

# MAINE STATE LEGISLATURE

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**Maine Bureau of Insurance  
Consumer Health Care Division  
Annual Report to the Legislature for the Year 2014,  
Incorporating the Division's Annual Report  
on External Reviews**

April 2015

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Superintendent

Anne L. Head  
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## **I. Overview**

Pursuant to Title 24-A M.R.S.A. § 4321(J), this report details the 2014 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 with the Insurance Code (Title 24-A) and Bureau regulations by insurance companies. This report also incorporates 2014 external review details as required by § 4312 (7-A).

### **A. Responsibilities**

The CHCD is responsible for:

- Investigating and resolving consumer complaints related to health, disability, long-term care, annuities, and life insurance;
- Responding to consumer inquiries;
- Providing information to consumers regarding health insurance plan options;
- Assisting health, disability, long-term care, annuities, and life insurance consumers with 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;
- Coordinating compliance with the Affordable Care Act, as it pertains to the commercial health insurance market;
- Drafting legislative reports on issues involving health policy;
- Tracking and analyzing data – including consumer complaint data -- for trending purposes;
- Reviewing complaints that include determinations of medically necessary care and complex health questions;
- Conducting outreach to a variety of public and private groups.

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

### **1. Consumer Assistance**

One of the CHCD's most important duties is to provide assistance and information to consumers. Staff members respond to telephone inquiries by providing information to callers, referring callers to the Bureau's website ([www.maine.gov/insurance](http://www.maine.gov/insurance)), and mailing issue-related brochures. They also address written inquiries and 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 those with questions about federal laws are referred to the appropriate federal agency.

Staff also receive and investigate written consumer complaints. Maine consumers completing a CHCD complaint form – either in hard copy, or electronically through the Bureau's website -- authorize staff to contact insurance company representatives to investigate the dispute.

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 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 appeal rights. Some complaints involve allegations that the insurance company has not properly handled a consumer's appeal. Under Maine law, health insurance 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 following one of 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 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 – e.g., denial of a surgical procedure or inpatient stay -- CHCD staff can promptly intervene on behalf of the consumer to ensure that the carrier complies with its legal obligations. The CHCD staff has been able to resolve many of

these situations 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 their carrier has acted in accordance with the policy and Maine law.

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

After exhausting at least one of two levels of the internal appeals processes 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 a CHCD staff member 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 an external review, the ERO has an appropriate independent medical peer review 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.

## **3. Outreach and Education**

An ongoing CHCD priority is to educate Maine consumers about their rights under Maine's insurance laws and the federal Affordable Care Act (ACA), as well as services available through the Bureau of Insurance. This is done through public speaking engagements and participation in outreach events. Public speaking and outreach events in which the CHCD participated in 2014 included:

- Senior Expo – Bangor
- Maine Association of Retirees - Augusta
- New England Geriatric Conference – Bar Harbor
- Maine Medical Association Annual Meeting – Bar Harbor
- Fostering Financial Literacy in Maine Schools – Augusta
- Potato Blossom Festival – Fort Fairfield
- Blueberry Festival – Machias
- Maine Primary Care Association Annual Conference – Bar Harbor
- Common Ground Country Fair – Unity
- Lincoln County Triad Senior Appreciation Day - Boothbay
- Marines of Company A – Brunswick
- Maine College Association – Augusta

As part of its ongoing consumer education mission, CHCD produces and updates numerous publications on a variety of topics, including guides to 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, [www.maine.gov/insurance](http://www.maine.gov/insurance).

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

In 2014, there were 70 active licensed utilization review entities in Maine.

##### ***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 offer 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, benefit level differential, and emergency access requirements.



In 2014, five new arrangements applied for registration, with all meeting the registration requirements, bringing the total number of arrangements to 56. A list of Maine licensed PPAs can be accessed at the Bureau's website at [www.maine.gov/insurance/company/licensee\\_list.htm](http://www.maine.gov/insurance/company/licensee_list.htm) under the *Producer/BusinessEntity Information* link. Licensed companies can also be located by using the website's "Find a licensee" feature.

### ***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 providers. 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.

## **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 2014, CHCD received 1,820 insurance contract form filings; 60 filings were either disapproved or rejected for failing to meet established requirements. An additional 69 filings were withdrawn by the insurance company after questions were raised by CHCD staff. The remaining 1,691 form filings were reviewed and approved subject to modifications.

Life and health insurance rates are also subject to review by the Bureau's Life and Health Actuarial Unit. Rates are reviewed by the unit for compliance with Maine law, and rate increases are not approved if they are found to be excessive, inadequate or unfairly discriminatory.

The second year of implementing the federal Affordable Care Act was the biggest challenge facing the insurance contract form review staff in 2014, given the very compressed timeframe for review of the contracts for compliance with Maine laws and regulations and new, complex requirements of the ACA. In addition to using SERFF, staff learned the new Centers for Medicare and Medicaid Services (CMS) Health Insurance Oversight System (HIOS) to ensure form filings conformed to the requirements of the ACA.

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 that 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 or written request 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.

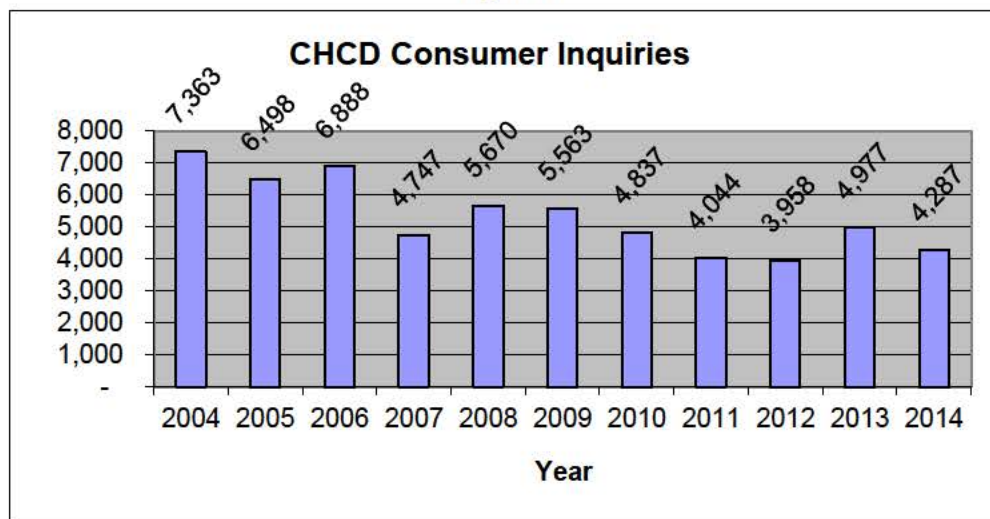
A “complaint” is defined in Title 24-A, § 216 (2) as “any written complaint that results in the need for the Bureau to conduct further investigation or to communicate in writing with a regulated entity for a response or resolution to the complaint.”

On a yearly basis, the CHCD compiles a “complaint index” comparison for Maine health insurance companies. Complaints are used to calculate complaint indices for different insurance companies. The complaint index compares the share of complaints against a company to their share of the market (premiums written). Health complaint index reports are available on the Bureau’s website at

[www.maine.gov/insurance/consumer/Health Complaint Comparison.pdf](http://www.maine.gov/insurance/consumer/Health%20Complaint%20Comparison.pdf).

CHCD staff answered 4,287 telephone and written inquiries during 2014. The most frequent inquiries related to individual insurance, Medicare, and claim denials. Figure 1 illustrates the number of telephone and written inquiries received from 2004 – 2014.

Figure 1

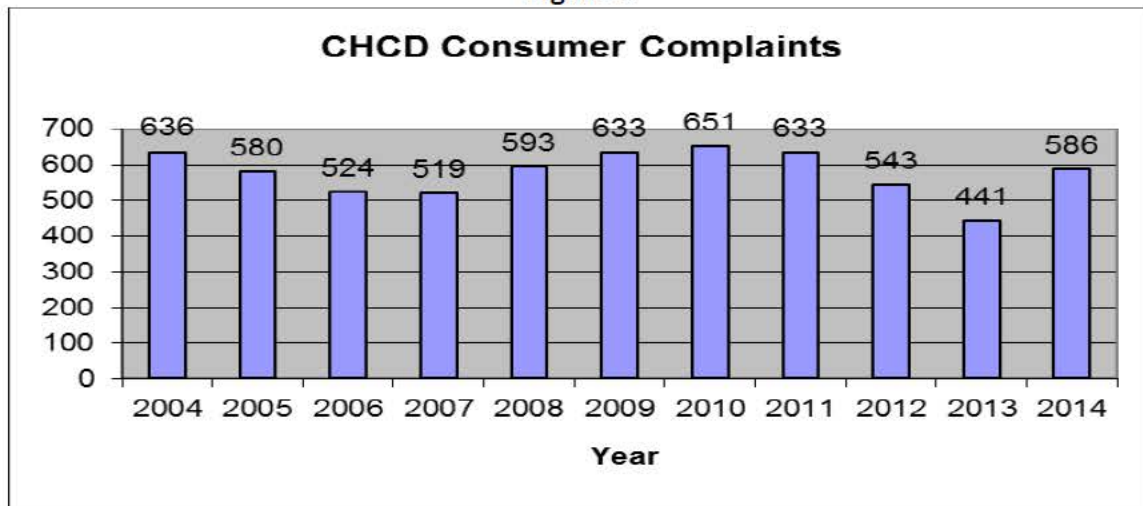


CHCD staff also answered requests for constituent assistance from state and federal legislative officials. And, in addition to the written inquiries referenced above, another 208 written inquiries were received from consumers using the Bureau’s webpage inquiry tool.

## 2. Complaints

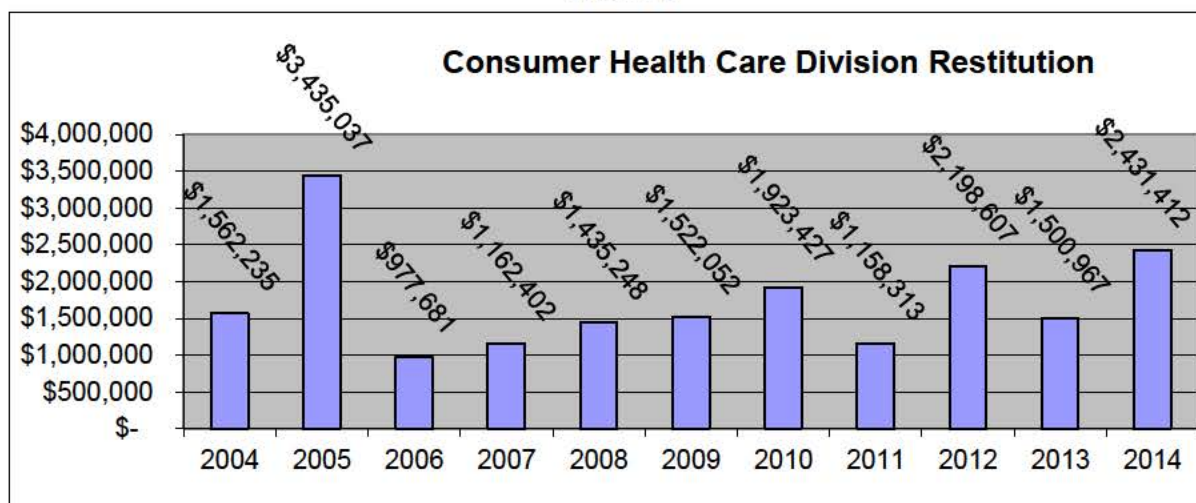
During 2014, the CHCD responded to 586 written or emailed health, disability, annuity, and life insurance complaints filed by health plan enrollees, policyholders, insurance producers, and health care providers. Figure 2 illustrates the number of written complaints filed with the CHCD from 2004-2014.

Figure 2



As part of the complaint investigation process, CHCD staff works to obtain restitution for consumers who 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 \$2,431,412 for complainants during 2014. 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 insurance carriers that write a significant volume of coverage for Maine residents. CHCD staff also 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 three independent external review organizations in 2014: National Medical Review, Maximus Federal Services, Inc., and Island Peer Review Organization (IPRO).

The CHCD received 53 requests for external review:

- One was resolved by the insurance carrier prior to the external review.
- 18 were not completed because the consumer did not return the necessary signed releases to continue the process.
- Of the 34 remaining requests; 24 were completed by January 1, 2015 and 4 were withdrawn prior to hearing (3 by the consumer and 1 by the company).
- Of the 24 completed requests, 17 (71%) upheld the carrier's decision, 1 was partially overturned (4%) and 6 were overturned (25%).

There were 17 cases heard for medical necessity of treatment:

- 8 mental/behavioral health;
- 5 PT/chiropractic care;
- 2 related to provider networks; and
- 2 general treatment decisions.

There were 8 decisions based on the treatments being experimental or investigational:

- 1 mental/behavioral health;
- 1 drug therapy; and
- 6 for specific care/treatment decisions.

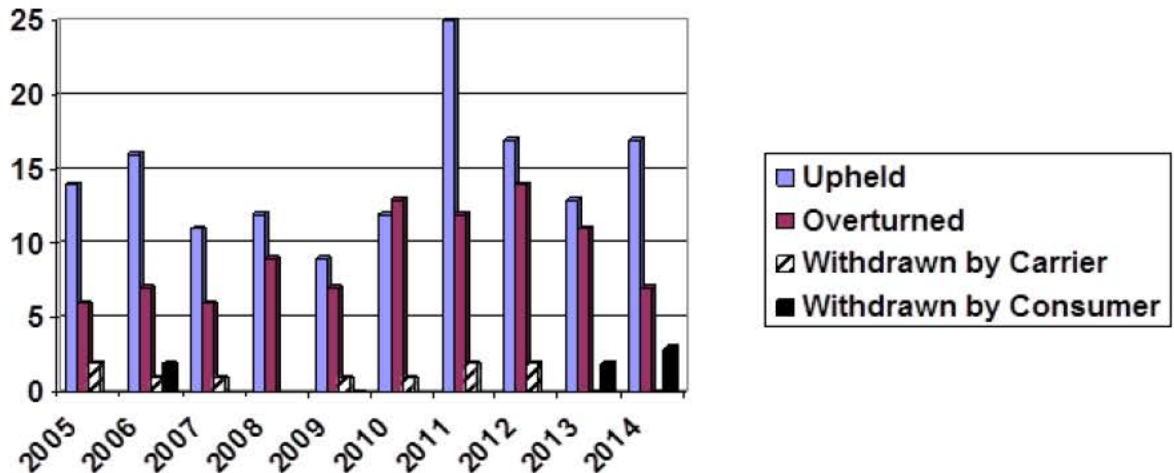
The CHCD received and reviewed additional requests for external review that did not qualify under the statutes, either because the internal appeal process was not utilized prior to requesting external review or because the denial was based on issues other than the validity of the carrier's medical decisions.

Pursuant to Title 24-A, §4312 (7-A) the following table illustrates the status of external reviews by insurance carrier for 2014:

2014 External Reviews							
	Anthem	Aetna	Harvard	Cigna	UHC	Patient Advocate	Total
<b>Requested</b>	<b>29</b>	<b>18</b>	<b>3</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>53</b>
Not qualified	1	0	0	0	0	0	1
Consumer didn't complete process	10	7	0	0	1	0	18
<b>Submitted for External Review</b>	<b>18</b>	<b>11</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>34</b>
Withdrawn prior to hearing	3	0	0	1	0	0	4
<b>Review Completed by 1/1/15</b>	<b>13</b>	<b>7</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>24</b>
Upheld	10	3	3	0	0	1	17
Overtured	3	4	0	0	0	0	7
<b>Breakdown by Qualifying Issue</b>							
Experimental/Investigational	4	3	0	0	0	1	8
Medical Necessity	9	4	3	1	0	0	17

Figure 4 illustrates the number of external reviews overturned, upheld, or withdrawn by either the insurance carrier or consumer prior to the review for 2005 – 2014.

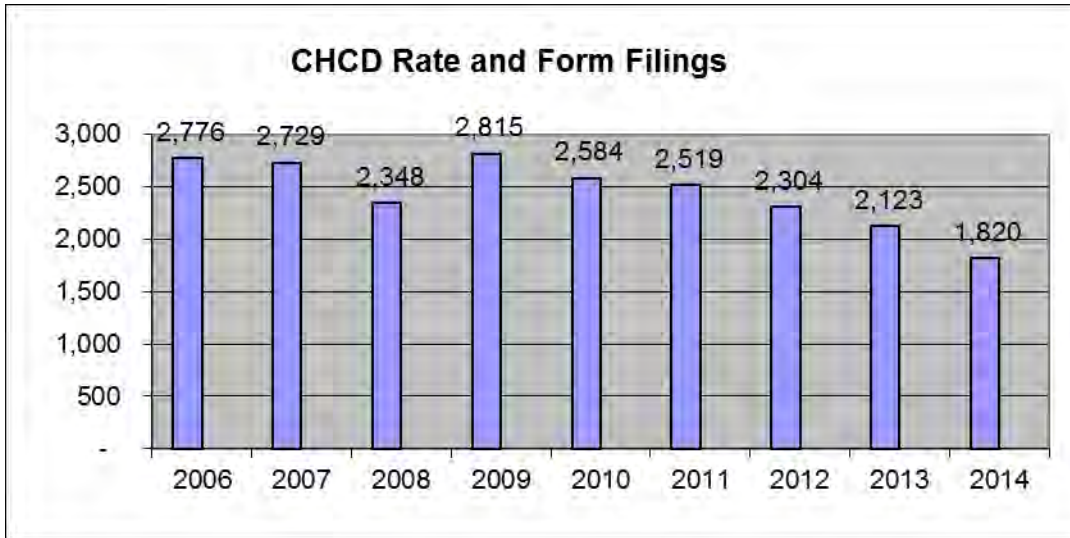
Figure 4  
External Review Outcomes



### C. Policy Form and Rate Review

During 2014, the CHCD received 1,820 rate and form filings and approved 1,691. Some filings were disapproved, placed on file for information, or withdrawn by the insurance company. The 546 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 2014, CHCD staff drafted revisions to eight rules and assisted in issuing four bulletins to provide guidance on Medicare Supplement policies, timelines for filing small group health plans and fixed indemnity products. The updated or new rules and bulletins are:

Rule Chapter 191, Health Maintenance Organizations.

Rule Chapter 275, Medicare Supplement Insurance.

Rule Chapter 383, Provider Profiling Disclosures. [Still in draft stage]

Rule Chapter 420, Nursing Home Care Insurance and Long-Term Care Insurance.

Rule Chapter 425, Long-Term Care Insurance.

Rule Chapter 580, Third-Party Notice of Cancellation.

Rule Chapter 915, Annuity Disclosure.

Rule Chapter 917, Suitability in Annuity Transactions.

Bulletin 397, Notice Requirements for Health Benefit Determinations.

Bulletin 396, Requirements for Fixed Indemnity Insurance Under the Affordable Care Act.

Bulletin 394, Student Health Insurance Plans.

Bulletin 392, Revised Uniform Deadlines for Rate, Form, and QHP Filings for Non-Grandfathered Individual and Small Group Health Plans With Effective Dates of Coverage During 2015.



## **B. National Association of Insurance Commissioners (NAIC) Committee Participation**

CHCD staff actively participates in several NAIC subgroups, 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 develops best practices and guidelines for use by states in creating information disclosures for consumers.

## **IV. Conclusion**

The evolving and expansive implementation of the federal ACA, including the federally-facilitated marketplace plan management functions, was the biggest challenge for the CHCD in 2014. The ACA required staff to familiarize themselves with new and changing federal laws and regulations and information systems designed and operated by the federal government, and to coordinate with insurance carriers to meet strict filing timeframes that were beyond the control of the Bureau of Insurance. Insurance carrier representatives and consumers rely on the Bureau to interpret the new laws and regulations.

The CHCD continues to analyze 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 is in regular communication with insurance carriers during complaint investigations, through quarterly meetings, and when providing regulatory interpretations of the Insurance Code.

For additional information, please contact the Consumer Health Care Division at the Maine Bureau of Insurance by calling 624-8475 or toll free 1-800-300-5000 (TTY: Please Call Maine Relay 711) or by visiting the Bureau's website: [www.maine.gov/insurance](http://www.maine.gov/insurance).