STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

AMERICAN REPUBLIC INSURANCE COMPANY
DES MOINES, IOWA

&

AMERICAN REPUBLIC CORP INSURANCE COMPANY
OMAHA, NEBRASKA

SEPTEMBER 14-25, 2009

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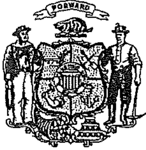

State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Jim Doyle, Governor
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September 25, 2009

Honorable Sean Dilweg
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conduct September 14 to September 25, 2009 of:

AMERICAN REPUBLIC INSURANCE COMPANY
Des Moines, Iowa

and

AMERICAN REPUBLIC CORP INSURANCE COMPANY
Omaha, Nebraska

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

American Republic Insurance Company (ARIC) was incorporated in Iowa in 1929. The company is organized as a stock company and was licensed in Wisconsin beginning December 1958. The company current writes major medical, Medicare supplement, life, annuity, and specified disease policies in Wisconsin.

ARIC writes individual health lines in Wisconsin with a market focus on Medicare supplement policies. In 2007 the ARIC company was the fourth ranked Medicare supplement writer in the state of Wisconsin with $48,359,004 in earned premium with 951 new policies

issued that year. Total earned premium for the company's Medicare supplement business in 2008 was $41,635,193 while losing 4745 policies that year. Total policyholders at the end of 2007 were 19,162 and at the end of 2008 the total policyholders numbered 14,417.

American Republic Corp Insurance Company (ARCIC) was originally incorporated as Pennsylvania National Life Insurance Company (PNLIC). PNLIC's name was changed in 1994 to MidAmerica Life Insurance Company. Effective July 1, 1994, Ohio National Life Assurance Corp sold the company to MidAmerica Mutual Life Insurance Company. During 1997, the company redomesticated from Pennsylvania to Nebraska. In April of 1997, MidAmerica Life became a subsidiary of World Insurance Company, domiciled in Nebraska, following the merger of MidAmerica Mutual into World Insurance.

American Republic Corp Insurance Company's (ARCIC) present name was adopted on May 18, 2006. The company shares mutual officers with American Republic Insurance Company, Des Moines, IA. ARCIC based in Omaha, NE, and wholly owned by American Republic Insurance Company, is a stock company licensed in 37 states and the District of Columbia. It became a subsidiary of ARIC in January of 2008 as part of a corporate restructuring. The restructuring was intended to extend the appearance of the American Republic brand and improve market reach with distinct distribution strategies and additional pricing structures. ARCIC, inactive since May 1996, was reactivated in the second quarter of 2007 to market American Republic Insurance Company's senior health products, which are Medicare supplements, a CareAssist product that has long-term care insurance features, and a final expense life insurance product. The company's total earned premium for Medicare supplements in 2007 was $221,864 with 438 new policies issued that year. In 2008 the total earned premium was $3,720,806 with 2281 new policies issued.

In this report, the above entities are collectively referred to as "the Companies" or where one company was specifically identified "ARIC" or "ARCIC".

The Office of the Commissioner of Insurance received 36 complaints involving the companies between January 1, 2007 through June 30, 2009. A complaint is defined as 'a written communication received by the commissioner's office that indicates dissatisfaction with an insurance company or agent. All ARCIC and the majority of ARIC complaints involved the companies' Medicare supplement business. The majority of the companies' marketing complaints involved agent handling. Claim complaints involved claim denial and policyholder service complaints involved premium issues.

The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Complaints Received involving ARIC

2007			**Reason Type**		
Coverage Type	**Under-writing**	**Marketing & Sales**	**Claims**	**Plcyhldr Service**	**Other**
Individual A&H	0	6	3	5	0
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	1	0	1	0
Total	**0**	**6**	**3**	**5**	**0**

2008			**Reason Type**		
Coverage Type	**Under-writing**	**Marketing & Sales**	**Claims**	**Plcyhldr Service**	**Other**
Individual A&H	1	8	2	2	0
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	0	0	0	0
Total	**1**	**8**	**2**	**2**	**0**

2009 (through June 30)			**Reason Type**		
Coverage Type	**Under-writing**	**Marketing & Sales**	**Claims**	**Plcyhldr Service**	**Other**
Individual A&H	1	0	4	0	0
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	0	0	0	0
Total	**1**	**0**	**4**	**0**	**0**

Complaints Received involving ARCIC

2007			Reason Type		
Coverage Type	Under-writing	Marketing & Sales	Claims	Plcyhldr Service	Other
Individual A&H	0	0	0	0	0
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	0	0	0	0
Total	**0**	**0**	**0**	**0**	**0**

2008			Reason Type		
Coverage Type	Under-writing	Marketing & Sales	Claims	Plcyhldr Service	Other
Individual A&H	0	1	0	0	0
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	0	0	0	0
Total	**0**	**1**	**0**	**0**	**0**

2009 (through June 30)			Reason Type		
Coverage Type	Under-writing	Marketing & Sales	Claims	Plcyhldr Service	Other
Individual A&H	2	0	0	1	1
Group A&H	0	0	0	0	0
PPO	0	0	0	0	0
All Others	0	0	0	0	0
Total	**2**	**0**	**0**	**1**	**0**

Grievances

The companies submitted annual grievance report to the OCI for 2007 and 2008 as required by s. Ins 18.06, Wis. Adm. Code. A grievance is defined as "any dissatisfaction with the provision of services or claims practices of an insurer offering health benefit plan, or administration of a health benefit plan by the insurer that is expressed in writing to the insurer by, or on behalf of, an insured".

The grievance reports for 2007 indicate the companies received 6 grievances, one of which was reversed and one involved a compromise. The grievance reports for 2008 indicate the companies received 44 grievances; 17 or 39% were reversed and 3 involved a compromise.

The companies reported that the majority of the grievances involved noncovered benefits and other categories.

The following table summarizes the grievances for ARIC for the last two years:

Category	2007	2008
Access to Care		
Continuity of Care		
Prescription Drug		
Emergency Services		
Experimental		
Prior Authorization		
Noncovered Benefits	1	21
Not Medically Necessary		3
Other	2	16
Plan Administration	3	
Plan Providers		
Request for Referral		
Total	**6**	**40**
Resolution Categories		
Plan Administration	3	
Benefit Denial	3	40
Quality of Care		
Total	**6**	**40**

The following table summarizes the grievances for ARCIC for the last two years:

Category	2007	2008
Access to Care	0	
Continuity of Care	0	
Prescription Drug	0	
Emergency Services	0	
Experimental	0	
Prior Authorization	0	
Noncovered Benefits	0	1
Not Medically Necessary	0	0
Other	0	1
Plan Administration	0	2
Plan Providers	0	
Request for Referral	0	
Total	**0**	**4**

Resolution Categories		
Plan Administration	0	2
Benefit Denial	0	2
Quality of Care	0	
Total	**0**	**4**

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the companies' practices and procedures comply with Wisconsin insurance statutes and administrative codes. The examination focused on the period from January 1, 2007 through June 30, 2009. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review the companies' operations and practices in the areas of company operations/management; electronic commerce; grievance & IRO; marketing, sales and advertising; new business & underwriting; policyholder service & complaints; policy forms & rates; privacy; producer licensing; and terminations, cancellations & nonrenewals.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. CURRENT EXAMINATION FINDINGS

Claims

The examiners reviewed the companies' response to the OCI's claims interrogatory, claim procedures, internal audit reports, explanation of benefit (EOB), and remittance advice (RA) forms, claim adjustment (ANSI) codes, claim payment methodology and timely payment of its medical and Medicare Supplement claims. The examiners verified that the companies had annually filed the required Medicare supplement insurance benefit appeals reports as required by s. 632.84, Wis. Stat.

The examiners requested documentation that the payment sent to health care providers complied with the standardized explanation of benefits and remittance advice format in s. Ins 3.651, Wis. Adm. Code. The examiners found that the documentation provided indicated the companies' payment to providers did not include the CPT−4, HCPCS or CDT−1 code as required by s. Ins 3.651 (4) (a) 5, Wis. Adm. Code.

1. **Recommendation:** It is recommended the companies provide on the explanation of benefits, a list of CPT codes in order to comply with s. Ins 3.651 (4) (a) (5), Wis. Adm. Code.

The examiners reviewed a random sample of 52 denied and 62 paid medical claims and a random sample of 100 denied and 100 paid Medicare supplement claims to document compliance with the timely payment, unfair discrimination and Wisconsin mandated benefits requirements of Wisconsin insurance law. The examiners found that the companies identified remittance advice (RA) forms sent to providers as explanation of benefits (EOB) forms. The examiners found that this practice did not comply with s. Ins 3.651 (3) (a), Wis. Adm. Code, which provides that with each payment to a health care provider, an insurer shall provide a remittance advice form (RA) conforming to the format specified in Appendix A.

2. **Recommendation:** It is recommended that the companies identify each payment sent to health care providers as remittance advice (RA) forms conforming to the format specified in Appendix A in order to comply with s. Ins 3.651 (3) (a) Wis. Adm. Code.

The examiners found that 83 claim files did not include claim adjustment reason codes on a single line on the provider remittance advice (RA) forms that were sent to the providers. Section Ins 3.651 (3) (b) (4) (i), Wis. Adm. Code, provides that the remittance advice form shall include, at a minimum, for each claim, each claim adjustment reason code on a single line.

3. **Recommendation:** It is recommended that the companies include claim adjustment reason code on the remittance advice forms that are sent to the providers in order to company with s. Ins. 3.651 (3) (b) (4) (i), Wis. Adm. Code, including identifying each claim adjustment code on a single line.

The examiners provided the company with a list of 92 claims that did not include an ANSI code as a claim adjustment reason code. The examiners found the company did not comply with s. Ins 3.651 (4) (a) (7), Wis. Adm. Code, which states that a company shall include a narrative explanation of each claim adjustment reason code pursuant to s. Ins 3.651 (2), Wis. Adm. Code. Section Ins 3.651 (2), Wis. Adm. Code, defines "claim adjustment reason codes" as the claim disposition codes of the American national standards institute (ANSI) accredited standards committee X12 (ASC X12). An insurer may provide information in addition to the narrative accompanying the code on form OCI 17–007.

4. **Recommendation:** It is recommended that the companies use ANSI codes as the claim adjustment reason codes on its explanation of benefits (EOB) form as required by s. Ins 3.651 (4) (a) (7), Wis. Adm. Code, and s. Ins. 3.651 (2), Wis. Adm. Code.

The examiners found that seven Medicare supplement claims identified preventive health care services that were not covered by Medicare but determined to be medically appropriate by an attending physician. These claims listed preventive service CPT codes 99397 and 99387. The examiners found that the claims should have been covered under the Wisconsin mandate regarding preventive health care services. Section Ins 3.39 (5) (c) 14, Wis. Adm. Code, provides that required coverage in Medicare supplement policies includes coverage for preventive health care services not covered Medicare and as determined to be medically appropriate by an attending physician. Reimbursement shall be for the actual charges up to

100% of the Medicare approved amount for each service, as if Medicare were to cover the service, to a minimum of $120 annually. The company responded that it would reprocess the seven claims with interest.

5. **Recommendation:** It is recommended that the companies ensure that they provide coverage of preventive health care services, a Wisconsin mandated benefit, in order to comply with s. Ins. 3.39 (5) (c) 14, Wis. Adm. Code.

Marketing, Sales & Advertising

The examiners reviewed the companies' response to the OCI's marketing, sales and advertising interrogatory, its advertising activities, policies and forms utilized by the companies during the period of review, and the companies' on-site advertising files. The examiners also interviewed the companies' management regarding its marketing activities. The company indicated that it had no plans to contract with CMS to offer a Medicare Advantage or Part D plans in the near future.

The companies delegated agent training and oversight to its general agents and independent marketing organizations agency (IMO). The examiners reviewed the general agent's (GA) contract. The examiners did not find any reference regarding agent training, compliance and oversight. The examiners requested that the companies provide copy of written procedures or guide to GAs regarding recruitment, training and oversight of agents. The companies provided a copy of a management bulletin, performance templates (sales quota) and the performance management-employee guide. The examiners determined that the companies did not have a process or written procedure to monitor agent compliance and oversight pursuant to s. 628.40, Wis. Stat.

The examiners requested that the companies explain how they monitored and provided oversight to all their internal and external producer agents. The companies indicated that they tasked the sales distribution channels with manager and agent oversight. The companies also indicated that their legal and compliance service department (LCS) facilitated

compliance throughout American Enterprise. LCS used an online review database where business units could submit advertising, websites, agent training material for legal and compliance review. LCS tracked legislation, bulletins and regulations in all states where the companies did business. The companies indicated that LCS was also responsible for handling complaint inquiries.

6. **Recommendation:** It is recommended that the companies develop a process to audit its general agents and independent marketing organizations to ensure that they are properly providing training and oversight and maintaining control of the companies' agents doing business in Wisconsin in order to document compliance with s. 628.40, Wis. Stat.

The examiners requested that the companies describe how complaints or allegation of misconduct or misrepresentation against an agent are handled. The companies stated that all agent investigations were performed by the Special Investigation Unit (SIU) and then given to the agency manager to work with the agent on a plan of action. The companies indicated that they did not have written procedures for agent monitoring. Section 628.40, Wis. Stat., provides that every insurer is bound by any act of its agent performed in this state that is within the scope of the agent's apparent authority.

During the review of ARCIC's Medicare supplement not issued business, the examiners found information in the file (application file 34 on pull list) indicating the applicant informed the company that she had not signed an application to replace her existing ARIC Medicare supplement policy, nor did she wish to enroll in the CareAssist plan. The applicant indicated the agent told her she needed to sign the application because the agent needed to update her information due to her birthday. The examiners requested that the company provide a copy of its investigation file of the agent. The company stated that the file was not referred to the SIU so no investigation took place.

During the review of the companies' complaint files, the examiners found that complaint files 48189 and 48331 from the same insured were referred to SIU but the investigation file did not document that a complete investigation was conducted of the

complaint. The companies' agent "converted" an existing ARIC Medicare supplement policy with an ARCIC Medicare supplement policy. The agent did not provide information to the ARIC insured regarding the loss of Wisconsin mandated coverage for equipment and supplies for treatment of diabetes under s. 632.895 (6), Wis. Stat., resulting from the replacement. The insured had pre-age 65 coverage because of disability and his policy was "converted" when he turned age 65 and was eligible for open enrollment. It appeared the complaint was referred to SIU because the insured contacted the claims department four times and filed a written grievance. The SIU investigation file included only the written grievance by the insured and a transcript of the interview with agent. The investigation file did not indicate that the company had interviewed the insured. The investigation file did not include a copy of a letter the insured indicated he received indicating there would be no change in coverage, or indication that the company attempted to obtain a copy of the letter. The agent interview transcript clearly indicated the agent's lack of understanding the Wisconsin insurance mandate, Wisconsin Medicare supplement regulations and of federal Medicare law. The examiners ultimately found the company failed to act on the misrepresentations identified in the complaint.

During the review of ARIC's medical policy termination files, the examiners found that a policyholder (policy number 000C10010018) stated she was cancelling her policy because the agent provided misinformation. The company stated that the complaint was not referred to SIU for investigation.

7. **Recommendation:** It is recommended that the company develop a process and written procedures for investigating all agent complaints and for referral to the companies' special investigation unit (SIU) for investigation to ensure compliance with s. 628.40, Wis. Stat.

The examiners reviewed the companies' sales training institute curriculum and samples of telephone scripts. The examiners found that the company did not have documentation that ten scripts that involved Medicare were submitted to the OCI prior to use in Wisconsin. The examiners determined that the scripts met the definition of advertisements

under s. Ins 3.27 (5), Wis. Adm. Code, and should have been filed with the OCI as required by s. Ins. 3.39 (15), Wis. Adm. Code. Although the company indicated the scripts were for training purposes only, the examiners found that the scripts could be used by agents to contact individuals about Medicare.

8. **Recommendation:** It is recommended that the companies file with the commissioner a copy of any advertisement used in connection with the sales and marketing of Medicare supplements prior to use in Wisconsin in order to comply with s. Ins 3.39 (15), Wis. Adm. Code and s. Ins 3.27 (5) (a) 1, Wis. Adm. Code.

9. **Recommendation:** It is recommended that the companies maintain at their home or principal office a complete file containing every printed, published or prepared advertisement of its policies in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.

The examiners reviewed ARCIC's CareAssist, short term convalescent care producer training video dated August 23, 2005, and revised June 22, 2009. The revised version of the training video stated the following:

- Slide 6 stated that CareAssist can pay for custodial care.
- Slide 8 stated that the customer becomes eligible for benefits when care in a nursing facility or assisted living facility is necessary due to either the inability to perform at least two activities of daily living (ADLs) or they can become eligible for benefits due to cognitive impairment requiring substantial supervision.
- Slide 31 stated that coverage for all levels of nursing care, skilled, intermediate or custodial, in a nursing facility an assisted living facility or at home, without a prior hospital stay.

The examiners found the slide presentation indicated that the CareAssist product was a long-term care insurance product as defined by and subject to s. Ins 3.46, Wis. Adm. Code.

The examiners reviewed the companies' direct marketing division agent guide and found that ARCIC defined its CareAssist policy as short term convalescent care insurance protection. The examiners found that CareAssist policy provided benefits for all levels of nursing care and home health care, provided coverage for Alzheimer's and dementia and that eligibility for policy benefits required the inability to perform at least two activities of daily living (ADLs). The examiners determined that the CareAssist policy met the definition of a long-term care policy under s. Ins 3.46, Wis. Adm. Code. Section Ins 3.46 (3) (m), Wis. Adm. Code,

provides that a long-term care policy means a disability insurance policy designed or intended primarily to be marketed to provided coverage for care that is convalescent or custodial care or care for a chronic condition or terminal illness. Section Ins 3.46 (4) (e), Wis. Adm. Code, provides for a lifetime maximum limit only if the limit provides not less than 365 days of coverage. Therefore, OCI does not approve short term convalescent care policies when the form filing submission is identified with the appropriate and accurate product code type.

The examiners reviewed the companies' sales brochures Z-2291 and Z-2397A, both of which indicated that CareAssist provided a daily benefit for nursing/assisted living care when the applicant was unable to perform at least two activities of daily living or had a cognitive impairment requiring substantial supervision; included home health care and an annual 5% inflation protection option. The examiners found that the sales brochures used terms and described benefits that were the same as or similar to those in s. Ins 3.46, Wis. Adm. Code, regarding standards for long-term care, nursing home and home health care insurance, and had not be filed with the OCI as long-term care insurance advertisements. Section Ins 3.46 (22), Wis. Adm. Code, provides that effective January 1, 2009, every insurer providing long-term care insurance or benefits shall provide a copy of any long-term care insurance advertisement whether through written, radio or television medium to the commissioner as required by s. Ins 3.27.

10. Recommendation: It is recommended that the companies file all materials used to market the CareAssist product and that meet the definition of advertisement as required by s. Ins 3.46 (22), Wis. Adm. Code.

The examiners requested that the companies explain how they intended to comply with insurance agent long-term care insurance training requirements under s. Ins. 3.46 (26) (a), Wis. Adm. Code. The company did not provide an answer. Section Ins 3.46 (26), Wis. Adm. Code, provides that beginning January 1, 2009, no insurance intermediary may sell, solicit or negotiate long-term care insurance in this state unless the intermediary is duly licensed and appointed by an insurer and has completed the initial training and ongoing training every 24

months as specified in s. 628.348 (1), Stats. The insurer shall be able to verify compliance with the training requirements.

11. **Recommendation:** It is recommended that the companies maintain documentation that agents who sell, solicit or negotiate policies that meet the definition of long-term care insurance have completed the long-term care insurance training requirements under s. Ins 3.46 (26), Wis. Adm. Code.

Electronic Commerce

The examiners reviewed the companies' response to the OCI electronic commerce interrogatory and the companies' corporate website www.aric.com and www.americanrepublic.com and registered domains.

The companies indicated that they allowed agents to create their own advertisements but that they required their agents to submit advertisements used on their own agency websites or elsewhere to the company for approval. The companies' agent contracts required prior approval by the companies of agent advertising materials. However, the examiners found that the companies did not routinely audit or review the Internet for agent advertisements referencing the companies and they did not maintain a list of individual agent websites.

12. **Recommendation:** It is recommended that the company monitor and audit its agents' websites for compliance with the company's advertising policies and procedures to ensure compliance with s. Ins 3.27 (27), Wis. Adm. Code.

Policy Forms & Rates

The examiners reviewed the companies' response to the OCI's policy forms and rates interrogatory and its policies, riders, applications, outlines of coverage that were used or in effect during the period of review. The companies' legal and compliance department was responsible for form filings. The companies' actuarial division was responsible for pricing of new products and preparing rate filings.

Effective July 1, 2008, s. 631.20, Wis. Stat., was amended to allow insurers to use certain policy forms if the insurer filed the form with the commissioner 30 days prior to its use, including certification that the forms complied with chs. 600 to 655, Wis. Stat., and rules promulgated under chs. 600 to 655, Wis. Stat. The amendments apply to all health insurance policy forms, except for Medicare supplement and long-term care policy form filings. Medicare supplement and long-term care policy forms are subject to the prior approval requirements under s. 631.20 (1) (a), Wis. Stat.

The examiners reviewed the companies' health insurance policy forms that were marked as "filed" during the period July 1, 2008 through June 30, 2009. The examiners found that although the form filings were submitted to OCI with a certificate of compliance, as required by s. Ins 6.05, Wis. Adm. Code, and in which the company certified, pursuant to s. 631.20 (1m) (a) 3., Wis. Stat., that the forms were in compliance with all applicable provisions of the Wisconsin insurance laws and regulations, the following exceptions were noted:

Application forms C-1031-V2 and C-1032 V2

The application forms were filed as product code type multi-line. The forms contained an application for Medicare supplement insurance, which is exempt from file and use under s. 631.20 (1) (c), Wis. Stat., and must be filed for review and approval by OCI.

13. **Recommendation:** It is recommended that the company immediately cease the use of multi-plan application forms C-1031-V2 and C-1032 V2 for writing Medicare supplement business and refile the forms with 30 days of the adoption of the examination report in order to comply with the form filing requirements of s. 631.20 (1) (c) and (2), Wis. Stat.

14. **Recommendation:** It is recommended that the company develop, document, and implement a process and procedure to ensure that when submitting form filings with OCI pursuant to s. 631.20, Wis. Stat., the form submissions as certified under s. 631.20 (1m) (a) 3., Wis. Stat., comply with all applicable Wisconsin insurance laws and administrative rules.

The examiners reviewed the health insurance policy forms that the companies' marketed during the period of review and had been submitted to and approved by OCI. The examiners found that although the form filings were submitted to OCI with a certificate of

compliance, as required by s. Ins 6.05, Wis. Adm. Code, and in which the company certified, pursuant to s. 631.20 (1m) (a) 3., Wis. Stat., that the forms were in compliance with all applicable provisions of the Wisconsin insurance laws and regulations, and that the filings had been reviewed and approved by OCI, the following forms submissions did not comply with Wisconsin insurance law:

Application forms C1011A and C10121

The application forms were multi-plan application forms for Medicare supplement, CareAssist and ExpressLife policies and filed as product code type individual whole life. The applications were not filed as Medicare supplement applications as required by s. 631.20, Wis. Stat., and included health questions that Medicare beneficiaries were not required to complete during open enrollment per s. Ins 3.39 (4m), Wis. Adm. Code.

Policy form C-1013WI

The policy form was filed under product code H14I, individual health, hospital indemnity. The product called CareAssist met the definition of a long-term care insurance policy under s. Ins 3.46 (3) (m), Wis. Adm. Code,

15. **Recommendation:** It is recommended that company cease the use of forms C1011A and C1012A and refile the forms to document compliance with s. 631.20, Wis. Stat. and s. Ins 3.39 (4m), Wis. Adm. Code.

16. **Recommendation:** It is recommended that the company cease the use of and refile its CareAssist policy and advertisements in order to comply with s. Ins 3.46, Wis. Adm. Code.

The examiners found that ARIC submitted two ARIC Medicare supplement policy forms (A-3405WI 1-06 and A4026WI) to the OCI as group Medicare supplement products. The policy forms were approved by the OCI as group Medicare supplement forms. However, ARIC reported that the forms were individual Medicare supplement policies when it provided information for the OCI's *Medicare Supplement Insurance Approved Policies* booklet.

17. **Recommendation:** It is recommended that the company submit corrected information in its next response to the Medicare approved policies questionnaire and identify policy forms A-3405 WI 1-06 and A-4026 WI are group policies.

The examiners reviewed eleven of the ARIC's Medicare supplement form filings and verified that the forms had been submitted to the OCI and approved and complied with Wisconsin insurance law. No exceptions were noted regarding these forms.

The examiners compared the company's rate filing records with OCI records. The examiners confirmed that the ARIC filed rates for all of its in force Medicare supplement policies annually during the period of the examination, as required by s. Ins 3.39 (16), Wis. Adm. Code. No exceptions were noted.

Policyholder Service & Complaints

The examiners reviewed the company's response to the OCI's policyholder service & complaints interrogatory, the company's complaint handling procedures and the company's complaint log. The companies' legal department was responsible for reviewing and responding to complaints. The companies LCS section was responsible for insurance department complaints. ARIC and ARCIC have separate customer service locations but similar administrative processes and procedures.

The examiners reviewed 29 complaints received by the OCI from both ARIC and ARCIC during the period of review. Five complaints identified ARCIC as the insurer and 24 complaints identified ARIC. The examiners found that the companies defined consumer complaints as an oral or written complaint in which the main theme is complaint-oriented and it can reasonably infer that the complainant expects a review of the complaint. The examiners found that the companies' definition of complaint did not comply with the definition in s. Ins 18.01 (2), Wis. Adm. Code, which defines a complaint as any expression of dissatisfaction expressed to the insurer by the insured, or an insured's authorized representative, about an insurer or its providers with whom the insurer has a direct or indirect contract. The companies indicated they would update their compliance database to include the definition of a complaint as defined in s. Ins 18.01 (2), Wis. Adm. Code.

18. **Recommendation:** It is recommended that the companies document that they have updated their definition of consumer complaint in order to comply with s. Ins 18.01 (2), Wis. Adm. Code.

Grievances & Independent Review

The examiners reviewed the companies' response to the OCI grievance and IRO interrogatory, its written grievance procedures and practices, and its written procedures for handling independent review requests from Wisconsin insureds. The companies indicated ARIC and ARCIC shared the same administrative process using the same resources and staff to review and resolve grievances.

The examiners found that number of grievances referenced in the companies' response to the grievance and IRO interrogatory was not consistent with the number of grievances reported to the OCI in the grievance experience reports covering the period. Section 632.83, Wis. Stat., provides that every insurer that issues a health benefit plan shall establish and use an internal grievance procedure for the resolution of insureds' grievances with the health benefit plan. Medicare supplements policies are included in the definition of health benefit plan.

19. **Recommendation:** It is recommended that the company submit corrected grievance experience reports to OCI to demonstrate compliance with s. 632.83 (2) (c), Wis. Stat.

The examiners reviewed a sample of 18 grievance files filed with the companies. The examiners found three grievance files were not acknowledged within 5 business days as required by s. Ins 18.03 (4), Wis. Adm. Code. The examiners also found the company used the date the LCS Department received the grievance and not the date that companies received the grievance letter. The examiners found three grievance files that did not include documentation that resolution of the grievances complied s. Ins 18.03 (6) (b), Wis. Adm. Code.

20. **Recommendation:** It is recommended that the company acknowledge the receipt of a grievance within 5 business days of the date the company receives a grievance in order to comply with s. Ins. 18.03 (4) Wis. Adm. Code.

21. **Recommendation:** It is recommended that the company when it is unable to resolve a grievance within the required 30 day time frame send an extension letter and resolve the grievance within the additional 30 days in order to comply with s. Ins. 18.03 (6) (b), Wis. Adm. Code.

Producer Licensing

The examiners reviewed the companies' response to the OCI's producer licensing interrogatory, agent agreements and the company's procedures and practices related to producer licensing, appointments, terminations, training and recruiting. The companies' agency administration department was responsible for the management of agent contracts, agent appointments and terminations. The companies used Kaplan as their vendor for appointing and terminating agents.

The examiners requested from the companies a listing of all Wisconsin agents that represented the companies as of the end of the examination period. The examiners compared these records with the agent database maintained by the OCI. Based on the agent data match, the examiners found that 38 ARIC and 74 ARCIC individuals included in the companies' database did not have Wisconsin intermediary license. The companies stated that any discrepancies relating to ARCIC agents were actually dummy social security numbers due to system issues. The companies did not provide the requested explanation regarding how they verified that all individuals submitting business were properly license and appointed with the companies in order to document compliance with s. Ins 6.57 (5), Wis. Adm. Code, which provides that no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

22. **Recommendation:** It is recommended that the companies verify and correct any discrepancies in their agent licensing system to ensure they do not accept business from agents not licensed in Wisconsin in order to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.

The examiners reviewed a random sample of 50 agent files. The examiners found 11 of the agent files indicated the agents were appointed and terminated during the review period. The examiners found that the 11 agent files did not include a copy of the termination letter to the agent to document compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners reviewed a random sample of 50 terminated ARIC agent files. The examiners found 19 agent files did not include a copy of a termination letter. Eighteen of these files included notes that indicated no letters were ordered or sent. The examiners found two agent files included documentation that termination letters were sent but the letters did not include a formal request for return of indicia. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of appointment of individual intermediary in accordance with s. 628.11, Wis. Stat., shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency.

> **23. Recommendation:** It is recommended that the companies develop and implement a process, including written procedures, for sending termination letters to terminated agents that includes a demand for the return of all indicia of agency to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

The examiners reviewed the commission data provided as part of the data request. The examiners found 20 ARIC and three ARCIC individuals received commission payment during the period of review although OCI records did not show these individuals as being licensed intermediaries in Wisconsin, which does not comply with s. Ins 6.57 (5) , Wis. Adm. Code.

> **24. Recommendation:** It is recommended that the companies develop and implement a process for documenting that commissions paid match agent appointment records in order to ensure that the companies can document they do not accept business directly from agents unless the agents are licensed agents appointed with the companies to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.

New Business & Underwriting

The examiners reviewed the companies' response to the OCI's new business and underwriting interrogatory, manuals and documents used during the underwriting process, field underwriting manual and instructional materials for agents, suitability guidelines, and replacement procedures. The companies indicated ARIC and ARCIC share the same underwriting processes.

The examiners reviewed a random sample of 100 ARCIC issued medical policies. Fifty of the issued policies were written using a multi-plan application and all included an application for the hospital indemnity CareAssist product. The fifty files indicated all applicants were replacing existing ARIC Medicare supplement policies with ARCIC Medicare supplement policies. Twenty-four of the applications included applications for the hospital indemnity CareAssist product. The examiners found that seven (policy nos. C10004165, C10004321, C10004397, C10012642, C10013488, C10013488, C100133877, C10014388) of the 24 files included replacement forms that identified "additional benefits" as the reason for replacing coverage, but the comparison forms indicated the coverage was the same as that being replaced or that no additional permissible additional benefits were added. The only additional benefit identified was the hospital indemnity CareAssist policy. The examiners found that the ARCIC hospital indemnity CareAssist policy did not meet the requirements as permissible additional benefits allowed under s. Ins 3.39, Wis. Adm. Code, for Medicare supplement policies. The examiners found that identifying the ARCIC hospital indemnity CareAssist policy as additional coverage was a misrepresentation under s. 628.46, Wis. Stat., and did not comply with Medicare supplement marketing standards under s. Ins 3.39 (24) (a) 1 and 2, Wis. Adm. Code.

25. **Recommendation:** It is recommended that the companies develop and implement a process, including written procedures, to ensure the companies do not replace existing Medicare supplement policies where the reason for replacement involves adding hospital indemnity or CareAssist coverage in order

to ensure the replacement does not involve misrepresentation and meets Medicare supplement marketing standards as identified s. Ins 3.39 (24), Wis. Adm. Code and in s. 628.34, Wis. Stat.

The companies stated that the sales practice of identifying CareAssist as an additional benefit to a Medicare supplement policy was the result of the Medicare coverage gap that existed during the Medicare elimination period and that CareAssist was a potential solution to bridge the gap until Medicare takes effect. The examiners found that although the CareAssist policy was filed with the OCI as a hospital indemnity policy, the policy provisions met the definition of a long-term care insurance policy under s. 600.03 (28g), Wis. Stat. and s. Ins 3.46, Wis. Adm. Code. Additionally, the examiners found that the companies marketed the CareAssist policy as bridging the gap until Medicare takes effect misrepresented the coverage and did not comply with s. 628.46, Wis. Stat., regarding unfair marketing practices.

26. Recommendation: It is recommended that the companies cease the practices of identifying and marketing CareAssist policy as a solution to bridge the gap until Medicare takes effect in order to comply with the s. 628.34, Wis. Stat., regarding unfair marketing practices.

The examiners found two applications that indicated the applicants were enrolling for both the CareAssist product and a Medicare supplement policy. All of the medical questions on the applications were answered despite the statement on the application that "If you answered 'Yes' to questions C and D you are considered an OPEN ENROLLEE for Medicare supplement coverage. If you're requesting ONLY Medicare supplement, you can skip to Section 7." The company stated that the health questions are not considered in the processing of the request for Medicare supplement insurance for open enrollee or guarantee issue applicants. CareAssist is an underwritten plan so the medical questions must be answered. Section Ins 3.39 (23) (e), Wis. Adm. Code, provides that if the application contains questions regarding health, it shall include a statement that health questions should not be answered if the applicant is in the open enrollment period described in sub (4m).

The examiners found that the CareAssist policy, although filed as a hospital indemnity policy, met the definition of a long-term care insurance policy under Wisconsin insurance law, and issuance and medical underwriting must comply with s. Ins 3.46, Wis. Adm. Code. The companies indicated that during the period of review ARCIC issued 170 hospital indemnity CareAssist policies in Wisconsin and that ARIC sold none.

27. **Recommendation:** It is recommended that the company cease utilizing and accepting the multi-plan applications in order to document compliance with s. Ins 3.39 (4m) (a) and (23) (e), Wis. Adm. Code.

28. **Recommendation:** It is recommended that the company cease issuing CareAssist policies until the policy is refiled as a long-term care policy, and the company institute underwriting guidelines for the policy that complies with s. Ins 3.46, Wis. Adm. Code.

The examiners reviewed a random sample of 100 Medicare supplement issued policies and 100 Medicare supplement not issued policies. The examiners found two ARIC Medicare supplement files (policy nos. 8543358 and 8536303) included a note by the writing agents on the applications that the applications were conversions, when the applications involved replacement. The company responded that some of its agents referred to internal replacements as conversions. During review of the companies' termination files, the examiners also found reference to two files as conversions when they involved replacement. The examiners requested a copy of the commissions paid on the two ARIC policies from inception to document compliance with s. Ins 3.39 (21), Wis. Adm. Code, which provides that if an existing policy or certificate is replaced, no entity may provide compensation to its producers and no agent or producer may receive compensation greater than the renewal compensation payable by the replacing issuer on the policy or certificate. The company did not provide commission information regarding the two applications as required by s. 601.42, Wis. Stat.

29. **Recommendation:** It is recommended that the companies develop a process, including written procedures, for their underwriting department and staff that requires direct contact with Medicare supplement applicants when there is any reference to conversion or transfer, or variations of these terms, in a replacement situation to verify that the applicants understand that they are replacing existing coverage. The procedures should require documentation of these contacts in

order to document compliance with s. Ins 3.39 (21), Wis. Adm. Code and s. 628.34, Wis. Stat.

30. **Recommendation:** It is recommended that the companies provide written instructions to their agents that prohibit the use of terms such as conversion and transfer or variations of these terms to describe replacement of existing Medicare supplement with another Medicare supplement policy, including replacement of ARIC policies with ARCIC policies or visa versa in order to document compliance with s. 632.34, Wis. Stat.

31. **Recommendation:** It is recommended that the companies provide documentation when requested of commissions paid when ARIC Medicare supplements are replaced by ARCIC Medicare supplements or vice versa to document compliance with s. Ins 3.39 (21), Wis. Adm. Code, and to comply with s. 601.42, Wis. Stat.

The examiners requested that the companies describe their standards and guidelines regarding applications involving replacement of individual health policies, both internal and external and the process for monitoring this activity. The companies stated that they did not have replacement guidelines for their individual health policies. The company did not provide information regarding how it monitors replacement activity as required by s. 601.42, Wis. Stat.

32. **Recommendation:** It is recommended that the companies develop and implement replacement standards, guidelines and instructions for their individual health products and a process for monitoring replacement activity.

The examiners found two ARIC Medicare supplement applications (policies 8487367 and 8536331) were taken more than 3 months before the applicant was eligible for coverage. One application was taken 140 days before the applicant was eligible and the other application was taken 94 days prior to the applicant being eligible. Section Ins 3.39 (25) (d), Wis. Adm. Code, states that an agent may not take and an issuer may not accept an application from an insured more than 3 months prior to the insured becoming eligible.

33. **Recommendation:** It is recommended that the company develop and implement a process to prohibit Medicare supplement applications from being submitted more than 3 months prior to an applicant becoming eligible in Wisconsin for coverage to ensure compliance with s. Ins 3.39 (25) (d), Wis. Adm. Code.

The examiners found in May 2009, the direct sales agents began using voice authorizations for Medicare supplement applications for ARCIC. The sales agents completed applications by telephone, converted the applications to a PDF format and had the applicant sign and return the application to the company. The examiners requested that the company provide a copy of the written procedures used for the voice authorizations including documentation that the script was filed for use with the OCI. The company provided a copy of the script and indicated it was not filed for use with the OCI as it did not consider it an advertisement. The examiners found that the scripts met the definition of advertisement under s. Ins 3.27 (5), Wis. Adm. Code, and should be filed as required by s. Ins 3.39 (15), Wis. Adm. Code.

34. **Recommendation:** It is recommended that the companies file all telemarketing s scripts to ensure compliance with s. Ins 3.27, Wis. Adm. Code, and s. Ins 3.39 (15), Wis. Adm. Code.

The examiners requested the process for reinstating coverage to demonstrate compliance with s. 632.74 (2), Wis. Stat., in regards to the 10 day waiting period. ARCIC provided a copy of the reinstatement procedures for CareAssist policies, which stated that "if the policy is reinstated, it will only pay for loss due to illness that begins more than 10 days after the reinstatement date." The examiners found the reinstatement procedure was not in compliance with s. 632.74 (2) Wis. Stat., which does not allow waiting periods for policies that are reinstated.

35. **Recommendation:** It is recommended that the companies modify their procedure and practice and not allow 10 day waiting period for illnesses in reference to its hospital indemnity CareAssist policies in order to document compliance with s. 632.74 (2), Wis. Stat.

The examiners requested that the companies provide a copy of all applications, reinstatement applications, premium notices, lapse notices, termination notices, and underwriting worksheet forms; agents, rate, and underwriting manuals; intracompany, memoranda, bulletins, or guidelines; and other forms and materials used in the underwriting

process. The companies did not prove all the documents requested as required by s. 601.42, Wis. Stat.

Terminations, Nonrenewals & Cancellations

The examiners reviewed a random sample of 100 Medicare supplement policies that were terminated, cancelled or non-renewed. The examiners found that three files (policy nos. C10000594, C10001596, C10002461) did not include a copy of a termination letter. The files involved replacement by ARCIC of existing ARIC Medicare supplement policies

36. **Recommendation:** It is recommended that the company document compliance with s. 631.36 Wis. Stat., by maintaining copies of the policyholder notice of the termination when terminating insurance contracts.

The examiners reviewed a random sample of 50 ARIC terminated, cancelled and non-renewed policies. The examiners requested that the companies demonstrate compliance with s. 628.03, Wis. Stat., in reference to the November 30, 2007 telephone note for policy number 8164323 that stated, "Offered ARCORP and Coventry but PH said to cancel and she would call back if she was interested in changing." The companies did not respond to the examiners' request for documentation regarding whether or not the customer service representative was a licensed agent as required by s. 628.03, Wis. Stat.

37. **Recommendation:** It is recommended that the companies ensure that all employees in the customer service center are licensed insurance agents if they offer insurance products, including Medicare products, as required by s. 628.03, Wis. Stat.

Privacy & Confidentiality

Section 610.70, Wis. Stat., regarding medical records privacy, became effective June 1, 1999, and created restrictions on insurers regarding their collection and release of personal medical information that corresponded with the federal Health Insurance Portability and Accountability Act (HIPAA) requirements. Chapter Ins 25, Wis. Adm. Code, became effective

July 1, 2001, to address the provisions of Gramm Leach Bliley, and was based on the National Association of Insurance Commissioners (NAIC) privacy of consumer financial and health information model regulation.

The examiners found the privacy officer was the same for both companies and was one of the company's legal counsel and he reported breaches to the general counsel who reported to the CEO. The companies also had a privacy consultant and a security officer that reported to the privacy officer. The companies stated that the customer service areas conducted monthly random audits of telephone calls to make sure customer service area was in compliance with privacy.

The examiners reviewed the companies' response to the OCI's privacy of consumer financial and health information interrogatory, training manuals and procedures for employees regarding treatment of personally identifiable information, privacy notices, enrollment and disclosure information forms, and employee privacy agreements.

The examiners found the companies' employee handbook included under HIPAA and Privacy Basic Questions Regarding HIPAA Q&A, page 14, an example identified by the companies where they were aware of the potential to release protected health information (PHI) regarding their insureds. Question number 3 states, "I received a phone call from a policyholder where we had sent her claim information to her ex-husband of 7 years because we had her cross-referenced with him. We found that because her IMID# we cannot remove that cross-reference. I think that is a big risk we are taking. Answer: Yes, we realize this has always been a problem. The situation listed in this question is for a "divorce reissue'. When an insured member was removed from a plan and "reissued" continuous coverage in his/her own name, that person's insured member identification number (IMID) carried over to the new plan. The reason for this was that the claim history for that person would follow the IMID number. If a new IMID was assigned there is no way to link that person's claim history on the old number to the new number." The company responded that due to system constraints American Enterprise

was unable to change the IMID process on the mainframe for the medical policies. All Medicare supplement business was processed on the ATLAS system and the claims were number driven so there was no IMID issue.

38. **Recommendation:** It is recommended that the company develop a process for protecting health information of its insureds in cases of divorce so the insureds do not receive the protected health information of their former spouse.

Company Operations/Management

The examiners reviewed the companies' administrative agreements for the period of review. ARIC had an agreement with John Hancock Insurance Company (John Hancock) beginning 1998 whereby John Hancock administered and reinsured certain long-term care insurance sold by ARIC agents.

The companies' had an agreement with American Family Mutual Insurance Company (American Family), with an effective date of November, 2009, whereby the companies assumed responsibility for administering American Family's major medical health and Medicare supplement insurance business. The administrative agreement provided that American Family maintained responsibility for training and supervision of its agents. The administrative agreement provided that the companies provide notice to American Family policyholders that they had been appointed administrator by American Family of its health products. The administrative services agreement assigned to the companies policyholder service responsibilities including mailing premium notices and collecting premiums, processing cancellations and reinstatements, providing customer service and operating a call center, and filing policy form and rate filings. The agreement also assigned underwriting and claim authority to the companies. On July 17, the companies began transition to its premium billing system, with letters to American Family policyholders, with reply addressed to American Family with the companies' Omaha mailing address.

The examiners' review of interrogatory responses, company documents, exception responses and board of director minutes indicated that the companies delegated much of their responsibility in the area of agent supervision, training and oversight to the distribution network. The examiners found that the companies did not document that company executives, management staff and board of directors exercised direction, supervision or oversight of its agency force and agent intermediaries. The examiners also found that the companies did not have a formal process for supervision and oversight of its agents.

The examiners requested a copy of the companies' compliance manual to review the companies' oversight of activities they delegated to other entities, especially in relation to agent supervision, oversight and training, and to review the auditing and evaluation functions of the compliance program. The companies stated that they did not have a written compliance manual. The examiners found that based on the findings and recommendations in this report the companies should have a compliance program, including a compliance manual.

39. **Recommendation:** It is recommended that the companies develop a compliance manual that provides at a minimum an overview of companies compliance infrastructure and controls, including duties, reporting relationships, and direction and involvement by the companies' board of directors; remediation of deficiencies; and ongoing monitoring of the companies compliance with laws and regulations and reporting of compliance deficiencies to the companies' board of directors and executive management.

40. **Recommendation:** It is recommended that the companies develop as part of their compliance manual and compliance program, written procedures for each of its functional units that require that agent complaints be referred to the companies' SIU for investigation, and that provides for the periodic review of this process.

41. **Recommendation:** It is recommended that the companies develop as part of their compliance manual and compliance program a process, including written procedures, regarding the companies' activities for the oversight, supervision and training of its agents and for the periodic evaluation and review of this process.

The examiners found that throughout the examination process, the company did not consistently provide all the documents requested by the examiners. Section 601.42, Wis. Stat. states that the commissioner may require any of the following from any person subject to

regulation under chs. 600 to 655, statements, reports, answers to questionnaires and other information and evidence thereof, in whatever reasonable form the commissioner designates and at such reasonable form the commissioner designates and at such reasonable intervals as the commissioner chooses, or from time to time.

42. **Recommendation:** It is recommended that the companies provide all information when requested by the OCI to show compliance with s. 601.42, Wis. Stat.

IV. CONCLUSION

This market conduct examination was a targeted review of American Republic Insurance Company's and American Republic Corp Insurance Company's practices and procedures from the period January 1, 2007 to June 30, 2009.

The examination contained 42 recommendations with regards to the company's practices, including policyholder service and complaints, grievances & IRO, marketing, sales, and advertising, electronic commerce, producer licensing, claims, new business and underwriting, and terminations nonrenewals, and cancellations.

The examination report recommends that the companies develop a compliance manual, including a process for periodic evaluation and review of its activities. The examination report specifically recommends that the companies' compliance manual and compliance program include review of agent oversight, supervision and training.

V. SUMMARY OF RECOMMENDATIONS

Claims

Page 8 1. It is recommended the companies provide on the explanation of benefits, a list of CPT codes in order to comply with s. Ins 3.651 (4) (a) (5), Wis. Adm. Code.

Page 8 2. It is recommended that the companies identify each payment sent to health care providers as remittance advice (RA) forms conforming to the format specified in Appendix A in order to comply with s. Ins 3.651 (3) (a) Wis. Adm. Code.

Page 9 3. It is recommended that the companies include claim adjustment reason code on the remittance advice forms that are sent to the providers in order to company with s. Ins. 3.651 (3) (b) (4) (i), Wis. Adm. Code, including identifying each claim adjustment code on a single line.

Page 9 4. It is recommended that the companies use ANSI codes as the claim adjustment reason codes on its explanation of benefits (EOB) form as required by s. Ins 3.651 (4) (a) (7), Wis. Adm. Code, and s. Ins. 3.651 (2), Wis. Adm. Code.

Page 10 5. It is recommended that the companies ensure that they provide coverage of preventive health care services, a Wisconsin mandated benefit, in order to comply with s. Ins. 3.39 (5) (c) 14, Wis. Adm. Code.

Marketing, Sales & Advertising

Page 11 6. It is recommended that the companies develop a process to audit its general agents and independent marketing organizations to ensure that they are properly providing training and oversight and maintaining control of the companies' agents doing business in Wisconsin in order to document compliance with s. 628.40, Wis. Stat.

Page 12 7. It is recommended that the company develop a process and written procedures for investigating all agent complaints and for referral to the companies' special investigation unit (SIU) for investigation to ensure compliance with s. 628.40, Wis. Stat.

Page 13 8. It is recommended that the companies file with the commissioner a copy of any advertisement used in connection with the sales and marketing of Medicare supplements prior to use in Wisconsin in order to comply with s. Ins 3.39 (15), Wis. Adm. Code and s. Ins 3.27 (5) (a) 1, Wis. Adm. Code.

Page 13 9. It is recommended that the companies maintain at their home or principal office a complete file containing every printed, published or prepared advertisement of its policies in order to comply with s. Ins 3.27 (28), Wis. Adm. Code.

Page 14	10.	It is recommended that the companies file all materials used to market the CareAssist product and that meet the definition of advertisement as required by s. Ins 3.46 (22), Wis. Adm. Code.
Page 15	11.	It is recommended that the companies maintain documentation that agents who sell, solicit or negotiate policies that meet the definition of long-term care insurance have completed the long-term care insurance training requirements under s. Ins 3.46 (26), Wis. Adm. Code.
Page 15	12.	It is recommended that the company monitor and audit its agents' websites for compliance with the company's advertising policies and procedures to ensure compliance with s. Ins 3.27 (27), Wis. Adm. Code.

Policy Forms & Rates

Page 16	13.	It is recommended that the company immediately cease the use of multi-plan application forms C-1031-V2 and C-1032 V2 for writing Medicare supplement business and refile the forms with 30 days of the adoption of the examination report in order to comply with the form filing requirements of s. 631.20 (1) (c) and (2), Wis. Stat.
Page 16	14.	It is recommended that the company develop, document, and implement a process and procedure to ensure that when submitting form filings with OCI pursuant to s. 631.20, Wis. Stat., the form submissions as certified under s. 631.20 (1m) (a) 3., Wis. Stat., comply with all applicable Wisconsin insurance laws and administrative rules.
Page 17	15.	It is recommended that company cease the use of forms C1011A and C1012A and refile the forms to document compliance with s. 631.20, Wis. Stat. and s. Ins 3.39 (4m), Wis. Adm. Code.
Page 17	16.	It is recommended that the company cease the use of and refile its CareAssist policy and advertisements in order to comply with s. Ins 3.46, Wis. Adm. Code.
Page 17	17.	It is recommended that the company submit corrected information in its next response to the Medicare approved policies questionnaire and identify policy forms A-3405 WI 1-06 and A-4026 WI are group policies.

Policyholder Service & Complaints

Page 19	18.	It is recommended that the companies document that they have updated their definition of consumer complaint in order to comply with s. Ins 18.01 (2), Wis. Adm. Code.

Grievances & Independent Review

Page 19	19.	It is recommended that the company submit corrected grievance experience reports to OCI to demonstrate compliance with s. 632.83 (2) (c), Wis. Stat.

Page 19 20. It is recommended that the company acknowledge the receipt of a grievance within 5 business days of the date the company receives a grievance in order to comply with s. Ins. 18.03 (4) Wis. Adm. Code.

Page 20 21. It is recommended that the company when it is unable to resolve a grievance within the required 30 day time frame send an extension letter and resolve the grievance within the additional 30 days in order to comply with s. Ins. 18.03 (6) (b), Wis. Adm. Code.

Producer Licensing

Page 20 22. It is recommended that the companies verify and correct any discrepancies in their agent licensing system to ensure they do not accept business from agents not licensed in Wisconsin in order to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.

Page 21 23. It is recommended that the companies develop and implement a process, including written procedures, for sending termination letters to terminated agents that includes a demand for the return of all indicia of agency to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.

Page 21 24. It is recommended that the companies develop and implement a process for documenting that commissions paid match agent appointment records in order to ensure that the companies can document they do not accept business directly from agents unless the agents are licensed agents appointed with the companies to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.

New Business & Underwriting

Page 22 25. It is recommended that the companies develop and implement a process, including written procedures, to ensure the companies do not replace existing Medicare supplement policies where the reason for replacement involves adding hospital indemnity or CareAssist coverage in order to ensure the replacement does not involve misrepresentation and meets Medicare supplement marketing standards as identified s. Ins 3.39 (24), Wis. Adm. Code and in s. 628.34, Wis. Stat.

Page 23 26. It is recommended that the companies cease the practices of identifying and marketing CareAssist policy as a solution to bridge the gap until Medicare takes effect in order to comply with the s. 628.34, Wis. Stat., regarding unfair marketing practices.

Page 24 27. It is recommended that the company cease utilizing and accepting the multi-plan applications in order to document compliance with s. Ins 3.39 (4m) (a) and (23) (e), Wis. Adm. Code.

Page 24 28. It is recommended that the company cease issuing CareAssist policies until the policy is refiled as a long-term care policy, and the company institute underwriting guidelines for the policy that complies with s. Ins 3.46, Wis. Adm. Code.

Page 24	29.	It is recommended that the companies develop a process, including written procedures, for their underwriting department and staff that requires direct contact with Medicare supplement applicants when there is any reference to conversion or transfer, or variations of these terms, in a replacement situation to verify that the applicants understand that they are replacing existing coverage. The procedures should require documentation of these contacts in order to document compliance with s. Ins 3.39 (21), Wis. Adm. Code and s. 628.34, Wis. Stat.
Page 25	30.	It is recommended that the companies provide written instructions to their agents that prohibit the use of terms such as conversion and transfer or variations of these terms to describe replacement of existing Medicare supplement with another Medicare supplement policy, including replacement of ARIC policies with ARCIC policies or visa versa in order to document compliance with s. 632.34, Wis. Stat.
Page 25	31.	It is recommended that the companies provide documentation when requested of commissions paid when ARIC Medicare supplements are replaced by ARCIC Medicare supplements or vice versa to document compliance with s. Ins 3.39 (21), Wis. Adm. Code, and to comply with s. 601.42, Wis. Stat.
Page 25	32.	It is recommended that the companies develop and implement replacement standards, guidelines and instructions for their individual health products and a process for monitoring replacement activity.
Page 25	33.	It is recommended that the company develop and implement a process to prohibit Medicare supplement applications from being submitted more than 3 months prior to an applicant becoming eligible in Wisconsin for coverage to ensure compliance with s. Ins 3.39 (25) (d), Wis. Adm. Code.
Page 26	34.	It is recommended that the companies file all telemarketing s scripts to ensure compliance with s. Ins 3.27, Wis. Adm. Code, and s. Ins 3.39 (15), Wis. Adm. Code.
Page 26	35.	It is recommended that the companies modify their procedure and practice and not allow 10 day waiting period for illnesses in reference to its hospital indemnity CareAssist policies in order to document compliance with s. 632.74 (2), Wis. Stat.

Terminations, Nonrenewals & Cancellations

Page 27	36.	It is recommended that the company document compliance with s. 631.36 Wis. Stat., by maintaining copies of the policyholder notice of the termination when terminating insurance contracts.
Page 27	37.	It is recommended that the companies ensure that all employees in the customer service center are licensed insurance agents if they offer insurance products, including Medicare products, as required by s. 628.03, Wis. Stat.

Privacy & Confidentiality

Page 29 38. It is recommended that the company develop a process for protecting health information of its insureds in cases of divorce so the insureds do not receive the protected health information of their former spouse.

Company Operations/Management

Page 30 39. It is recommended that the companies develop a compliance manual that provides at a minimum an overview of companies compliance infrastructure and controls, including duties, reporting relationships, and direction and involvement by the companies' board of directors; remediation of deficiencies; and ongoing monitoring of the companies compliance with laws and regulations and reporting of compliance deficiencies to the companies' board of directors and executive management.

Page 30 40. It is recommended that the companies develop as part of their compliance manual and compliance program, written procedures for each of its functional units that require that agent complaints be referred to the companies' SIU for investigation, and that provides for the periodic review of this process.

Page 30 41. It is recommended that the companies develop as part of their compliance manual and compliance program a process, including written procedures, regarding the companies' activities for the oversight, supervision and training of its agents and for the periodic evaluation and review of this process.

Page 31 42. It is recommended that the companies provide all information when requested by the OCI to show compliance with s. 601.42, Wis. Stat.

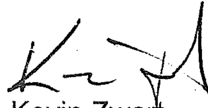
VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition, to the undersigned, the following representatives of the Office of the Commissioner of Insurance, State of Wisconsin, participated in the examination.

Name	Title
Linda Low	Senior Insurance Examiner
Lynn Pink	Insurance Examiner
Nitza Pfaff	Insurance Examiner
Brian Baird	Insurance Examiner
Diane Dambach	Section Chief

Respectfully submitted,



Kevin Zwart
Examiner-in-Charge