

**STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
BUREAU OF INSURANCE**

**IN RE:**

**MEGA LIFE AND HEALTH  
INSURANCE COMPANY RATES  
FOR INDIVIDUAL HEALTH PLANS**      **AGREED SETTLEMENT  
AND CONSENT ORDER**

**Docket No. INS-07-1010**

This document is an Agreed Settlement and Consent Order authorized by 5 M.R.S.A. § 9053(2), entered into by and among The MEGA Life and Health Insurance Company ("MEGA Life"), the Maine Superintendent of Insurance (the "Superintendent"), the Maine Attorney General, and the Bureau of Insurance Advocacy Panel ("Advocacy Panel"). Its purpose is to resolve, without a full hearing, whether the accepted rates on file with the Bureau of Insurance and currently in use by MEGA Life are excessive, inadequate, or unfairly discriminatory as set forth in 24-A M.R.S.A. § 2736, and, otherwise meet the requirements of the Maine Insurance Code and regulations promulgated thereunder, pursuant to the Notice of Pending Proceeding and Hearing dated November 17, 2007.

**STATEMENT OF FACTS**

**GENERAL FACTS**

1. The Superintendent is the official charged with administering and enforcing Maine's insurance laws and regulations, and the Maine Bureau of Insurance (the "Bureau") is the administrative agency with such jurisdiction. The Superintendent delegated full decision-making authority in this proceeding to Deputy Superintendent of Insurance Eric Cioppa.
2. The Attorney General is a party in this proceeding, being an intervenor as a matter of right.
3. Pursuant to 5 M.R.S.A. § 9054(5), the Superintendent established the Advocacy Panel as an independent party in this proceeding.
4. MEGA Life, NAIC Company Code No. 97055, is an Oklahoma domiciled health insurance company authorized by the Superintendent pursuant to 24-A M.R.S.A. Chapter 5 to transact insurance business in the State of Maine, and to issue individual health insurance contracts pursuant to 24-A M.R.S.A. Chapter 33.

**SPECIFIC FACTS**

5. MEGA Life has issued individual health insurance contracts in the State of Maine beginning in 2004, and has continued to issue such policies up to the present date.
6. For the period 2004 through 2007, MEGA Life has written 9,830 individual health insurance policies in the State of Maine.

7. In September 2005, MEGA Life filed with the Superintendent revised rates for its individual health insurance plans, which rates were accepted and allowed to become effective beginning January 1, 2006. The effect of the revised rates was to decrease them in the aggregate by approximately 12.3%.
8. MEGA Life has not made any rate revision filing with the Superintendent for its individual health insurance plans subsequent to January 1, 2006.
9. For the period 2004 through the present date, MEGA Life has based its Maine loss ratio reports and rate justification on a method of claims analysis it refers to as a "modified incurred date" methodology. As a result of that methodology, MEGA Life has coded claims as having been incurred on the earliest date of a similar diagnosis or treatment within a three year period. MEGA Life has described this as a "pre-funding" mechanism that in its view allows for greater stability of premiums over the life of the product. Conversely, a "date of service" methodology codes claims as having been incurred on the date of treatment on an "expense incurred" basis.
10. In this proceeding, MEGA Life reported loss ratios for its individual health insurance policies in Maine as follows:

	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>
Using a "Modified Incurred Date" Methodology	71.3%	57.2%	55.1%	66.6%
Using a "Date of Service" Methodology	49.5%	44.9%	42.6%	62.6%

#### **11. APPLICABLE LAW AND POSITIONS OF THE PARTIES**

12. Pursuant to 24-A M.R.S.A. § 2736-C(5), "the superintendent shall disapprove any premium rates filed by any carrier, whether initial or revised, for an individual health policy unless it is anticipated that the aggregate benefits estimated to be paid under all the individual health policies maintained in force by the carrier for the period for which coverage is to be provided will return to policyholders at least 65% of the aggregate premiums collected for those policies, as determined in accordance with accepted actuarial principles and practices and on the basis of incurred claims experience and earned premiums." Pursuant to Rule Chapter 940, §§ 8(A), 6(F)(10), this is defined as the "minimum required loss ratio."
13. Pursuant to Rule Chapter 940, §6(D), "carriers are required to review their experience no less frequently than annually and to file rate revisions, upward or downward, as appropriate."
14. The position of the Advocacy Panel and the Attorney General is that MEGA Life's pre-funding mechanism for the period from 2004 to the present resulted in excessive rates under Maine law.
15. Also, it is the Advocacy Panel's and the Attorney General's position that MEGA Life failed to comply with the legal requirement for carriers to file a downward rate revision when the claims experience demonstrates the anticipated noncompliance with the 65% minimum required loss ratio.
16. While MEGA Life disputes that its methodology resulted in rates that do not comply with Maine law and makes no admissions of wrongdoing or failure to comply in this regard, in order to resolve these disputes, MEGA Life has agreed to enter into this Agreed Settlement and Consent Order.

## CONCLUSION OF LAW

17. The Superintendent finds that in establishing rates for individual health insurance policies in the State of Maine for the period January 1, 2004 through December 31, 2007 MEGA Life used a pre-funding mechanism that resulted in excessive rates under Maine law and otherwise failed to comply with applicable requirements of the Maine Insurance Code and regulations promulgated thereunder.

## COVENANTS

### GENERAL COVENANTS

17. MEGA Life, the Superintendent, the Advocacy Panel, and the Attorney General agree to the terms of this Agreed Settlement and Consent Order.
18. MEGA Life understands and acknowledges that this Agreed Settlement and Consent Order will constitute 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, and will be reported to the NAIC "RIRS" database.
19. In consideration of MEGA Life's execution of and compliance with the terms of this Agreed Settlement and Consent Order, the Superintendent of Insurance and the Attorney General, in his capacity as a party to this proceeding and in all other capacities, agree to forgo pursuing further disciplinary measures or other civil or administrative sanction for the alleged violations arising from MEGA Life's individual health insurance policies issued in the State of Maine for the period January 1, 2004 through the date on which revised rates approved by the Superintendent have been implemented, other than those disciplinary measures agreed to herein. However, should MEGA Life violate this Agreed Settlement and Consent Order, it may be subject to any available legal remedy for the violation, including without limitation the imposition of additional civil penalties and the suspension or revocation of all licenses issued to MEGA Life under the Maine Insurance Code.
20. Nothing in this Agreed Settlement and Consent Order shall affect the rights, interests, duties, or obligations of any person who is not a party to this Agreement.
21. Each of the undersigned signatories hereto agrees that this Agreed Settlement and Consent Order shall not be subject to administrative or judicial review or appeal. Each of the undersigned signatories hereto further agrees that this Agreed Settlement and Consent Order is enforceable by an action in the Maine Superior Court.
22. Nothing herein shall be construed so as to prohibit the Superintendent or the Attorney General from seeking an order to enforce this Agreed Settlement and Consent Order.
23. Nothing herein shall be construed so as to prohibit the Superintendent or the Attorney General from instituting further enforcement action against MEGA Life, administratively or in any court of competent jurisdiction, in the event that MEGA Life does not comply with any term or condition set forth herein.
24. Each of the undersigned signatories hereto agrees that this Agreed Settlement and Consent Order may be modified only by the written consent of all of the undersigned signatories hereto.

25. By its signature hereto, MEGA Life acknowledges that it has consulted with counsel prior to executing this Agreed Settlement and Consent Order and that, by its signature, it voluntarily agrees to be bound without exception by all of the terms and conditions set forth herein.

## **SPECIFIC COVENANTS**

26. MEGA Life agrees to make direct refunds to holders of individual health insurance policies in the State of Maine for premiums earned during the period January 1, 2004 through December 31, 2007, in an amount of Four Million Six Hundred Thousand Dollars (\$4,600,000) in the aggregate, subject to additional interest as set forth in Paragraph 27 of this Agreed Settlement and Consent Order. *See* 24-A M.R.S.A. § 12(A)(6). The determination of a refund owed for 2008, if any, shall be made in accordance with Paragraph 30 of this Agreed Settlement and Consent Order.
27. In addition to the refund amounts identified in Paragraph 26 of this Agreed Settlement and Consent Order, MEGA Life agrees to pay interest from the date premium was earned to the date of refund to policyholders hereunder, calculated at the applicable monthly average 5-Yr. Treasury Bill rate, determined and to be applied as follows:

2004 = 3.5%

2005 = 4.0%

2006 = 4.7%

2007 = 4.3%

28. MEGA Life agrees to prospectively rate its individual health insurance policies in Maine using a "date of service" claims reserving methodology, with no "pre-funding", subject to and except as otherwise ruled by the Superintendent.
29. MEGA Life agrees to prospectively rate its individual health insurance policies in Maine such that the anticipated aggregate benefits estimated to be paid under such policies maintained in force by the carrier for an annual contract period will return to policyholders at least 65% of the aggregate premiums collected for those policies.
30. Within thirty (30) days of the effective date of this Agreed Settlement and Consent Order, MEGA Life agrees to file a rate revision with the Superintendent for its individual health insurance policies in Maine for calendar year 2008. To the extent (1) the rates approved by the Superintendent are lower than MEGA Life's current rates and (2) the Superintendent determines that a refund is owed to holders of individual health insurance policies in the State of Maine during the period January 1, 2008 through the implementation of the revised rates (the "2008 Refund Period"), MEGA Life agrees to refund the difference between the revised rates and the current rates for the 2008 Refund Period. In the event such refund is owed, MEGA Life shall propose a methodology to implement the refund. MEGA Life's proposed refund implementation methodology shall be subject to review and approval by the Superintendent, with notice to and opportunity for input by the Attorney General.
31. MEGA Life agrees to review the claims experience for its individual health insurance policies in Maine no less frequently than annually and further agrees to promptly file rate revisions with the Superintendent, upward or downward, as appropriate. *See* Rule

Chapter 940, § 6(D). In this regard, no less frequently than annually, MEGA Life further agrees for a period of five (5) years following the effective date of this Agreed Settlement and Consent Order to file with the Superintendent a loss ratio report for its individual health insurance policies in Maine.

32. MEGA Life agrees to pay a civil penalty in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) for each of years 2004, 2005, 2006, and 2007, payable to the Treasurer, State of Maine. *See* 24-A M.R.S.A. § 12-A(1). The civil penalties owed for all referenced years are due no later than April 30, 2008.
33. MEGA Life further agrees to participate in quarterly meetings with the Maine Bureau of Insurance for the purposes of discussing issues that may have arisen during the preceding quarter related to MEGA Life's individual health insurance policies in Maine. For a period of two years appropriate representatives from MEGA Life will attend those quarterly meetings in person, unless the Superintendent requests otherwise.
34. Within thirty (30) days of the effective date of this Agreed Settlement and Consent Order, MEGA Life agrees to provide the Superintendent with a detailed report identifying each holder of individual health insurance policies in Maine for the period January 1, 2004 through December 31, 2007, and stating the amount owed (refund plus interest) to each person. As part of the report, MEGA Life shall propose a methodology for allocating the \$4,600,000 total refund to specific individual policyholders for the period January 1, 2004 through December 31, 2007, which methodology shall be subject to review and approval by the Superintendent, with notice to and opportunity for input by the Attorney General.
35. MEGA Life will use its best efforts, subject to ongoing review and approval as necessary by the Superintendent, to locate all holders of individual health insurance policies in Maine for the period January 1, 2004 through December 31, 2007 in order to ensure that each policyholder promptly receives the amount owed (refund plus interest) pursuant to this Agreed Settlement and Consent Order. Within five (5) business days of the effective date of this Agreed Settlement and Consent Order, MEGA Life shall submit to the Superintendent for review and approval the process MEGA Life intends to follow to locate the applicable policyholders and to follow up as necessary before paying refund amounts to the State of Maine as set forth in Paragraph 36 of this Agreed Settlement and Consent Order.
36. If after the exercise of its best efforts MEGA Life is unable to locate a policyholder, MEGA Life agrees to pay the amount owed to that policyholder (refund plus interest) pursuant to this Agreed Settlement and Consent Order to the State of Maine to be held as unclaimed property pursuant to applicable law, and accounted for in the name of the policyholder.
37. MEGA Life agrees to provide detailed progress reports regarding compliance with the terms of this Agreed Settlement and Consent Order to the Bureau's Director of the Consumer Health Care Division, with copies to the Attorney General, on a monthly basis commencing one month after the effective date of this Agreed Settlement and Consent Order. Among other matters, the reports shall include: (a) details regarding all efforts undertaken by MEGA Life to locate policyholders; (b) an itemization of policyholder refunds completed by MEGA Life; and (c) any other information requested to be reported by the Director of the Consumer Health Care Division. In the event the progress reports reflect that the procedures for identifying policyholders prove to be inadequate, the

Superintendent may, upon request or upon her own discretion, require that MEGA Life make additional efforts to locate policyholders for purposes of issuing refunds.

38. For a three-year period following the effective date of this Agreed Settlement and Consent Order, MEGA Life agrees to maintain and preserve all information requested in this proceeding (whether or not produced), and will provide access to all information necessary for Bureau staff to verify that MEGA Life has complied with the terms of this Agreed Settlement and Consent Order.
39. MEGA Life agrees to complete the refunding contemplated by this Agreed Settlement and Consent Order no later than November 1, 2008, unless another date is agreed to in writing by the Bureau's Director of the Consumer Health Care Division based on a demonstration of good cause shown.
40. MEGA Life agrees not to recoup any payments of refunds, interest, or civil penalties made under this Agreed Settlement and Consent Order or any costs associated with complying with this Agreed Settlement and Consent Order in any future rate adjustments, including without limitation the rate adjustment referenced in Paragraph 30 of this Agreed Settlement and Consent Order.

**Entered Into By:**

**The MEGA Life and Health Insurance Company  
Bureau of Insurance Advocacy Panel  
State of Maine, Attorney General  
State of Maine, Superintendent of Insurance**

**[Separate Signature Pages Follow]**

**The MEGA Life and Health Insurance  
Company**

By:

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(printed name)

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Its:

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Dated: April 3, 2008

State of Maine, Kennebec, ss.

Subscribed and Sworn to before me

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this 3rd day of April, 2008.

Notary Public

\_\_\_\_\_  
(printed name)

**BUREAU OF INSURANCE ADVOCACY PANEL**

Dated: April 3, 2008

By: \_\_\_\_\_  
Thomas C. Sturtevant, Jr.  
Assistant Attorney General

**STATE OF MAINE, ATTORNEY GENERAL**

Dated: April 3, 2008

By: \_\_\_\_\_  
Assistant Attorney General

\_\_\_\_\_  
(printed name)

**STATE OF MAINE, SUPERINTENDENT OF INSURANCE**

By signature hereto the Superintendent approves and accepts this Agreed Settlement and Consent Order, effective as dated below.

**PER ORDER OF THE SUPERINTENDENT OF INSURANCE**

Effective Date: April 3, 2008

By: \_\_\_\_\_  
Eric A. Cioppa  
Deputy Superintendent of Insurance