer Health Care Advisory Council (CHCAC) reviews the work of the Consumer Health Care Division and makes recommendations for improving the division's outreach and operations.

- The Council consists of nine voting and two ex-officio members and did not meet during 2004. The terms of most Advisory Council members expired in March 2003, and no subsequent appointments were made which resulted in the lack of a quorum for meetings.

III. Policy Form Review

During 2004, the CHCD approved 3,560 policy form filings and disapproved 230 policy form filings. The CHCD receives form filings both in paper and electronic format. The average turn around time for a paper filing was approximately 19.3 days.

Electronic filings were submitted via the System for Electronic Rate and Form Filings (SERFF). SERFF is a nationwide system developed by the National Association of Insurance Commissioners (NAIC). SERFF filings are given top priority by the Bureau for review; the average turn around time for these filings was 12.6 days.

Patricia Libby, CHCD Senior Insurance Analyst, continues in her second year of a three year term as a member of the national SERFF Board of Directors.

The CHCD adopted and began using several nationally recognized speed-to-market initiatives this year.

- Implemented the National Association of Insurance Commissioners Best Practices Checklists for form review and published it on our website, as well as linking it to SERFF and the NAIC web pages.
- Implemented the use of the uniform transmittal form for paper and SERFF filings
- Implemented the uniform product coding metrics for all paper and SERFF filings. This provides for uniform codes to be used by all states for all lines of business.
- Implemented the use of Electronic Funds Transfer (EFT) for SERFF filings, which enables carriers to submit filing fees electronically rather than by mail.

In 2004 the CHCD began scanning and placing all paper filings into SERFF, allowing one venue for storing and tracking all paper and electronic filings.

IV. Legislative and Regulatory Activities

The implementation of the DIRIGO legislation required the Consumer Health Care Division to work with the DIRIGO staff as they reviewed and analyzed a variety of initiatives aimed at developing a health insurance product for small businesses. The staff attended many meetings monitoring the progress of the DIRIGO health plan providing feedback and advice as requested.

V. Analysis¹

The CHCD uses the knowledge gained in its work, including consumer complaint reviews and inquiries, to identify complaint patterns and carrier-specific complaint trends. When the CHCD identifies complaint trends, they notify carriers through both formal and informal communications.

Each carrier has its own unique referral and authorization systems, and requires members and/or providers to obtain the carrier's approval before certain services are reimbursed. Although these systems are not designed to be onerous, the CHCD works with carriers, providers, and consumers to find ways to simplify the processes and improve awareness.

The rural nature of Maine can present special challenges. Commercial carriers have difficulty contracting with mental health providers because of the limited number of psychiatrists, pediatric and adolescent psychiatrists, and acute care mental health facilities in Maine. Some of the current acute care facilities are unable to meet the needs of the more challenging persons with behavioral problems. The CHCD staff continually monitors compliance with accessibility standards and works with carriers to ensure that consumers can access the care they need.

Finally, as is the case across the country, health insurance costs in Maine continue to climb. These costs are driven by a number of interrelated factors, which makes dealing with the problem extremely complicated. Hospital inpatient care accounts for about 14% of these cost increases and outpatient care accounts for an additional 37%; services provided by doctors or other health care professionals account for another 27%. Prescription drugs account for about 22%, but are rising rapidly.² Other costs include: more expensive medical technologies, administrative costs, and privately insured people subsidizing underpayments by Medicare and Medicaid.

If you are interested in additional information or have questions, you are encouraged to contact the Consumer Health Care Division in the Maine Bureau of Insurance by calling toll free 800-300-5000.

"Thank you so much for all your work in getting [Carrier] to pay for my insulin pump and in getting them to acknowledge that they owed me interest for the delay. Your persistence and responsiveness was amazing. You leveled the playing field and I am so grateful!" Consumer

¹ PL 1997, c. 792 §G (2) charges the Consumer Health Care Division with "identifying practices and policies that may affect access to quality health care, including, but not limited to, practices relating to marketing of health care plans and accessibility of services and resources for under-served areas and vulnerable populations..."

² Milliman USA Health Cost Index (\$0 deductible), Business & Health Institute August 12, 2003.

Appendices

- Outreach Advertising Examples.



Need help understanding health insurance? Having a problem with your health insurance company?

Staff from the State of Maine Consumer Health Care Division of the Bureau of Insurance will be available to talk to you.

**Farmington Public Library
117 Academy Street
Farmington, Maine
April 14, 2004**

They will be available to answer your questions, help you with your health insurance problems, and will give short presentations on:

- Understanding your health insurance policy
- Your continuity and guaranteed issue rights
- Your appeal and grievance rights
- Medicare Supplement policies
- Long term care policies
- Discount cards

Please drop by the Farmington Public Library on April 14 between 1:00 p.m. and 7:00 p.m.

Call the Maine Bureau of Insurance at 800-300-5000 if you have any questions.

MAINE DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION

Bureau of Insurance



**Need help understanding health
insurance?
Having a problem with your health
insurance company?**



Staff from the State of Maine Consumer Health Care Division of the
Bureau of Insurance will be available to talk to you.

When?

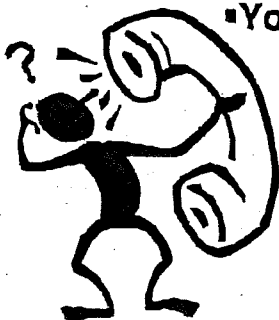
September 22, 2004, 1:00 p.m. to 7:00 p.m.

Where?

**Wiscasset Public Library
Fiction Room
21 High Street, Wiscasset**

They will be available to answer your questions, help you with
your health insurance problems, and give short presentations on:

- Understanding your health insurance policy
- Your continuity and guaranteed issue rights
- Your appeal and grievance rights
- Medicare Supplement policies
- Long term care policies
- Discount cards



Call the Maine Bureau of Insurance at
800-300-5000 if you have any questions.