

MAINE STATE LEGISLATURE

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Bureau of Insurance Consumer Health Care Division Annual Report to the Legislature for the Year 2005



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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), e-mail, 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.

“I just returned home yesterday from vacation and received your phone call message concerning my insurance claim against (insurance company). I wish to express to you how grateful I am to you for all the work and effort you must have put into settling this claim. You were my last resort and I wasn’t holding out much hope, considering all (insurance company) had put me through. But you persevered and through your dedication, this matter has finally been settled. Thank you so much! So rarely is our faith restored, but you were willing to take this challenge for me and you triumphed where I could not. I commend you and greatly appreciate what you have done.” Consumer

II. Accomplishments

A. Consumer Assistance

- **Inquiries**

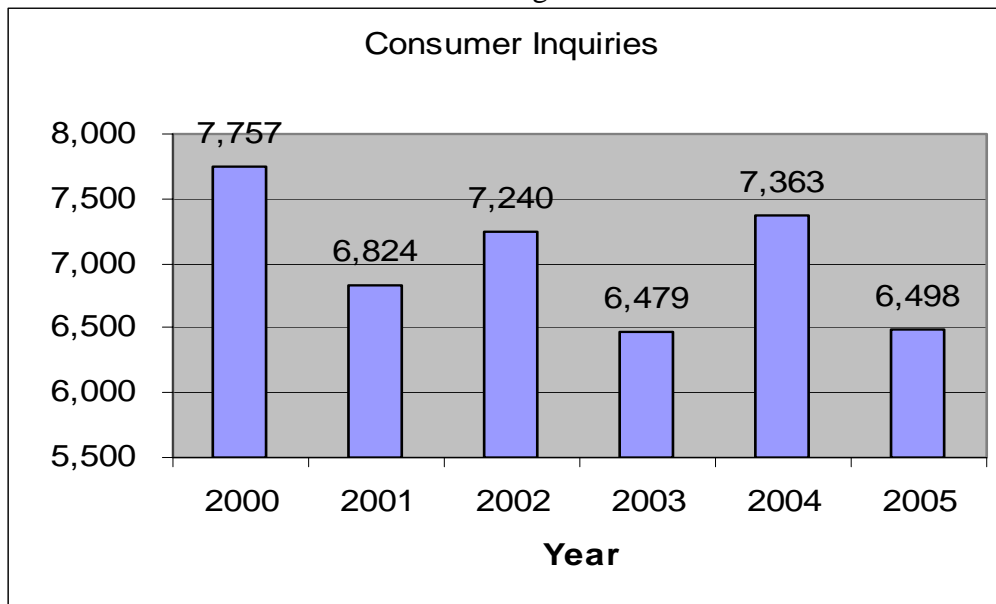
CHCD staff responded to 6,498 telephone inquiries during 2005. The most frequent inquiries related to:

- Medicare Supplement insurance
- Individual insurance
- Claim denials
- Life Insurance

"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 – 2005.

Figure 1



The CHCD staff responded to 26 requests for consumer assistance from state and federal legislative officials who were contacted by constituents. Like the telephone inquiries, these requests for assistance on behalf of constituents encompass a wide range of health insurance related issues.

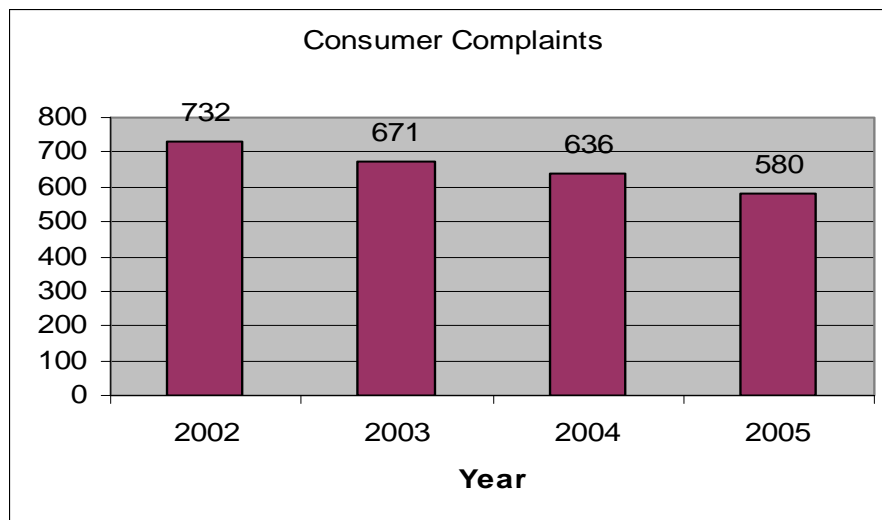
Staff are able to immediately assist consumers with inquiries by providing verbal information, referring callers to the Bureau's web site (www.MaineInsuranceReg.org), and/or mailing issue-related brochures. For issues not within the Bureau's jurisdiction, consumers are referred to the appropriate agency, such as the Maine Department of Health and 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.

"I wish to express my sincere appreciation for the efforts put forth on my behalf by Mr. Michael McGonigle of your office, in handling my insurance complaint against insurance company. In my contact with Michael, I was very much impressed with his directness and friendly attitude in speaking with me. He came across to me as an individual who did not let large corporations get away with delaying the progress of an investigation. Because of his determination to assist me in my complaint, three months after my complaint was sent, insurance company reimbursed me the monies they had kept as an assessment for early withdrawal from their investment program, which I proved was in error. Mr. Michael McGonigle is surely one of your best assets and deserves a "Job Well Done"... *Consumer*

- **Complaints**

During 2005, the CHCD responded to 580 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. Figure 2 illustrates the declining number of written complaints filed with the CHCD.

Figure 2



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 either in the consumer's insurance policy or contained in Maine law. During 2005, the CHCD staff was instrumental in assisting with the recovery of \$3,435,037 for enrollees and policyholders. Most often, the recovered funds are from previously denied claims.

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

“I want to thank you for advocating on behalf of my family with regards to our claims with (insurance company). I am quite sure your involvement led to a resolution. Again, thank you from my entire family.”... Consumer

times when CHCD staff must explain the basis and rationale for the carrier's decision and 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. Enrollees are provided information on the external review process administered by the Bureau of Insurance. Staff also refers 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 2005 stemming from consumer complaints received and investigated by CHCD. The result was a total of \$416,500 in fines levied against a few insurance companies. Copies of consent agreements can be found on the Bureau of Insurance web site at the following link: <http://www.state.me.us/pfr/ins/consent.htm>.

In the CHCD's analysis of 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.

“I wanted to follow up and thank you all for your prompt assistance yesterday. We will be able to set up an HSA based on the existing policy. I did speak to the IRA group at (Bank) who are handling the HSA accounts. They will be modifying their policy to clarify (insurance company) approval will not be required to open an HSA with (Bank). By assisting me, hopefully others will benefit as well”...Consumer

- **Outreach and Education**

A principal objective of the CHCD is to educate consumers on how to advocate for themselves, explain the insurance system, and inform consumers of their rights under the insurance laws of Maine. 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;
- Taping of a show for Mature Lifestyles on Medicare;
- Bureau of Elder and Adult Services Regional Coordinators

“My mother got teary eyed when I read this to her. Thank you again for your assistance. The checks come every month, but it sure was difficult to get that first one”...Consumer.

In 2005, the CHCD participated in a consumer outreach program at the Common Ground Fair. CHCD staff also provides information to consumers by developing written educational materials, both for the Bureau website and hard copy distribution.

*“I wish to thank all that helped me collect the refund on my mother’s estate from (insurance company), even if they pro-rated it. They hated to pay. Keep a close watch on them. It’s nice to know we have a few honest people looking out for us. ...
Consumer*

Finally, the Division promotes coordination with other organizations that assist consumers, including the Maine Department of Health and 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 since policyholders and enrollees can seek private legal action as a remedy.

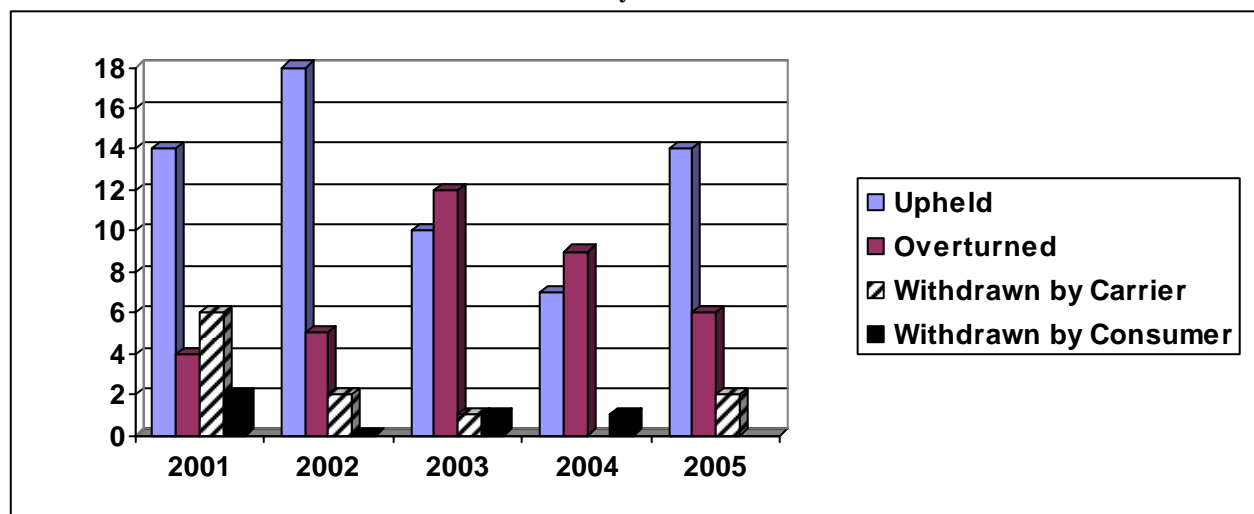
The Bureau contracted with two independent external review organizations, The Center for Health Dispute Resolution and Hayes Plus for external review in 2005.

The Bureau processed 22 qualified requests for external review during 2005. Of these cases, six (27%) were completely overturned (the carrier’s original decision to deny coverage was entirely reversed), and fourteen (64%) upheld the carriers decision. Two requests for an external review were withdrawn by the carrier 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 3 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, 2005.

Figure 3.
External Review Outcomes
By Year



C. Licensing Activity

At the end of 2005, there were 81 medical utilization review entities (UREs) licensed in Maine. Licensed UREs 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 home page at www.MaineInsuranceReg.org under the *Producer/Business Entity Information* button. Licensed companies can be located by using the Bureau's web site under "Find a licensee."

The CHCD policy development specialist reviews and registers preferred provider arrangements (PPAs). In addition to the 26 PPAs previously registered, 6 new arrangements applied for registration in 2005 but only four 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 also be found on the Bureau's home page under the *Producer/Entity Information* button.

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.

"This was extremely helpful. I will get my act together right away! Thank you for taking the time to prepare such a useful document to help us small providers who are not as fully informed as perhaps we should be".... Provider

D. HMO Quality Oversight

Maine's Insurance Code assigns regulatory oversight of commercial HMOs operating in Maine to the Bureau of Insurance within the Department of Professional and Financial Regulation (PFR), and the Bureau of Medical Services within the Department of Health and Human Services (DHHS). In August 1998, PFR and DHHS 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 DHHS 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 DHHS 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.)

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

- First, the team receives a copy of the HMO's NCQA accreditation report. The review team 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 2005, because no HMO was scheduled for their triennial review by NCQA, the IATF did not conduct any quality review activities of HMOs doing business in Maine:

E. Advisory Council

- The Consumer Health Care Advisory Council (CHCAC) was repealed with action of the First Special Session of the 122nd legislature when it enacted Public Law 294 "An Act to Repeal Certain Boards and Commissions."

III. Policy Form Review

During 2005, the CHCD approved 4,659 policy form filings. The CHCD receives form filings both in paper and electronic format. The average turn around time for electronic filings was 14 days and 15 days for paper filings.

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).

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

IV. Legislative and Regulatory Activities

The implementation of the DIRIGO legislation required the Consumer Health Care Division to work with 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. Analysis

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. 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.