

**IN RE: WASHINGTON NATIONAL
INSURANCE COMPANY**

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**CONSENT AGREEMENT
Docket No. MCINS 01-2523**

This document is a Consent Agreement, authorized by 10 M.R.S.A. § 8003(5)(B), entered into by and among Washington National Insurance Company (hereafter "Washington National") and the Superintendent of the Maine Bureau of Insurance (hereafter "the Superintendent"). Its purpose is to resolve, without resort to an adjudicatory proceeding, violations of the Maine Insurance Code as set forth below.

FACTS

1. The Superintendent is the official charged with administering and enforcing Maine's insurance laws and regulations.
2. Washington National has been a Maine licensed life and health insurance company, License # LHF294, since 1925.
3. On October 16, 2000, Consumer filed a complaint with the Bureau of Insurance, complaint # 2000510408, regarding a denial of inpatient hospital benefits under his Washington National major medical health insurance policy.
4. On April 15, 2000, Consumer was admitted to the hospital on an emergency basis after being injured in a pedestrian/car accident. Consumer was on a resuscitator in the hospital's intensive care unit for 7 days until April 26, 2000.
5. The police at the accident scene took Consumer's wallet, which contained his insurance card. As a result the hospital did not have immediate access to Consumer's insurance information, and did not notify Washington National of the emergency admission until April 24, 2000.
6. Consumer submitted claims totaling \$86,863.00 for charges incurred during his hospital stay from April 15 to April 26, 2000. Washington National applied a non-certification penalty of \$24,756.23, approximately 30% of charges, to most of Consumer's hospital claims, on the basis that Consumer had failed to notify the carrier of the emergency hospital admission within 48 hours.
7. Bureau staff assigned to investigate Consumer's complaint advised Washington National of the requirements of Title 24-A M.R.S.A. Section 2749-A, which provides: *An insurance policy may not include a provision permitting the insurer to impose a penalty for the failure of any person to notify the insurer of an insured person's hospitalization for emergency treatment.*
8. Although Consumer's insurance policy did not contain a 48-hour notification requirement for emergency hospital admissions, which is prohibited by the above-cited statute, Washington National administered it as if it did contain such a provision.
9. In its November 8, 2001 response to the Bureau concerning the 48-hour notification requirement, Washington National advised that several plans administered by its parent company (Conseco Services) have a provision requiring notification of emergency hospital admissions within 48 hours in order to comply with the certification process in the policy. Washington National advised the Bureau that personnel in its claim and customer service departments "inadvertently mistook" Consumer's plan as one that

- required such notice for emergency hospital admissions. Washington National advised the Bureau that its personnel have received instruction to ensure that future claim adjudication and telephone inquiries regarding certification are handled appropriately.
10. As a result of Consumer's complaint to the Bureau, Washington National paid additional benefits of \$24,756.23 plus an interest payment of \$1,989.99.
 11. By letter of November 22, 2000, Bureau staff required Washington National to audit its records to determine if there were any other cases in which Washington National wrongfully denied benefits for emergency services because consumers failed to notify Washington National within 48 hours. Washington National's audit revealed that non-certification penalties were incorrectly applied to emergency service claims of 20 Maine insureds. As a result of the Bureau's investigation Washington National has reimbursed those 20 consumers for benefits totaling \$9,162.12, plus interest payments on those claims totaling \$2,051.15.
 12. Title 24-A M.R.S.A. § 2164-D(3)(C) provides that it is an unfair claims practice, as demonstrated by such frequency that a general business practice is established, for an insurer to fail to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies.
 13. Title 24-A M.R.S.A. § 2164-D(3)(E) provides that it is an unfair claims practice, as demonstrated by such frequency that a general business practice is established, for an insurer to refuse to pay claims without conducting a reasonable investigation.

CONCLUSIONS OF LAW

14. As described in paragraphs 1-11 above, Washington National failed to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies in violation of 24-A M.R.S.A. § 2164-D(3)(C). Reasonable standards for the prompt investigation and settlement of claims include a review of the coverage provisions of the policy before refusing to pay claims.
15. As described in paragraphs 1-11 above, Washington National refused to pay claims without conducting a reasonable investigation in violation of Title 24-A § 2164-D(3)(E).

COVENANTS

16. A formal hearing in this matter is waived and no appeal will be made.
17. At the time of executing this Agreement, Washington National shall pay to the Maine Bureau of Insurance a penalty in the amount of Ten Thousand Dollars (\$10,000), payable to the Treasurer of the State of Maine.
18. In consideration of Washington National's execution of and compliance with the terms of this Consent Agreement, the Superintendent agrees to forgo pursuing any disciplinary measures or other civil sanction for the specific violations described above other than those agreed to in this Consent Agreement.

MISCELLANEOUS

19. This Consent Agreement may only be modified by the written consent of the parties.

20. It is understood by the parties to this Agreement that nothing herein shall affect any rights or interests of any person not a party to this Agreement.
21. Washington National acknowledges that this Consent Agreement is a public record within the meaning of 1 M.R.S.A. § 402 and will be available for public inspection and copying as provided for by 1 M.R.S.A. § 408.
22. Washington National has been advised of its right to consult with counsel and has, in fact, consulted with counsel before executing this Agreement.
23. Nothing herein shall prohibit the Superintendent from seeking an order to enforce this Agreement, or from seeking additional sanctions in the event that Washington National does not comply with the above terms, or in the event that the Superintendent receives evidence that further legal action is necessary for the protection of Maine consumers.

Dated: _____, 2001

Washington National Life Insurance Company

By: _____

Its

Printed Name and Title

Subscribed and sworn to before me
this _____ day of _____, 2001.

Notary Public

Printed name

Date of commission expiration

MAINE BUREAU OF INSURANCE

Dated: _____, 2001

Alessandro A. Iuppa
Superintendent of Insurance

STATE OF MAINE
KENNEBEC, SS.

Subscribed and sworn to before me
this _____ day of _____, 2001

Notary Public/Attorney-at-Law

Dated: _____, 2001

MAINE DEPARTMENT OF THE ATTORNEY
GENERAL

Carolyn A. Silsby
Assistant Attorney General