

MAINE STATE LEGISLATURE

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**Maine Bureau of Insurance
Consumer Health Care Division
Annual Report to the Legislature for the Year 2006**



John Elias Baldacci
Governor

Eric Cioppa
Acting 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 (Bureau), which is within the Department of Professional and Financial Regulation (DPFR). The CHCD focuses its efforts on consumer assistance, outreach, and oversight of insurer compliance with the Insurance Code (Title 24-A) and Bureau regulations.

The Division is responsible for the following activities:

- Reviewing and approving health insurance forms (policy language);
- Investigating and resolving consumer health insurance complaints;
- Licensing medical utilization review entities (UREs);
- Reviewing and approving long-term care insurance forms;
- Reviewing and approving disability and life insurance forms;
- Providing 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;
- Reviewing 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), as well as e-mail, and one on one conferences;
- Analyzing consumer complaint data for trending purposes;
- Reviewing 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 am so grateful for the your work you did to "encourage" my insurance carrier to pay for the months they owed me, Merry Christmas. December they sent four check actually, for \$17,073. I had not realized that the contract called for their paying the full amount over what the nursing home charged.Thank you, thank you, thank you --- you did a great job." Consumer

II. Accomplishments

A. Consumer Assistance

- **Inquiries**

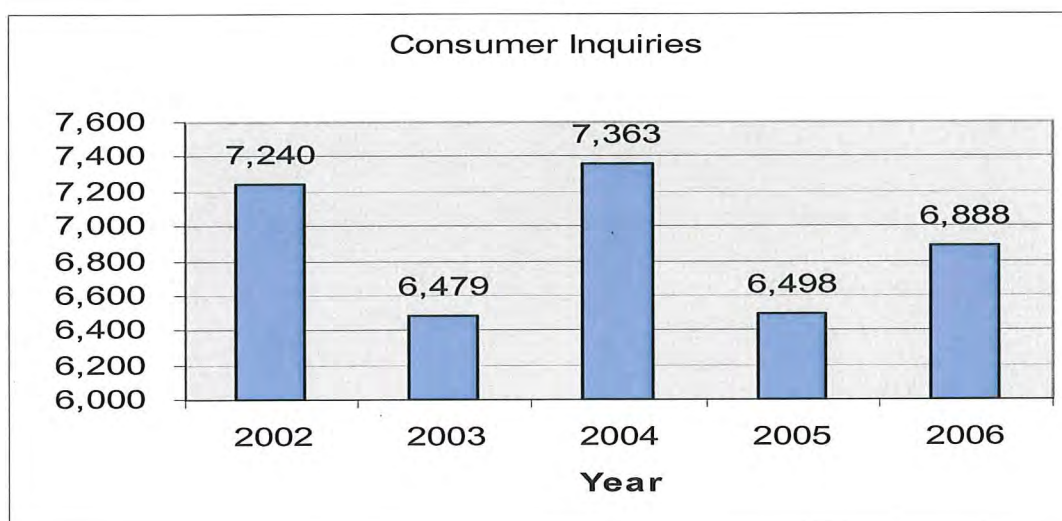
CHCD staff responded to 6,888 telephone inquiries during 2006. The most frequent inquiries related to:

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

"I do want to say thanks for your assistance with these rather difficult people." ...Consumer

Figure 1 illustrates the number of telephone inquiries received for the years 2002 – 2006.

Figure 1



The CHCD staff responded to 41 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.

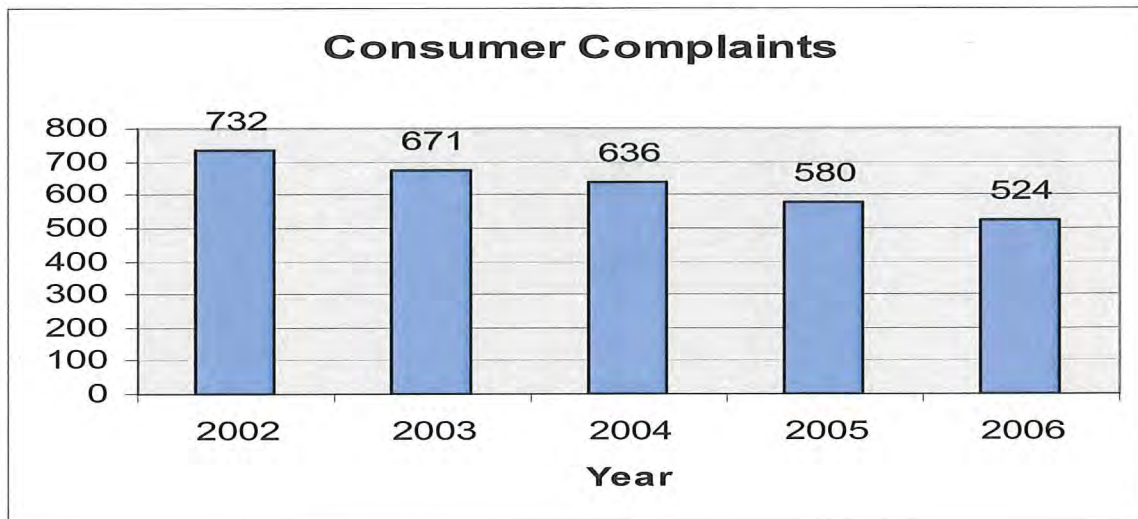
Staff is able to immediately assist consumers with inquiries by providing verbal information, referring callers to the Bureau's web site (www.maine.gov/pfr/insurance), and/or mailing issue-related brochures. For issues not within the Bureau's jurisdiction, consumers are referred to the appropriate agency, 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 have a huge debt of gratitude to your staff, and in particular to Ms. Dion for her prompt action. This is the second time that I have been in touch with your office, (once a while back), and both times I have been very pleased with the results. To have an agency such as yours move at the speed to which Ms. Dion did is extremely remarkable. A jewel in the rough if I may. It says a lot for everyone there.....Keep up the good work and thank you all...." ...Consumer

- **Complaints**

During 2006, the CHCD responded to 524 written health and life insurance complaints filed by health plan enrollees, policyholders, insurance producers, and health care providers. The complaints concerned 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 representatives 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 consumer is directed to the regulatory agency with jurisdiction to investigate and enforce the provisions of the health insurance contract.

In conducting a 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 CHCD staff includes a nurse consultant who has skills required to answer medical necessity questions and resolve complex medical issues as they arise in the dispute of a medical or disability complaint investigation. 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 2006, the CHCD staff was instrumental in assisting with the recovery of \$977,681 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 take this time to thank Mr. David Stetson for helping me solve my insurance issue. He was cordial, kind and knowledgeable about the steps I needed to take. It was one worry that was resolved.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 consumers 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. The staff also refers those consumers to the U.S. Department of Labor or other agencies, as appropriate.

The CHCD staff works proactively with insurance carriers to identify trends in consumer complaints in order to remedy the problems before they result in violations of the Insurance Code. The CHCD believes this proactive work is partially responsible for the decline in consumer complaints. Despite these preventative measures, the Superintendent entered into several consent agreements with carriers in 2006 stemming from consumer complaints received and investigated by CHCD. The result was a total of \$8,500 in fines levied against a few insurance companies. Copies of consent agreements can be found on the Bureau of Insurance web site: http://www.maine.gov/pfr/insurance/consent_agreements/index.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; and
- 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.

"Thank you most sincerely for all of your help. Since we last spoke on the phone I have received a check from the hospital for overpayment and a check from the insurance company. I just can't thank you enough!! Have a wonderful summer!"
...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 in 2006, including;

- Cancer Connections;
- Cancer Community Center – South Portland;
- Society of Financial Examiners;
- Bath Senior Citizens Center workshop;
- Bureau of Elder and Adult Services Regional Coordinators
- Career School for Health Claims
- Teen Diabetes Transition Program
- Elders Day
- Senior Spectrum
- State Uniform Billing Committee
- Western Area PHO

"Thank you so much for your assistance in this matter, you were extremely helpful and pleasant on the phone... so unusual these days."...Consumer.

In 2006, 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.

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

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.

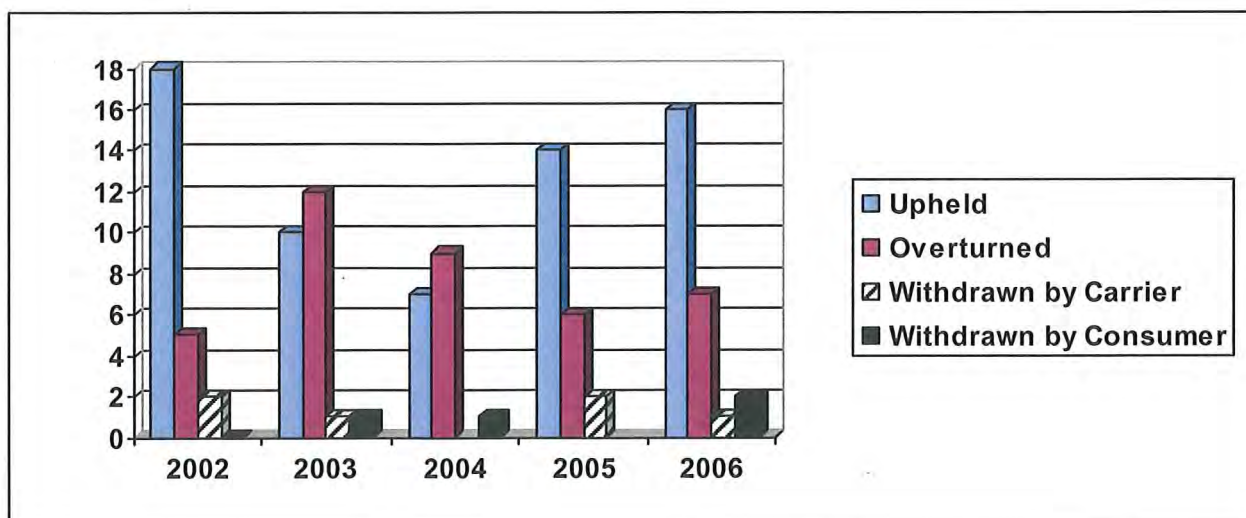
The Bureau contracted with two independent external review organizations, Permedion; and Island Peer Review Organization (IPRO), for external reviews in 2006.

The Bureau processed 23 qualified requests for external review during 2006. Of these cases, seven (30%) were completely overturned (the carrier's original decision to deny coverage was entirely reversed), and sixteen (70%) upheld the carrier's decision. One request for an external review was withdrawn by the carrier before the external review was conducted. Two external review requests were withdrawn by the enrollee before the external reviews were 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 2002, 2003, 2004, 2005 and 2006.

Figure 3.
External Review Outcomes
By Year



C. Licensing Activity

At the end of 2006, there were 74 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.maine.gov/insurance/producer/utilization_review.htm 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 19 PPAs previously registered, 11 new arrangements applied for registration in 2006 with 10 meeting 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 is also responsible for reviewing and approving the viatical settlement providers. Currently five providers have been approved. A viatical settlement occurs when a person with a terminal or a chronic illness sells his or her life insurance policy to a third party (a viatical & life settlement provider), for a cash payment that is less than the full amount of the death benefit.

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. The CHCD staff monitors the situation to assure 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 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 (DPFR). The CHCD staff is assigned the responsibility of visiting HMO offices to sample files and conduct quality review examinations.

Each year pursuant to Title 24-A M.R.S.A. § 4215, the Bureau notifies each HMO to be examined that the Bureau of Insurance CHCD staff will conduct a coordinated, on-site State examination of the quality of the carrier's health care and customer services. To minimize duplication of time and resources, quality 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.

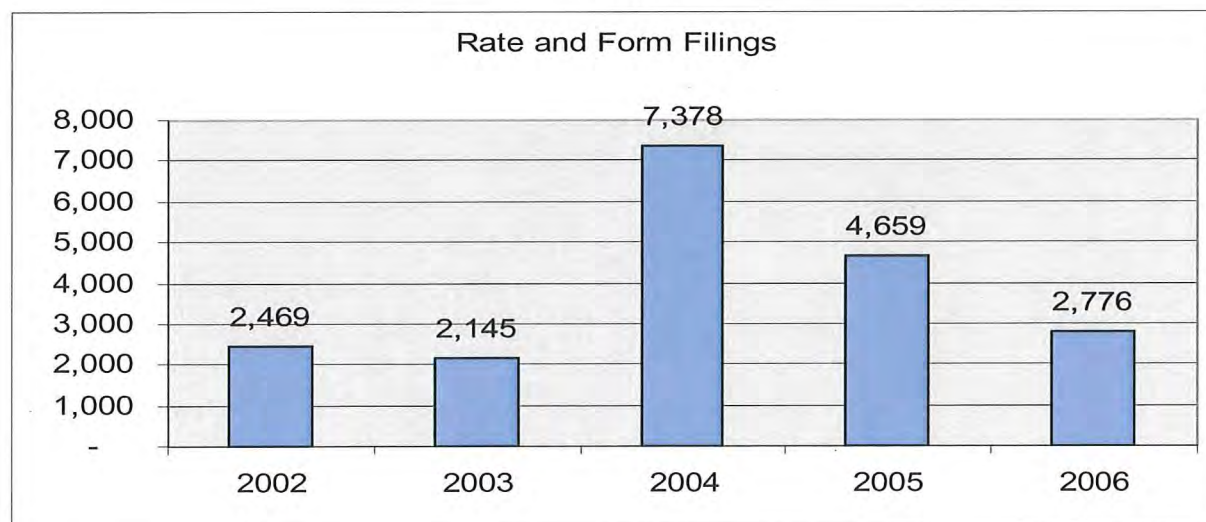
In 2006, exams were conducted at Harvard Pilgrim and CIGNA following the triennial review by NCQA. Copies of the exam reports are posted on the Bureau of Insurance website:

<http://www.maine.gov/pfr/insurance/hmo/index.htm>

III. Policy Form Review

During 2006, the CHCD approved 2,776 (Figure 4) policy form filings. The CHCD receives form filings both in paper and electronic format. 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). A new version of SERFF was released this year requiring additional staff training and changes to computer operating systems.

Figure 4



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, carriers are notified through both formal and informal communications. This process addresses complaints early and is believed to be one of the principal reasons for a declining number of complaints in recent years.

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 educate consumers about the systems used by companies.

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 some persons with challenging 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.