

# MAINE STATE LEGISLATURE

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DEPARTMENT OF

**Professional &  
Financial Regulation**

STATE OF MAINE

- OFFICE OF SECURITIES
- BUREAU OF INSURANCE
- CONSUMER CREDIT PROTECTION
- BUREAU OF FINANCIAL INSTITUTIONS
- OFFICE OF PROF. AND OCC. REGULATION

**Maine Bureau of Insurance  
Consumer Health Care Division  
Annual Report to the Legislature for the Year 2012**



Paul R. LePage  
Governor

Eric A. Cioppa  
Superintendent

Anne L. Head  
Commissioner





Paul R. LePage  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BUREAU OF INSURANCE  
34 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0034

EXECUTIVE DIRECTOR'S  
OFFICE

2013 JUN 12 A 9:11

Eric A. Cioppa  
SUPERINTENDENT

Fik

June 11, 2013

Honorable Geoffrey M. Gratwick  
Honorable Sharon Anglin Treat  
Joint Standing Committee on Insurance and Financial Services  
100 State House Station  
Augusta, ME 04333-0100

RE: Bureau of Insurance 2012 Consumer Health Care Division Annual Report to the Legislature

Dear Senator Gratwick, Representative Treat, and Honorable Members of the Joint Standing Committee:

Please accept this annual report of the Consumer Health Care Division in the Maine Bureau of Insurance in the Department of Professional and Financial Regulation.

This report is being issued pursuant to 24-A M.R.S.A. §4321(J).

"Submit an annual report by January 1st of each year to the Commissioner of Professional and Financial Regulation, the Consumer Health Care Division Advisory Council and the joint standing committee of the Legislature having jurisdiction over insurance matters describing the activities carried out by the division in the year for which the report is prepared, analyzing the data available to the division and evaluating the problems experienced by consumers."

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.

Individuals with questions about the report are encouraged to contact Glenn Griswold, Director of the Consumer Health Care Division at 800-300-5000

Sincerely,

Eric A. Cioppa  
Superintendent of Insurance



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## TABLE OF CONTENTS

I. Overview .....	3
A. Responsibilities.....	3
B. Customer Service, Consumer Outreach, and Licensing Activities.....	4
1. Consumer Assistance .....	4
2. External Review .....	5
3. Outreach and Education .....	5
4. Licensing Activity .....	6
a. Medical Utilization Review .....	6
b. Preferred Provider Arrangements .....	7
c. Managed Care Provider Networks .....	7
5. Policy Form Review.....	7
II. Statistics .....	8
A. Consumer Inquiries and Complaints .....	8
1. Inquiries.....	9
2. Complaints .....	9
B. External Review.....	10
C. Policy Form and Rate Review .....	11
III. Legislative and Regulatory Activities.....	12
A. Regulatory Changes.....	12
B. NAIC Committee Participation.....	12
IV. Conclusion .....	12





## I. Overview

Pursuant to 24-A M.R.S.A. § 4321(J), this report details the 2012 activities of the Consumer Health Care Division (CHCD) at Maine's Bureau of Insurance (Bureau), within the Department of Professional and Financial Regulation (DPFR). The CHCD provides consumer assistance, outreach, and oversight of compliance by insurance companies with the Insurance Code (Title 24-A) and Bureau regulations.

### A. Responsibilities

The CHCD is responsible for:

- Investigating and resolving consumer complaints related to health, disability, long-term care, and life insurance;
- Responding to consumer inquiries;
- Providing information to consumers regarding health care plan options and obtaining health care coverage and services;
- Assisting health, disability, long-term care, and life insurance consumers in understanding their rights and responsibilities;
- Reviewing and approving the language of health insurance forms;
- 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 licensed entities when violations occur;
- Reviewing managed care plans for compliance with provider network adequacy standards;
- Approving registrations for preferred provider arrangements (PPAs);
- Developing outreach and educational materials;
- Coordination of compliance with the Affordable Care Act, as it pertains to the commercial health insurance market;
- Drafting reports on issues involving health policy;
- Conducting the Quality Oversight of Commercial Health Maintenance Organizations (HMOs);
- Tracking, trending, and analyzing data;
- 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 public and private groups.

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"The program was a life changer.... Thanks for everything you did. A [HUGE] impact in our life was the role you played to help 'consumer' get the treatment she needed. Many Thanks" – *Consumer, December 27, 2012*

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## **B. Consumer Assistance, Consumer Outreach, and Licensing Activities**

### **1. Consumer Assistance**

One of the most important duties of the CHCD is to provide assistance and information to consumers. Staff responds to telephone inquiries by providing information to callers, referring callers to the Bureau's website ([www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance)), and mailing issue-related brochures. Staff also responds to written inquiries from consumers, and to in-person visits by consumers. For topics not within the Bureau's jurisdiction, consumers are referred to the appropriate agency. For example, consumers with questions about MaineCare are referred to the Maine Department of Health and Human Services, and consumers with questions about federal laws outside the Bureau's jurisdiction are referred to the appropriate federal agency.

Staff also receives and investigates written consumer complaints. Maine consumers who complete a CHCD complaint form authorize staff to contact insurance company representatives to investigate the dispute. Consumers can file complaints electronically on the Bureau's website. In recent years, use of the Bureau's online complaint form has increased.

When a complaint is received, a staff investigator is assigned to the case. The investigator directs the insurance carrier to respond to the consumer's allegations. The carrier's 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's laws and regulations.

The complainant is kept informed of the progress of the investigation and at times may be asked to provide additional information. Complex issues related to health, life, and disability insurance coverage require significant staff time to gather facts and correspond with relevant parties.

The Bureau ensures that carriers provide consumers with their appropriate appeals rights. Some complaints involve allegations that the insurance company has not properly handled a consumer's appeal of a health insurance adverse decision. Under Maine law, carriers are required to provide two levels of internal appeals to the consumer. In some cases, such as those involving a question of medical necessity, the consumer also has a right to an independent external review of the case following the two levels of internal appeals. The carrier's appeals process is separate from the Bureau's complaint investigation, and consumers are advised that they can proceed with both an appeal and a complaint with the Bureau simultaneously.

The CHCD reviews each complaint to determine the proper jurisdiction for the complaint investigation. The Bureau sometimes receives complaints involving issues over which it does not have jurisdiction. In such cases, the jurisdictional issue is explained, and the consumer is directed to the appropriate regulatory agency.

In cases involving an urgent need for assistance, CHCD staff can promptly intervene on behalf of the consumer to ensure that the carrier complies with its legal obligations. Examples include denial of a surgical procedure or inpatient stay. The CHCD staff has been able to resolve many



of these situations very quickly when it is evident that the carrier's denial is flawed or contrary to specific requirements in either the insurance policy or Maine law.

If the insurer has inappropriately denied a claim or otherwise acted improperly, the Bureau works to ensure that benefits are properly paid to the consumer. If the insurer has acted properly, the basis and rationale for this conclusion are explained to the consumer, who is informed that there was no violation of Maine law. There are also cases in which the Bureau does not have jurisdiction due to federal preemption. In those situations, staff takes the opportunity to provide consumers with information regarding insurance law, their rights and responsibilities, and the terms of their coverage.

## **2. Health Insurance External Review**

After exhausting the two-level internal appeals process of their insurance plan, consumers have the right to request an external review for denials involving medical necessity, pre-existing conditions, experimental treatments, and denials based on a dispute in diagnosis, care, or treatment. External review appeals are coordinated by CHCD staff who assigns the appeal to an External Review Organization (ERO). The Bureau contracts with EROs having no affiliation with the insurance carrier involved in the appeal.

During the external review, the ERO has an appropriate independent medical expert review the case. For example, in a case involving a mental health issue, a psychiatrist or other appropriate mental health professional experienced with the diagnosis in question would be assigned to the case. The external review process is reimbursed by the insurance carrier, not the consumer. The decision of the external review is binding only on the carrier; the consumer can seek private legal action as an additional remedy.

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"Thanks [for] your efforts in getting them to open the case. Although we cannot express our gratitude [enough], you can move mountains." – *Consumer, December 18, 2012*

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## **3. Outreach and Education**

An ongoing priority of the CHCD is to educate Maine consumers about their rights under Maine's insurance laws and the services available through the Bureau of Insurance. This includes public speaking engagements and participation in public forums and events. Public speaking and other outreach events in which the CHCD participated in 2012 included:

- New England Geriatric Meeting – Bar Harbor
- Southern Maine Area Agency on Aging – Training – Scarborough
- Ellsworth Chamber of Commerce
- Senior Outreach Education – Lewiston
- Long-Term Care Partnership Program – Pinetree Retirement Agency
- Spectrum Generations – LTC Issues – Augusta
- Eastern Area Agency on Aging – Bangor
- Senior Outreach Session – Newport
- American Cancer Society's Living With Cancer Conference - Augusta

- Fostering Financial Literacy in Maine Schools – Augusta
- Potato Blossom Festival – Fort Kent
- Blueberry Festival – Machias
- Common Ground Country Fair – Unity
- State Health Insurance Program/Seniors Medicare Patrol (SHIP/SMP) Annual Meeting – Waterville
- Aging Advocacy Summit – Augusta
- Deering High School - Portland
- Maine Psychological Association Annual Meeting – South Portland
- Lincoln County Triad Elder Appreciation Day
- Financial Professional Day – Portland
- Consumer Matters – TV Broadcast

As part of its ongoing consumer education mission, CHCD produces and updates numerous brochures on a variety of topics, including purchasing health insurance and appealing adverse decisions by health insurance companies. Brochures and other information, including answers to frequently asked questions, are available on the Bureau's website.

#### **4. Licensing Activity**

##### *a. Medical Utilization Review (MUR)*

"Medical Utilization Review" (MUR) includes any program or practice by which a person, on behalf of an insurer, nonprofit service organization, third-party administrator, or employer, seeks to review the utilization, clinical necessity, appropriateness, or efficiency of health care services, procedures, providers, or facilities. MUR entities are required to be licensed in Maine if they intend to conduct utilization reviews for plans that provide coverage to Maine residents. MUR applicants are, at a minimum, required to provide the Bureau a detailed description of the medical utilization review processes used for each review program offered by the applicant, including but not limited to:

- Second opinion programs;
- Hospital pre-admissions certification;
- Pre-inpatient service eligibility determinations;
- Determinations of appropriate length of stay; and
- Notification to consumers and providers of utilization review decisions.

Licensed medical utilization review entities (UREs) must certify compliance with Maine's utilization review requirements and all applicable standards. Licenses must be renewed annually. A list of Maine licensed UREs can be found on the Bureau's website at: [www.maine.gov/insurance/producer/utilization\\_review.htm](http://www.maine.gov/insurance/producer/utilization_review.htm) under the *Producer/Business Entity Information* link. Licensed companies can also be located by using the website's "Find a licensee" feature.

In 2012, three new UREs were licensed in Maine, bringing the total number of licensees to 73.



### *b. Preferred Provider Arrangements (PPAs)*

The CHCD reviews and registers preferred provider arrangements (PPAs), which are contracts, agreements, or arrangements between an insurance carrier or plan administrator and a health care provider. The provider agrees to provide services to a health plan enrollee whose plan benefits include incentives to use the services of that provider. Preferred provider arrangements are reviewed for compliance with Maine statutes regarding provider accessibility/network adequacy, utilization review, grievance and appeal procedures, consumer notification, and emergency access requirements.

In 2012, 8 new arrangements applied for registration, with 5 meeting the registration requirements, bringing the total number of arrangements to 44. A list of Maine licensed preferred provider arrangements can be accessed at the Bureau's home page under the *Producer/Entity Information* link.

### *c. Managed Care Provider Networks*

The CHCD staff reviews managed care provider networks to determine if they comply with the provider accessibility standards of Maine law.

Managed care entities' applications to expand their geographic service area are also reviewed by CHCD staff to determine if an adequate network of providers would be available in the expanded area. The CHCD is notified when contractual relationships between an insurance carrier and a group of providers dissolve, creating the possibility that enrollees may not have access to a category of participating provider. The CHCD staff monitors the situation to assure that carriers are complying with Maine law by providing consumers with adequate notice and opportunity to find alternative providers and by ensuring that needed continuity of care is provided to consumers currently receiving medical services.

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"I just want to express my gratitude to you for the work you did on my claims.... You have no idea what your phone call meant to me. Hopefully, you will be able to 'uncover' some funds for other people in a similar situation." – *Consumer, April 10, 2012*

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## **5. Policy Form Review**

Another vital role of the CHCD is to review and approve insurance company rate and form filings to ensure compliance with Maine laws and regulations. The CHCD receives form filings in electronic format via the System for Electronic Rate and Form Filings (SERFF). SERFF is a nationwide system developed by the National Association of Insurance Commissioners (NAIC). In 2012, CHCD received 2,304 form filings, and approved 2,230 filings.

Insurance companies can now file certain forms for review and approval with the Interstate Insurance Product Regulation Commission (IIPRC), better known as the "Compact." Insurance products which companies are permitted to file through IIPRC include life insurance, annuities, disability income, and long-term care insurance. IIPRC's approval of forms is recognized in 43 states, including Maine.



## II. Statistics

### A. Consumer Inquiries and Complaints

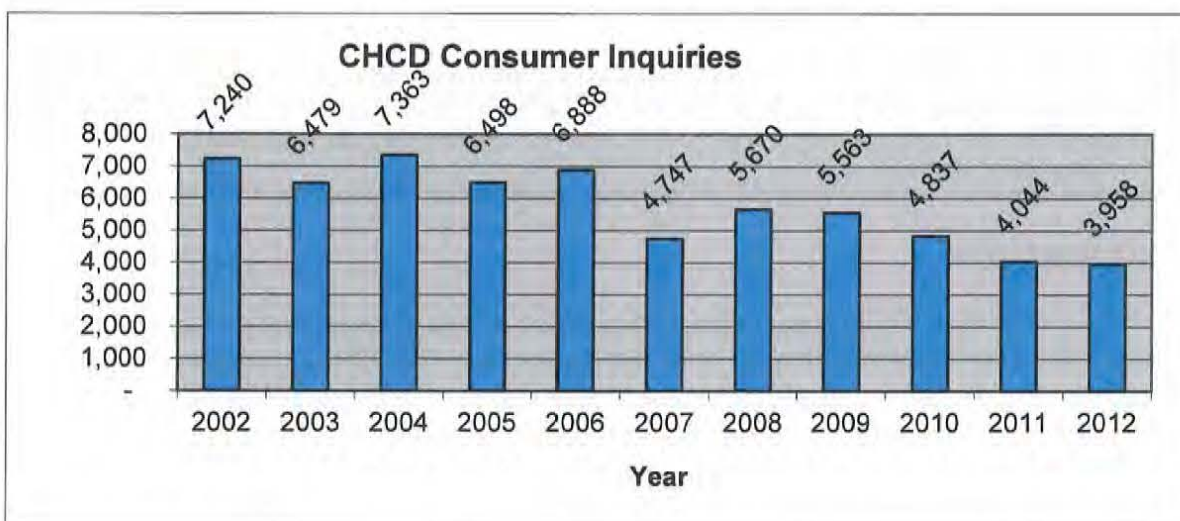
#### 1. Inquiries

The CHCD assists consumers with inquiries and complaints. An “inquiry” is a consumer call to obtain general information on insurance issues, such as a specific line of insurance or an insurance company, or to complain generally about a regulated person or entity, but not regarding a specific dispute.

A “complaint” is defined in 24-A M.R.S.A. § 216 (2) as “any written complaint that results in the need for the Bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint.” On a yearly basis, the CHCD compiles a “complaint index” comparison for Maine health insurance companies. Complaints, not inquiries, are utilized in calculating complaint indices for different insurance companies. The complaint index compares the share of complaints against a company to the share of the market (premiums written). Complaint index reports are available on the Bureau’s website at [www.maine.gov/pfr/insurance/consumer/Health\\_Complaint\\_Comparison2011.htm](http://www.maine.gov/pfr/insurance/consumer/Health_Complaint_Comparison2011.htm)

CHCD staff answered 3,958 telephone and written inquiries during 2012. The most frequent inquiries related to individual insurance, Medicare, and claim denials. Figure 1 illustrates the number of telephone and written inquiries received from 2002 – 2012.

Figure 1

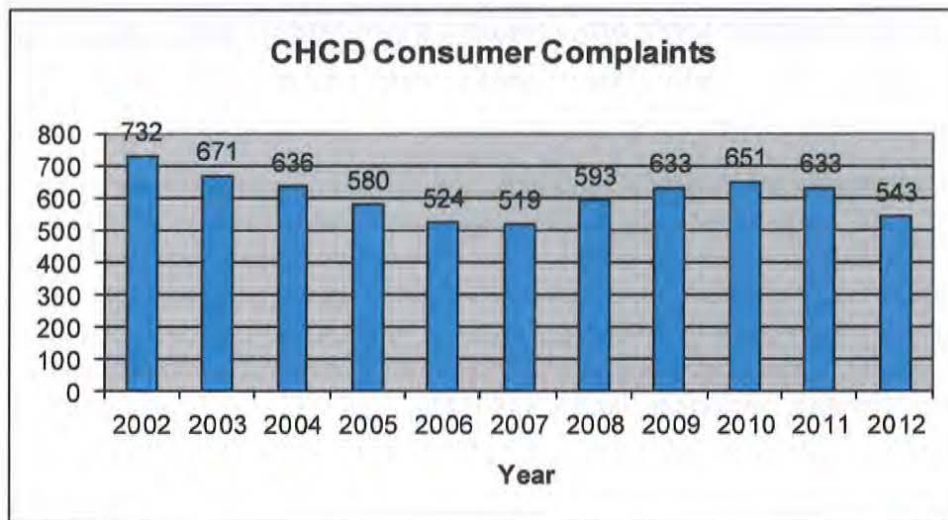


The CHCD staff also answered 62 requests for constituent assistance from state and federal legislative officials. Additionally, another 106 e-mail inquiries were received from consumers using the Bureau’s webpage inquiry tool. Like telephone inquiries, these requests for assistance encompass a wide range of health, life and disability insurance issues.

## 2. Complaints

During 2012, the CHCD responded to 543 written health, disability, annuity, and life insurance complaints filed by health plan enrollees, policyholders, insurance producers, and health care providers. Complaints involved insurance carriers, utilization review entities, and third party administrators. Figure 2 illustrates the number of written complaints filed with the CHCD from 2002-2012.

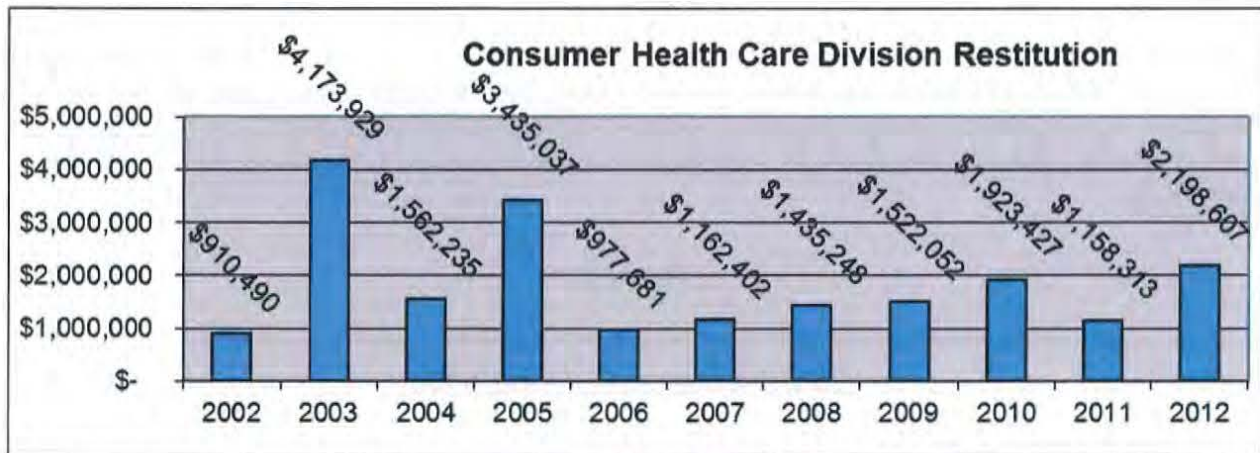
Figure 2



As part of the complaint investigation process, CHCD staff works to obtain restitution for consumers when they have suffered a financial loss due to improperly denied claims or claims which were not paid in accordance with the policy. As indicated in Figure 3, the CHCD obtained restitution of \$2,198,607 for complainants during 2012. Most often, the recovered funds were from previously denied claims.



Figure 3



In addition to investigating consumer complaints and referring appropriate cases for enforcement actions, CHCD staff works proactively with insurance carriers to identify trends in consumer complaints in an effort to remedy problems before they result in violations of the Insurance Code. The CHCD holds quarterly meetings with several insurance carriers that write a significant volume of coverage for Maine residents. CHCD staff meets with insurers subject to regulatory actions for significant violations of Maine law to help them identify and correct problems at an early stage, before becoming systemic.

## B. External Review

The CHCD contracted with four independent external review organizations in 2012: IMX Medical Management Services, Island Peer Review Organization (IPRO), Medwork Independent Review, and Maximus Federal Services.

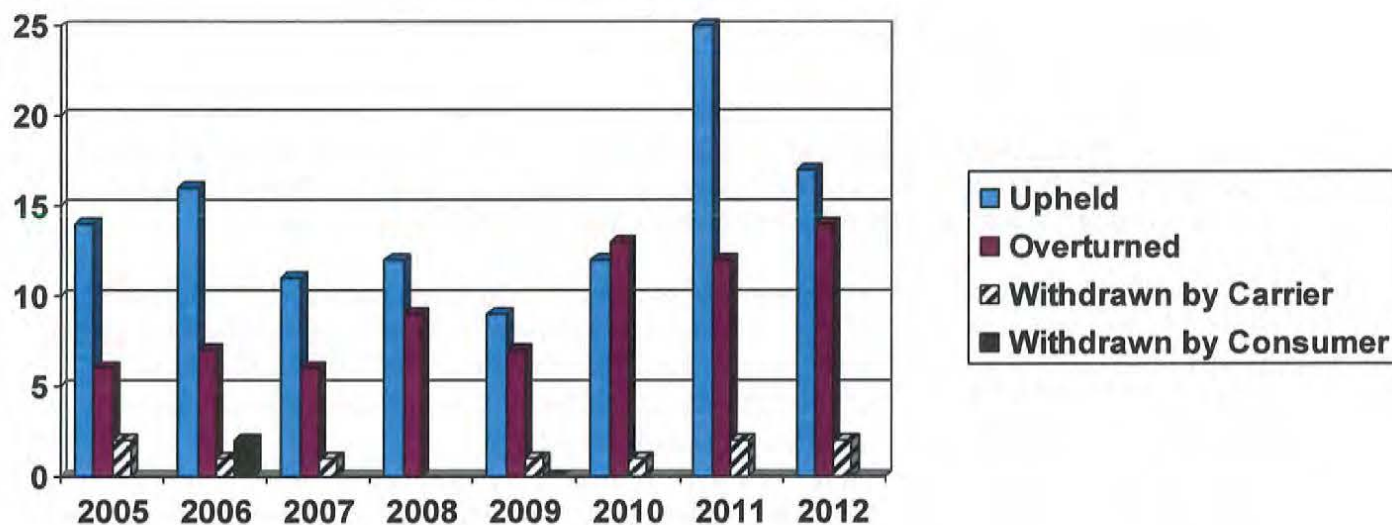
The CHCD processed 33 qualified requests for external review during 2012. The carrier's original decision to deny coverage was completely or partially overturned in 14 cases (42%), and upheld in 17 cases (52%). Two reviews (6%) were withdrawn because the carrier reversed its earlier decision and provided coverage.

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

Figure 4 illustrates the number of external reviews overturned, upheld, or withdrawn by either the carrier or consumer prior to the review for the years 2005 – 2012.

Figure 4

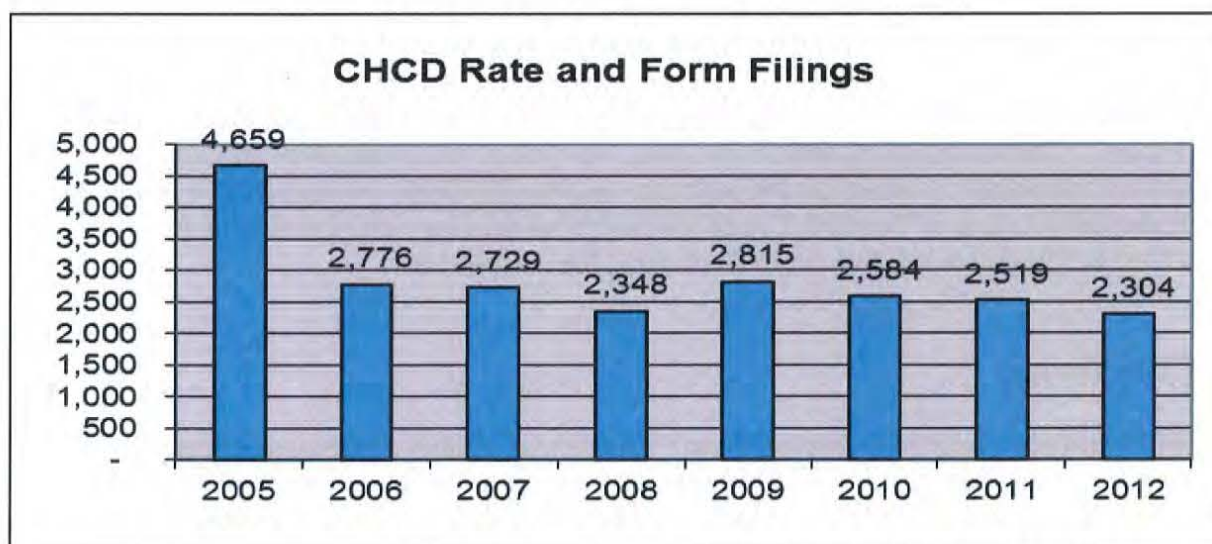
### External Review Outcomes



### C. Policy Form and Rate Review

During 2012, the CHCD received 2,304 rate and form filings, and approved 2,230. Some filings were disapproved, placed on file for information, or withdrawn by the insurance company. The 375 filings approved by the Interstate Insurance Product Regulation Commission (Interstate Compact) for use in Maine were not reviewed by the Bureau and are not included in Figure 5 below.

Figure 5





### **III. Legislative and Regulatory Activities**

#### **A. Regulatory Changes**

In 2012 staff of the CHCD finalized changes to Rule 850 to comply with the requirements of Public Law 90 that was enacted by the 125th Legislature. Additional changes were made to rules to comport with provisions of the federal Affordable Care Act. The Bureau staff held public meetings of interested parties during the summer of 2012 to take comments.

The Bureau also amended Rules 580 and 585 to comply with requirements of 2011 PL c. 123. Rule 855 was proposed to establish procedures and policies for the development of pilot projects relating to health insurance provider payment reform strategies. The Bureau also issued guidance in Bulletin 382 for the individual and group health insurance markets on standards applicable to wellness programs under state and federal law.

Pursuant to 24-A MRSA §2694-A, the Bureau began collecting the criteria, standards, practices, and procedures governing health carriers' physician performance measurements and the reporting of their tiering programs. This information will be presented on the Bureau's website. Updates to the form and rate checklists utilized by insurance companies in the filing process were completed to ensure companies' policy forms and contracts comply with regulatory changes at both the state and federal levels.

#### **B. NAIC Committee Participation**

CHCD staff actively participates in several subgroups of the NAIC, including the Annuity Disclosures Working Group, the Suitability of Annuity Sales Working Group, the Senior Issues Task Force, and the Consumer Disclosures Working Group. The Annuity Disclosures Working Group seeks to improve consumer information about annuity products. The Suitability of Annuity Sales Working Group considers ways to improve regulations to protect consumers against unsuitable and abusive sales and marketing practices which can be associated with annuity sales. The Senior Issues Task Force considers policy issues and develops regulatory standards and consumer information for insurance issues specifically affecting older Americans. The Consumer Disclosures Working Group has sought to develop best practices and guidelines for use by states in creating information disclosures for consumers.

### **IV. Conclusion**

The CHCD analyzes consumer complaints and inquiries to identify complaint patterns and carrier-specific complaint trends. When trends are identified, the Bureau works to ensure that carriers operate in compliance with Maine law. The CHCD staff are in regular communication with insurance carriers during complaint investigations, quarterly meetings, and when providing regulatory interpretations of the Insurance Code.

Finally, as is the case across the United States, health insurance costs in Maine continue to escalate at a rate exceeding the consumer price index. These costs are driven by a number of factors, which makes dealing with the problem extremely complicated. The CHCD is committed to assisting consumers and carriers with these complex issues.

For additional information, please contact the Consumer Health Care Division at the Maine Bureau of Insurance by calling toll free 1-800-300-5000 (TTY: Please Call Maine Relay 711) or by visiting the Bureau's website: [www.maine.gov/pfr/insurance](http://www.maine.gov/pfr/insurance).