

Report of Market Regulation Examination



CNA Insurance Group
333 S. Wabash Ave, 38S
Chicago, Illinois 60604

Companies Reviewed:

American Casualty Company of Reading, Pennsylvanian
NAIC Company Code: 20427

National Fire Insurance Company of Hartford
NAIC Company Code: 20478

Transportation Insurance Company
NAIC Company Code: 20494

Continental Casualty Company
NAIC Company Code: 20443

Valley Forge Insurance Company
NAIC Company Code: 20508

Transcontinental Insurance Company
NAIC Company Code: 20508

NAIC Examination Tracking System: ME008-M27
Limited Scope Examination Period:
January 1, 2005 through December 31, 2008

Pursuant to Title 24-A M.R.S.A. § 221, a Limited Scope Targeted Market Conduct Examination was conducted of CNA Insurance Group. I hereby accept this Report of Examination and make it an official record of the Bureau of Insurance.

Eric A. Cioppa
Acting Superintendent of Insurance
Maine Bureau of Insurance

Date

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September 15, 2011

The Honorable Eric A. Cioppa
Acting Superintendent of Insurance
Bureau of Insurance
34 State House Station
Augusta, ME 04333-0034

Dear Acting Superintendent Cioppa:

Pursuant to the certification of findings in accordance with Title 39-A M.R.S.A § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of Title 24-A M.R.S.A. § 221 and in conformity with your instructions, a targeted market conduct examination has been made of:

CNA Insurance Group

Composed of the following:

American Casualty Company of Reading, Pennsylvania
National Fire Insurance Company of Hartford
Transportation Insurance Company
Continental Casualty Company
Valley Forge Insurance Company
Transcontinental Insurance Company

hereinafter referred to as the "Company". The examination covered claims that were open between January 1, 2005 and December 31, 2008, for employees residing in the State of Maine or claimants involved in losses in the State of Maine. This examination was conducted as a desk audit at the office of the Bureau of Insurance ("Bureau") located at:

76 Northern Ave
Gardiner, Maine

The following report is by test and respectfully submitted.

EXECUTIVE SUMMARY

The pattern of questionable claims handling techniques relating to failure to pay timely benefits awarded by mediation agreements, board decrees, consent decrees or lump sum settlements has come to a halt.

- Twenty-one (21) claims were reviewed. This examination identified one or more violations of 39-A M.R.S.A. § 324(1) on two (2) of those claims.

Of concern is that one of those two claims with untimely payments also has unpaid medical charges. Further, the Company refuses to pay those charges. Pursuant to the above noted section, CNA was obligated to pay those medical bills, “based on the fee schedule” within 10 days of the decree. The fee schedule amount for CPT 97110 is \$44.40, not \$0.00 and CPT 97100 is \$120.00 not \$0.00. The Company is improperly relying on their bill reprinter, Concentra, which has inaccurately reduced the medical provider’s charges to zero.

HISTORY OF ENGAGEMENT

Pursuant to 39-A M.R.S.A. § 153(9), the WCB established an audit, enforcement and monitoring (“MAE”) program. The functions of the audit and enforcement program include but are not limited to audits of payment timeliness and claims-handling practices of insurers in accordance with 39-A M.R.S.A. § 359. The WCB MAE Audit Division’s limited-scope audit was prompted by six (6) Complaint for Audit forms, which alleged that the Company had violated 39-A M.R.S.A. § 324(1). That audit culminated with the WCB Compliance Audit Report dated August 22, 2006, confirmed the allegations. The report’s findings relevant to 39-A M.R.S.A. § 359(2) include:

- Failure to pay benefits timely pursuant to Mediation agreements, Board decrees, Consent Decrees or Lump Sum Settlements

This examination is pursuant to the certification of findings to the Superintendent of Insurance in accordance with 39-A M.R.S.A. § 359(2), as described by the State of Maine Workers’ Compensation Board Office of Monitoring, Audit & Enforcement v. CNA Insurance Group Consent Decree dated August 4, 2008. Title 39-A M.R.S.A. § 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

DESCRIPTION OF COMPANY

CNA is the 7th largest U.S. commercial insurer. They provide insurance protection to more than 1 million businesses and professionals in the U.S. and internationally. Their products and services are sold by independent agents and brokers. Headquartered in Chicago, CNA has offices throughout the U.S., Canada and Europe.

SCOPE OF EXAMINATION

In order to meet the responsibilities set forth in 39-A M.R.S.A § 359(2), the Superintendent of Insurance had to determine whether or not the patterns of questionable claims-handling techniques found by the WCB had come to a halt. Therefore, an examination was planned in accordance with the National Association of Insurance Commissioners' Market Regulation Handbook ("Handbook"). The Bureau examiners developed compliance verification procedures based on the Handbook to measure whether the Company had brought themselves into compliance with 39-A M.R.S.A. § 324(1). Specifically, the scope of the examination was limited to a review of claims that were resolved by mediation agreements, board decrees, consent decrees or lump sum settlements that had a date of injury from January 1, 2005 and December 31, 2008.

METHODOLOGY

The limited scope of this examination presented a unique challenge in determining the appropriate population of claims to be considered. A query was run for claims that had a date of injury from January 1, 2005 through December 31, 2008 and was resolved by mediation agreements, board decrees, consent decrees or lump sum settlements. No electronic means were available to determine if the claims were resolved in favor of the injured. Therefore, individual file review of forty-four (44) claims revealed twenty-one (21) claims for examination.

FINDINGS

The following Handbook standard was the basis for developing the examination procedure.

CLAIMS

Standard G- 3

Claims are resolved in a timely manner.

TEST

Verify the timeliness of payments made pursuant to approved agreements in accordance with 39-A M.R.S.A. § 324(1). Tested the twenty-one workers' compensation claims that had payments made pursuant to an approved agreement.

Claims	Timely	Not Timely	Compliant
21	19	2	90%

Findings:

The above test was designed to verify that payments pursuant to WCB agreements are made in accordance to 39-A M.R.S.A. § 324 (1). The compliance percentage during the examination period was 90%. The issues that led to late payments were the result of various actions including:

- Lack of understanding of the requirement to pay medical bills within ten (10) days of an agreement
- Lack of understanding of the requirement to pay medical charges in accordance to the WCB medical fee schedule

Recommendation It is recommended that CNA implement certain policies and procedures to ensure that claims adjusters are aware of the Maine statutes, rules and regulations governing workers' compensation claim payments.

CONCLUSION

This examination reviewed twenty-one (21) claims that met the requirement of the scope of the exam. The compliance percentage during the examination period was 90%. Based on the results of this examination, Bureau examiners found that the pattern of questionable claims handling techniques established by the WCB has ceased.

ACKNOWLEDGMENT

The courtesy and cooperation extended by the officers and employees of the Company during the course of the examination is hereby acknowledged. The examination was conducted and is respectfully submitted by the undersigned.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Mary Masi, being duly sworn according to law, deposes and says that in accordance with the authority vested in her by Eric A. Cioppa, Acting Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, she has made an examination on the condition and affairs of the

CNA INSURANCE GROUP

of Chicago, Illinois, for the claims that were open from January 1, 2005 through December 31, 2008, and that the foregoing report of examination, subscribed to by her, is true to the best of her knowledge and belief.

The following examiners from the Bureau assisted:

Carolee M. Bisson
Janvier K. Smith

Mary Masi
Senior Market Conduct Examiner

Subscribed and sworn to before me

This 15th day of September 2011

Karma Lombard, Notary Public

My commission expires: