

MAINE STATE LEGISLATURE

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**Maine Bureau of Insurance
Consumer Health Care Division
Annual Report to the Legislature for the Year 2007**



John Elias Baldacci
Governor

Eric Cioppa
Acting Superintendent



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EXECUTIVE DIRECTOR'S

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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 reviewing 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 (PPAs);
- Approving the licenses of viators;
- Developing outreach and educational materials;
- Drafting reports on issues involving health policy;
- Conducting the Quality Oversight of Commercial Health Maintenance Organizations (HMOs);
- Tracking, trending and analyzing data;
- Responding to consumer inquiries received through the toll-free Consumer Assistance Hotline (800-300-5000) or by e-mail, as well as through one-on-one conferences;
- Analyzing consumer complaint data for trending purposes;
- Reviewing 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.

"Must thank you for your help back in February – the process is slow and the carrier fought but you came through. You're a super person. " Consumer

II. Accomplishments

A. Consumer Assistance

- **Inquiries**

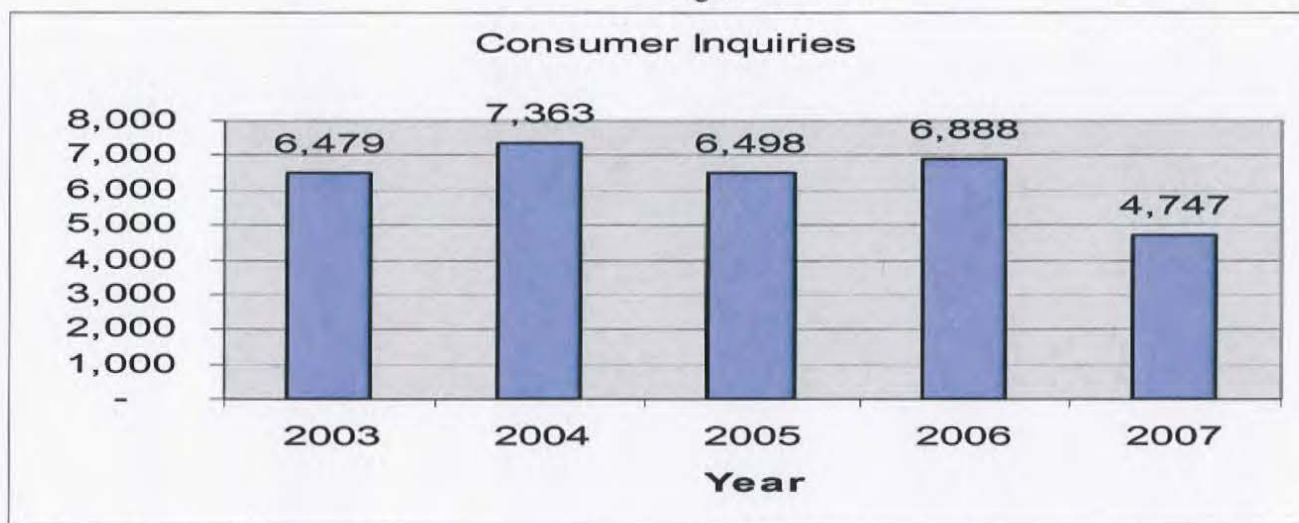
CHCD staff responded to 4,747 telephone and written letter inquiries during 2007. The most frequent inquiries related to:

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

"Thank you for my 'Miracle', Thank you for Saving My Home!!"
--Consumer

Figure 1 illustrates the number of telephone and written inquiries received for the years 2003 – 2007.

Figure 1



The CHCD staff responded to an additional twenty three (23) 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 or life and disability 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 by mailing issue-related brochures. For topics 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.

"Thank you very much for your help this summer when I contacted you to explain how to switch insurances when there is a pre-existing health condition. ... Thank you so much for walking me through the process. Because all my ducks were in a row I was calm and collected..." --Consumer

- **Complaints**

During 2007, the CHCD responded to 519 written health, disability 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 typically are because a claim or a service was denied. Consumers can file complaints electronically by connecting to the Maine Bureau of Insurance web site. The CHCD has seen a significant increase in the number of complaints filed electronically using the online complaint form. It is an important function that the CHCD reviews each complaint to determine the proper jurisdiction of the consumer's complaint. The CHCD has received complaints filed by residents of other states that believe we are the agency for resolving complaints nationally. One of the most rewarding efforts of the CHCD occurs when consumers walk into the Bureau of Insurance seeking assistance. The CHCD's staff meets face to face and assists them immediately if possible, or if necessary helps them complete the necessary complaint documentation in order for a complaint investigation to proceed.

Figure 2 illustrates the number of written complaints filed with the CHCD.

Figure 2



The complex issues related to health, life and disability insurance coverage requires significant staff time to gather facts and correspond with relevant parties when resolving complaints. Enrollees are asked to sign a consumer complaint form (electronic signatures are acceptable) 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 an insurance company (ERISA plan) outside 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.

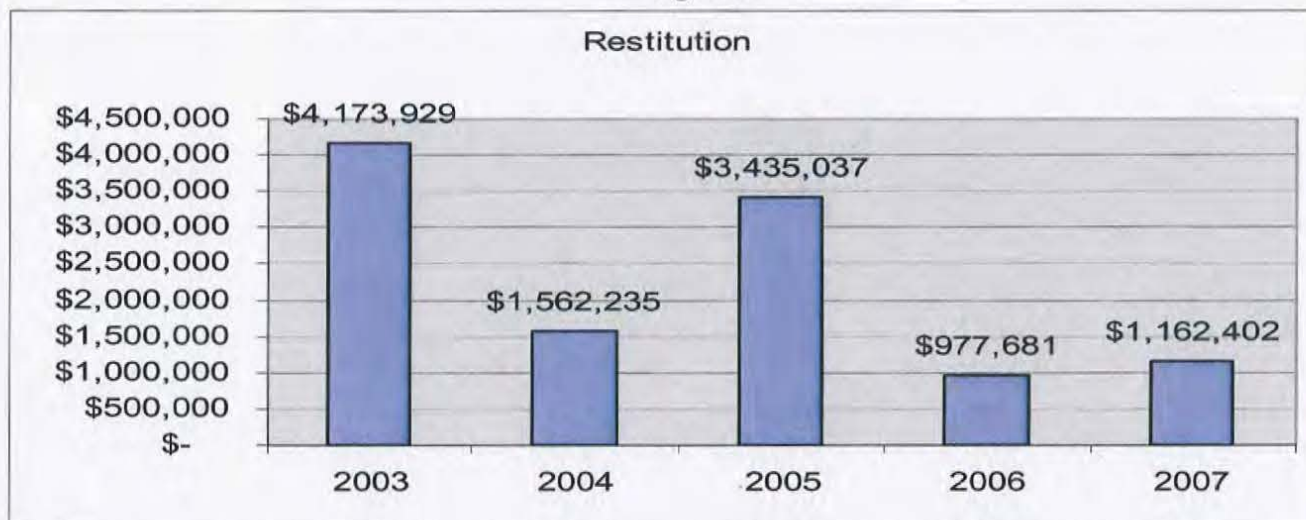
In conducting a complaint investigation, the carrier is directed to respond to the allegations and determine if errors were made by the company. The insurance carrier response and supporting documentation are reviewed by CHCD staff to determine if the processes used by the carrier comply with the terms of the insurance policy, as well as with 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 may be 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 many 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 2007, the CHCD staff was instrumental in obtaining restitution of \$1,162,402 for enrollees and policyholders. Most often, the recovered funds are from previously denied claims. Figure 3 illustrates the restitution obtained for enrollees during 2003 - 2007. The amount of restitution obtained by CHCD staff varies year to year and is reflective of the underlying value of the claims filed by enrollees.

Figure 3



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

"We received the check from the insurance carrier in the amount of \$3,571.19 as discussed in our last telephone conversation. Thank you so much for all the help that you gave us in getting this problem 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 in which the carrier is appropriately administering contract exclusions or the plan is exempt from State regulation due to federal law. Even when federal law takes precedence, 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 has quarterly meetings with several insurance carriers that are either domiciled in this State or write a significant volume of coverage for Maine residents. The CHCD believes this proactive work is partially responsible for the decline in consumer complaints.

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.

The CHCD has initiated a process to make the complaint handling system completely paperless. The paperless complaint data base system allows the CHCD staff members to access complaints from any location. This allows the CHCD staff to work from home and still have access to complaint files in a completely secure environment.

"Thank you for your help in this matter. You managed to deal with my anger, frustration and impatience while guiding me through a complicated process. You were instrumental in all of this and I doubt I would have succeeded without your help." --Consumer

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, having 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 in 2007: Island Peer Review Organization (IPRO) and Permedion.

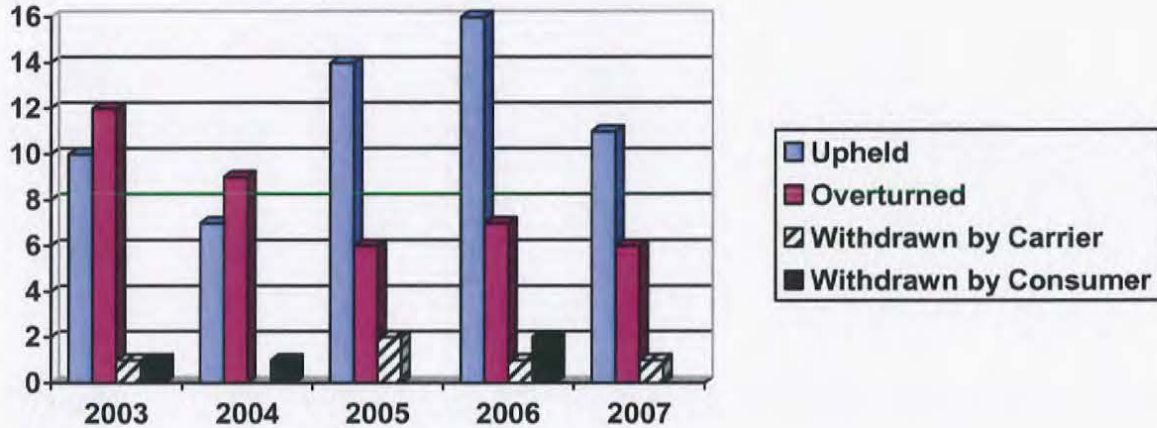
The Bureau processed 18 qualified requests for external review during 2007. Of these cases, two (11%) were completely overturned (the carrier's original decision to deny coverage was entirely reversed), and 11 (61%) upheld the carrier's decision. Four reviews (22%) resulted in a partial overturn of the denial. One request for an external review was withdrawn by the carrier before the external review was conducted and the denial was overturned.

The CHCD received additional requests for external review that did not qualify 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 4 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 2003 - 2007.

"I was very impressed with the fact he presented himself with such steadfast dedication and professionalism and yet had a caring and sympathetic understanding to my situation. In our "throw away society" we have today, I believe it is not only refreshing but rare to find someone with the outstanding qualities CHCD staff possesses. You and your staff are fortunate to have him part of your team and for myself it has been a privilege to have the opportunity to have him assist me down a path where my miracle and justice was found in the end." --Consumer

Figure 4.
External Review Outcomes
By Year



C. 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. In an effort to reach out to rural areas of the State, the CHCD participates in a booth at the Common Ground Fair. The Common Ground Fair provides opportunities for the public to ask questions, seek information and complain about insurance related issues directly to CHCD staff members.

Division staff participated in several public speaking events in 2007, including;

- Living with Cancer Conference;
- Cancer Community Center – South Portland;
- Bath Senior Citizens Center workshop;
- Bureau of Elder and Adult Services Regional Coordinators
- Teen Diabetes Transition Program
- Elders Day
- Senior Spectrum
- State Uniform Billing Committee
- Western Area PHO

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.

D. Licensing Activity

Medical Utilization Review - At the end of 2007, seventy three (73) medical utilization review entities (UREs) were 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 web site at www.maine.gov/insurance/producer/utilization_review.htm under the *Producer/Business Entity*

Information link. Licensed companies can also be located by using the web site's "Find a licensee" feature.

Preferred Provider Arrangements - The CHCD policy development specialist reviews and registers preferred provider arrangements (PPAs). In addition to the twenty six (26) PPAs previously registered, eight (8) new arrangements applied for registration in 2007 with seven (7) 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 accessed from the Bureau's home page under the *Producer/Entity Information* link.

Viatical Settlement Providers - The CHCD is also responsible for reviewing and approving viatical settlement providers. Currently thirteen (13) providers have been approved. A viatical settlement occurs when a person with a terminal or 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 continuity of care for enrollees currently receiving medical services is addressed by the carrier.

"First let me thank you for your help in my claim against insurance carrier. March 14, 2007, I received the check for \$9,021.44." --Consumer

E. HMO Quality Oversight

Maine's Insurance Code assigns regulatory oversight of commercial HMOs operating in Maine to the Bureau of Insurance. 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, all HMOs 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 NCQA standards.
- Second, the team returns to the HMO to assess its compliance with State-specific standards not covered by NCQA. The team then develops a report of its findings.

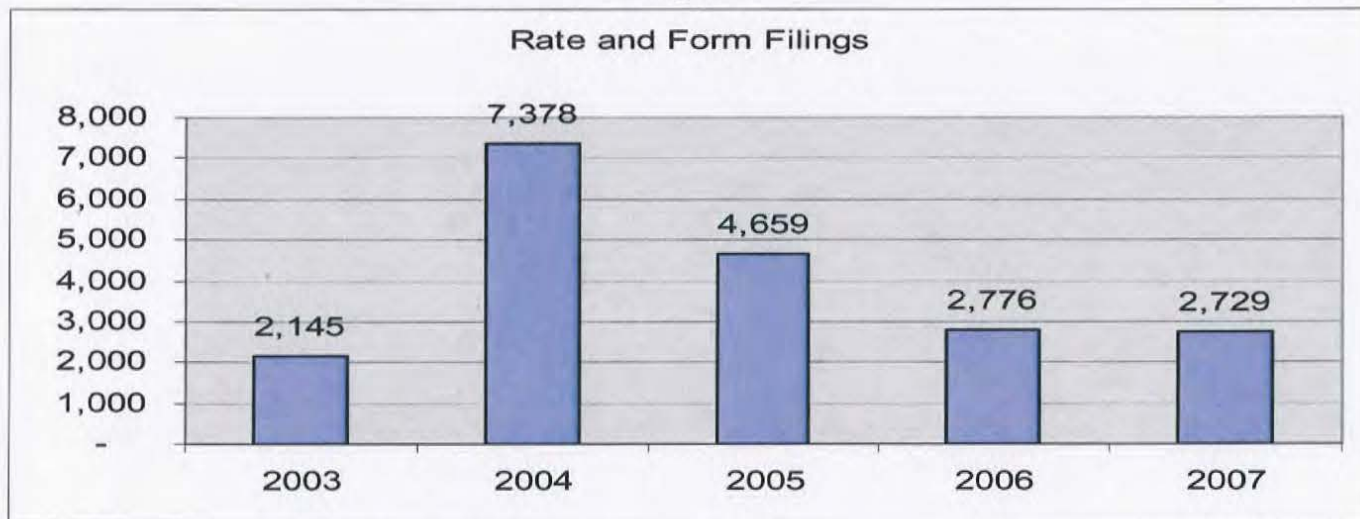
In 2007, an exam was conducted at Aetna following the triennial review by NCQA. Copies of the exam reports are posted on the Bureau's website at <http://www.maine.gov/pfr/insurance/hmo/index.htm>.

III. Policy Form Review

During 2007, the CHCD approved 2,729 (Figure 5) 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.

Insurance companies now have the opportunity to file forms for review and approval with the Interstate Product Regulation Commission (IIPRC) better known as the "Compact". Insurance carriers offering national products in multiple states will likely file with the IIPRC rather than file forms with individual states such as Maine. The IIPRC's approval of forms is recognized in 29 states and Puerto Rico.

Figure 5



IV. Legislative and Regulatory Activities

Implementation of the Dirigo legislation required the Consumer Health Care Division to work with the Governor's Office on Health Policy and the Dirigo Health Agency 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 escalate at a rate that exceeds the consumer price index. These costs are driven by a number of interrelated factors, which makes dealing with the problem extremely complicated.

For additional information or answers to questions, please contact the Consumer Health Care Division at the Maine Bureau of Insurance by calling toll free 800-300-5000.

"Thanks so very much for the assistance of the Maine Bureau of Insurance and your great personal help- as well as that of your staff personnel in bringing about the successful resolution of my cancer policy misunderstanding with insurance company. Without your intercession, I am certain that my re-instatement request would have been turned down and I am therefore exceedingly grateful for the dedicated and most kind efforts, on my behalf, that prevented such a conclusion. Consumer
