



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

National States Insurance Company
1830 Craig Park Ct
St. Louis, MO 63146-6925

dated October 21-November 1, 2002, and served upon the company on April 17, 2003, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 10th day of February, 2004.

Jorge Gomez
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**NATIONAL STATES INSURANCE COMPANY
ST LOUIS, MISSOURI**

OCTOBER 21-NOVEMBER 1, 2002

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November 14, 2002

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Honorable Jorge Gomez
Commissioner of Insurance
Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted October 21 to November 1, 2002 of:

NATIONAL STATES INSURANCE COMPANY
St Louis, Missouri

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

National States Insurance Company (National States) was incorporated under the laws of Missouri on July 22, 1964, and was licensed and commenced business on September 14, 1964. The company was incorporated and licensed as a joint stock life insurance company. The company's name was originally American Independence Life Insurance Company. In 1967, the company was reorganized, its name was changed to National States Insurance Company and the present ownership assumed control.

The majority of the premium written by National States in 2001 was for accident and health coverage. In 2001, the company ranked as the 19th largest writer of individual accident and health business in Wisconsin. In 2000, the company also ranked as the 19th largest writer of individual accident and health business. National States also does a large volume of Long Term Care business in Wisconsin.

The following tables summarize the premium written and incurred losses in Wisconsin for 2001 and 2000 broken down by line of business.

Premium and Loss Ratio Summary

2001		
Line Of Business	Direct Premiums Earned	Direct Losses Incurred
Medical Only		
Medicare Supplement	9,827,115	7,228,040
Long Term Care	1,158,636	373,203
Total	\$10,985,751	\$7,601,243

2000		
Line Of Business	Direct Premiums Earned	Direct Losses Incurred
Medical Only		
Medicare Supplement	8,677,925	6,257,045
Long Term Care	1,610,428	559,371
Total	\$10,288,353	\$6,468,281

2001		
Line Of Business	Premium Written	Benefits Paid
Individual Life	\$1,047,271	\$350,660

2000		
Line Of Business	Premium Written	Benefits Paid
Individual Life	\$874,090	\$246,039

Complaints

The Office of the Commissioner of Insurance received 46 complaints against the company between January 1, 2000 through June 30, 2002. A complaint is defined as “a written communication received by the Commissioner’s Office that indicates dissatisfaction with an insurance company or agent.” 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. In 2001 and 2002, 63% of the complaints involved Medicare supplement coverage. In 2000, 66% of complaints involved Medicare supplement. In 2002, 37% of complaints involved life coverage. In 2001, 21% involved life coverage and in 2000, 11% involved life coverage.

The Medicare supplement complaints primarily involved claim handling. The life complaints involved underwriting and marketing.

Complaints Received

2002		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Health					
Individual A&H	1	1	2	1	0
Group A&H					
Credit A&H					
HMO					
PPO					
LSHO					
All Others		2	1		
Total	1	3	3	1	0

2001		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Health					
Individual A&H	1	2	12	0	0
Group A&H					
Credit A&H					
HMO					
PPO					
LSHO					
All Others	2	2			
Total	3	4	12	0	0

2000		Reason Type			
Coverage Type	Underwriting	Marketing & Sales	Claims	Policyholder Service	Other
Health					
Individual A&H	3	0	10	3	0
Group A&H					
Credit A&H					
HMO					
PPO					
LSHO					
All Others	2				
Total	5	0	10	3	0

*complaints reported through June 30, 2002

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures comply with the Wisconsin insurance statutes and rules. The examination focused on the period from July 1, 2000 through June 30, 2002. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination included, but was not limited to, a review of the company's Medicare supplement, and long term care business, and life insurance replacement. The functional areas reviewed were claims, marketing, sales and advertising, policyholder service and complaints, producer licensing, rates and policy forms, new business and underwriting, replacements for life insurance, electronic-commerce, grievances, privacy, billings and refunds, and company operations and management.

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 company's response to the claims interrogatory regarding its processing of Medicare supplement and long term care claims, its hiring and training requirements, claims processing guidelines, claim audits, interest calculation and payment and explanation of benefits (EOB) and remittance advice (RA) forms.

National States reported that it did not have procedures for auditing claims. The examiners found that due to the lack of claim auditing procedures, the company was unable to effectively determine if it was engaged in unfair claim settlement practices. Section Ins 6.11, Wis. Adm. Code, requires fair and equitable treatment of policyholders, claimants and insurers by defining certain claim adjustment practices which are considered to be unfair methods and practices in the business of insurance.

1. **Recommendation:** It is recommended that National States develop and implement written procedures for performing claim audits and preparing reports to ensure compliance with s. Ins 6.11 (1), Wis. Adm. Code.

The examiners found that National States did not have a written procedure to ensure its claim adjusters identify those claims that are overdue or those claims where interest payment is due. Section 628.46, Wis. Stat., requires that an insurer shall promptly pay every insurance claim. A claim shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of the loss. All overdue payments shall bear simple interest at the rate of 12% per year.

2. **Recommendation:** It is recommended that National States develop written procedures for claims personnel to ensure timely payment and payment of interest on claims in order to comply with s. 628.46, Wis. Stat.

The examiners reviewed a random sample of the company's Medicare supplement claims including 100 paid claims, and 50 denied claims. The examiners found 2 Medicare supplement claims were denied and notification of the denial was not made in a timely manner. Section Ins 6.11(3) (a), 5 and 7, Wis. Adm. Code, which states, failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract, or applicable law for denial of a claim, or for the offer of a compromise settlement and failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.

3. **Recommendation:** It is recommended that National States implement a process to ensure that claims are denied within a reasonable time in order to comply with s. Ins 6.11 (3), Wis. Adm. Code.

Wisconsin received an exemption from the federal government standardization regulations on Medicare supplement insurance. Therefore, Medicare supplement policies sold in Wisconsin must comply with the Wisconsin statutes that mandate coverage for specific benefits. Benefits mandated by Wisconsin statutes include: coverage for skilled nursing care, home care, kidney disease treatment, equipment and supplies for treatment of diabetes, coverage of mammograms, chiropractic care, hospital and ambulatory surgery center charges and anesthetics for dental care, breast reconstruction, and chiropractic care.

The examiners found that National States did not document that it had a procedure for identifying and calculating payment for claims involving Wisconsin mandated benefits. The company reported that it paid benefits required by s. 632. 87, Wis. Stat., regarding chiropractic care, based on actual charges. It reported that it paid benefits required by s. 632.895, Wis. Stat., based on the list of nursing home rates set by the Wisconsin Department of Health as a weekly limit. The company did not provide documentation on its process for calculating benefits for other mandated benefits.

However, s. 632.895, Wis. Stat., includes all mandatory coverage, not only the mandate specific to skilled nursing facilities.

- 4. Recommendation:** It is recommended that National States develop and implement written procedures for the payment of those benefits mandated under Wisconsin insurance law in order to demonstrate compliance with s. 632.895, Wis. Stat.

The examiners' review of the company's compliance with Wisconsin mandated benefits included an interview with the company regarding an OCI complaint, and the company's explanation of the manner in which it provided payment of benefits for skilled nursing care benefits. The company stated that it treated the skilled nursing care benefit mandated under Wisconsin insurance law and the benefits required under Medicare supplement policies to supplement Medicare as two separate benefits. The company's position was that an insured was entitled to one or the other of the benefits, not both. The examiners referred the matter to OCI legal staff for further analysis.

The examiners reviewed a random sample of 47 LTC claim paid and 45 LTC claims not paid. No exceptions were noted regarding the LTC claim sample review.

The examiners found that National States had a process for identifying and recording benefit appeals. However, the examiners also found that the company failed to file reports with the OCI of benefit appeals for its Medicare supplement and long term care policies. Section Ins 3.55 (5), Wis. Adm. Code, provides that an insurer shall report to the commissioner by March 31 of each year, a summary of all benefit appeals filed during the previous calendar year and the disposition of those appeals.

- 5. Recommendation:** It is recommended that National States file with the OCI on an annual basis a summary of all benefit appeals filed during the previous calendar year and the disposition of these appeals for both its Medicare supplement and long term care policies in order to comply with s. Ins 3.55 (5), Wis. Adm. Code.

Marketing, Sales & Advertising

The company's administration department was responsible for all marketing, sales and advertising. The examiners reviewed the company's response to the marketing, sales and advertising interrogatory, Medicare supplement, and long term care, nursing home and home health care interrogatories, sales reports, copies of newsletters and bulletins, and advertising file. The examiners found that the company's advertising file contained copies of outlines of coverage. The company stated that it did not have printed advertisements for Medicare supplement policies during the period of review. It did produce two advertisements that were reviewed for use in 1999.

During the examination, the examiners found printed materials and promotional literature regarding LTC products that met the definition of advertisement, including:

<u>Form number</u>	<u>Title</u>
B-WAL-1	Wisconsin Assisted Living
B-QLW-1	Tax Qualified Coverage for LTC and Assisted Living
B-QHW-1	A Tax Qualified Home Care Plan
FORM –LLT-1(R)	Nursing Home Plan Policy Form LLT-1(R)
B-HHC-1(02)	“The Ultimate Choice”
B-HHC-1	“The Ultimate Choice”

Section Ins 3.27 (28), Wis. Adm. Code, provides that each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies disseminated in Wisconsin.

- 6. Recommendation:** It is recommended that National States develop and implement a process for ensuring that all sales materials that meet the definition of an advertisement and used in Wisconsin are included in its advertising file, along with a notation indicating the manner and extent of distribution and the form number of any policy advertised in order to comply with s. Ins 3.28 (28), Wis. Adm. Code.

The company marketed its Medicare supplement and long term care policies through general agents who recruit other independent agents. The company had

contracts with 60 general agents, who market products in Wisconsin. The general agents with the largest agent field force were the Staehling and Associates Agency, Security Financial Insurance Group Inc., and Jack Schroeder and Associates Inc. The company provided promotional materials to the general agents who in turn disseminated it to their agents. The general agents were responsible for training and providing supervision of agents. The company's general agent contract prohibited the use of advertisements bearing the company's name without prior written approval. The company stated that it did not provide lead-generating materials to its general agents.

Electronic Commerce

The company's information services department was responsible for network administration, Internet access, website content and hosting activities, and PC administration. The examiners reviewed the company's response to the electronic commerce interrogatory and conducted an Internet search to identify company websites. The examiners found that the company does not utilize a website for public use. It does have a website that is only accessible to general agents, agents and employees. The company's general agency agreements prohibit agents from using the company's name or advertising its products without express authorization and prior approval from the company. No exceptions were found regarding the company's electronic commerce activities.

Policyholder Service and Complaints

The company's policy service department was responsible for company complaints as well as OCI complaints. The examiners reviewed the company's response to the policyholder service and complaints interrogatory, complaints log, its process for identifying, recording and reviewing complaints and maintaining its complaint log, and for responding to OCI complaints. The company stated that all complaints are routed to the appropriate departments for a response after they are logged in and

reviewed by the policy service manager. Management review complaint data on a monthly basis.

National States did not have written procedures for how complaints are recorded or handled or a definition of a complaint. Section Ins 18.01 (2), Wis. Adm. Code, which states a complaint means 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.

7. **Recommendation:** It is recommended that National States develop and implement written procedures for recording and retaining complaints and defining a complaint to comply with s. Ins 18.01 (2), Wis. Adm. Code.

The examiners reviewed the 33 complaints filed with OCI naming the company. The examiners found five complaint files did not include documentation that the company contacted the insured or complainant within 10 days to resolve the complaint as required by OCI form 51-11. The requirement is made pursuant to s. 601.42 (1g), (a), Wis. Stat., which states 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 intervals as the commissioner chooses.

8. **Recommendation:** It is recommended that National States provide documentation to OCI in response to OCI complaint files that it has contacted the complainant or insured within 10 days of receiving a complaint as required by OCI form 51-11 and in order to document compliance with s. 601.42, Wis. Stat.

The examiners also reviewed National States internal complaint log. The company's complaint log indicated it received five complaints in 2000, 22 complaints in 2001, and nine complaints in 2002. The examiners reviewed all the complaints included in the complaint log. The examiners found that the company's internal complaint log include 2 complaint files in addition to the 33 complaints it received from OCI.

Grievances

The examiners reviewed the company's response to the grievance interrogatory, procedure for recording and processing grievances.

National States' Medicare supplement policies are health benefit plans and are required to have a grievance procedure. Section Ins 18.02 (1), Wis. Adm. Code, defines a health benefit plan as having the meaning provided in s. 632.83, Stats., and including Medicare supplement and replacement plans. Section Ins 18.03 (1) (b), Wis. Adm. Code, provides that an insurer offering a health benefit plan shall develop an internal grievance and expedited grievance procedure that shall be described in each policy and certificate issued to insureds at the time of enrollment or issuance.

The examiners did not review a sample of grievances involving the company's Medicare supplement business. The company reported that it had not received any grievances during the period of review.

The examiners found that National States did not have an expedited grievance procedure that requires the resolution of the expedited grievance within 72 hours. The company reported that it does not have an expedited grievance procedure because it does not have any products under which an expedited grievance could ever occur. Section Ins 18.05, Wis. Adm. Code, states that an insurer offering a health benefit plan shall develop a separate expedited grievance procedure. An expedited grievance shall be resolved as expeditiously as the insured's health condition requires but not more than 72 hours after receipt of the grievance. Mandated benefits in Medicare supplement policies are examples under which an expedited grievance could occur.

9. **Recommendation:** It is recommended that National States develop and implement a procedure for handling expedited grievances for mandated benefits in Medicare supplement policies in order to comply with s. Ins 18.05, Wis. Adm. Code.

The examiners found that National States did not have a process for notifying its Medicare supplement insureds of their right to the independent review process. Section Ins 18.10 (3), Wis. Adm. Code, states that a health benefit plan has the meaning provided in s. 632.835 (1) (c), Wis. Stat. and includes Medicare supplement and replacement plans. Section Ins 18.11, Wis. Adm. Code, provides that each insurer offering a health benefit plan shall establish procedures to ensure compliance with the independent review section and s. 632.835, Stats.

10. **Recommendation:** It is recommended that National States develop and implement a process to ensure that Medicare supplement insureds receive notice of the right to independent review when a mandated benefit complaint occurs in order to comply with s. Ins 18.11, Wis. Adm. Code.
11. **Recommendation:** It is recommended that National States develop and implement a training process for employees to educate them regarding the right of Wisconsin Medicare supplement insureds to the IRO process as provided by s. Ins 18.10 (3), Wis. Adm. Code.
12. **Recommendation:** It is recommended that National States submit a grievance experience report required by s. 632.83 (2) (c), Wis. Stats., to the commissioner by March 1 of each year as required by s. Ins 18.06 (2), Wis. Adm. Code.

Producer Licensing

The company's agent licensing department was responsible for all appointments of intermediaries, maintaining agent files, processing agent terminations, providing agent services, providing marketing materials to the agents, and preparing contracts for general agents.

The examiners reviewed the company's response to the producer licensing interrogatory, appointment and termination process, general agent and agency contracts or agreements, agent sales reports, commissions listing reports and termination notices.

The examiners requested from the company a listing of all agents licensed and appointed in Wisconsin at the time the company ran the listing report for the examination. The examiners found 6 agent listings where the license number reported in the data call did not match the agent license number in OCI database. The examiners found 9 agent listings where the social security number reported in the data call did not match social security numbers in OCI records. National States reported that these were data entry errors were corrected during the examination.

13. **Recommendation:** It is recommended that National States develop and implement a process that will ensure that all agent information be accurately entered into the agent database to comply with s. Ins 6.57, Wis. Adm. Code.

The examiners also reviewed a random sample of 25 active agent files and 25 terminated agent files. The examiners found two active agent files included a copy of an expired license. The examiners found two active agent files that showed the agents as appointed although agent appointment form OCI 11-001 was not sent in to OCI until several months after the file activity. Section Ins 6.57 (1), Wis. Adm. Code, states an appointment will become valid upon receipt of the agent appointment validation report by the person submitting the appointment and is valid only for the lines of insurance requested. The effective date of a valid appointment is 15 days prior to the date on which the appointment is entered on the OCI licensing system. Section Ins 6.57 (5), Wis. Adm. Code, states no insurer shall accept business directly from any intermediary unless that intermediary is a licensed agent listed with that company.

14. **Recommendation:** It is recommended that National States develop and implement a process that ensures that it obtains from agents a copy of an active license to verify licensing status in order to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.
15. **Recommendation:** It is recommended that National States develop and implement a process to ensure that it submits to and receives verification from OCI of the validity of the agent listing prior to completing its internal listing process in order to document compliance with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found two terminated agent files where the company was notified on February 15, 2000, that the agents had not paid their biennial regulation fee but the company did not terminate the agent from its database until May 10, 2000. Section Ins 6.58 (5) (b) and (c), Wis. Adm. Code, states that if payment of the biennial regulation fee is not made within 30 days after the date of billing, the license will be suspended. The license will be revoked if payment is not made within 60 days after suspension.

16. **Recommendation:** It is recommended that National States implement a process to ensure that it notify agents of termination and terminate agents from its database no more that 60 days from the notice of suspension due to failure to pay biennial fees in order to comply with s. Ins 6.58 (5) (b) and (c), Wis. Adm. Code.

The company reported that it monitored agents for compliance with Wisconsin's continuing education requirements by reviewing the list of agents sent by OCI every other February that indicates those agents who have not complied with their continuing education. The company sent letters to these agents requesting proof of compliance with the continuing education requirements. The company reported that it terminated agents' appointments by May 1 of that year for those agents not providing the proof requested.

Rates and Forms

The company's administration department was responsible for rate and form filings submitted to OCI. The examiners reviewed the company's response to the rates and forms interrogatory, Medicare supplement, and long term care policy forms marketed during the period of review, the manner in which the company handles changes in Wisconsin insurance laws. The form review include policies, applications, riders, outlines of coverage, and replacement, reinstatement and suitability forms,

National States had tax qualified and non-tax qualified long term care and home health care policies approved in Wisconsin. The examiners verified that the company had approved inflation protection and non-forfeiture benefit riders that met the requirements of s. Ins 3.46 (11) (a) and (19) (a), Wis. Adm. Code. The also verified that the company had filed its personal worksheet for determining suitability.

The examiners reviewed the actuarial memoranda for the years under review as well as the increases in premium for those years. The examiners loss ratios and commission limits for long term care insurance met the requirements of s. Ins 3.46 (13), Wis. Adm. Code.

Wisconsin received an exemption from the federal government standardization regulations on Medicare supplement insurance. Therefore, the Medicare supplement policies sold in Wisconsin are different than those available in other states. The Medicare supplement policies must comply with all Wisconsin mandated benefits.

In Wisconsin, National States had approved an individual Medicare supplement policy with five optional riders. The policy consists of a base plan and optional riders for the Part A deductible, Part B deductible, home health care, Part B excess charges and Foreign Travel. Premiums are based on issue age. The company had filed with OCI the Medicare supplement rate filings for the period under review. The company's notice of increase in premiums met the requirements of s. 631.36 (5) (b), 1, Wis. Stat.

No exceptions were noted regarding the rate and form review.

New Business and Underwriting

The examiners reviewed the company's response to the new business and underwriting interrogatory and the Medicare supplement and LTC interrogatories, manuals and documents used during the underwriting process, including *A&H*

Underwriting Guidelines, field underwriting manual, instructional materials used by agents, suitability guidelines and replacement procedures. The examiners also reviewed the company's applications, reinstatement applications, premium, lapse, and termination notices.

During the period of review, the company issued in Wisconsin tax-qualified and non-tax-qualified long-term care, and home health care policies with coverage amounts ranging from \$60 to \$200 for ages 40 through 89. The company's underwriting guidelines provide that the company uses two rate classifications based on medical questions in the application or attending physician statement.

The examiners found that National States' suitability guidelines met the minimum standard required by s. Ins 3.46 (16), Wis. Adm. Code, which state every insurer marketing long-term care insurance policies shall develop and use suitability standards, train agents in the use of its suitability standards, maintain a copy of its suitability standards. To determine whether the applicant meets the standards developed by the insurer, the agent and insurer shall develop procedures that take the ability to pay for the proposed coverage, the applicant's goals and needs with respect to long-term care, and the values, benefits and cost of the applicants existing insurance into consideration.

The examiners found that the company had developed a LTC/HHC Survey form to conduct an assessment of functional capacity as required by s. Ins 3.46 (10), Wis. Adm. Code, which limits post-claim underwriting for applicants 75 years of age and older. The company also requests attending physician's statements in situations where the personal history interview was not successfully completed or when the company determines it needs additional health history.

The examiners reviewed a random sample of 50 LTC issued files and 50 LTC not issued files. No exceptions were noted regarding the LTC file review. No exceptions were noted regarding the LTC file review.

The examiners reviewed the company's underwriting guidelines for Medicare supplement policies and determined that the company underwrites under age 65 disabled applicants using the same standards as over 65 year old applicants, and meets the requirements of s. Ins 3.39 (4) (a) 19, Wis. Adm. Code.

The examiners found that the company's *A&H Underwriting Guidelines* manual defined guarantee issue but not open enrollment. Section Ins 3.39 (34) (a), Wis. Adm. Code, which states eligible persons are those individuals described in par. (b) who apply to enroll under the policy not later than 63 days after the date of the termination of enrollment and who submit evidence of the date of termination or disenrollment with the application for a Medicare supplement policy. Section Ins 3.39 (4m), Wis. Adm. Code, which states, an issuer may not deny or condition the issuance or effectiveness of, or discriminate in the pricing of, basic Medicare supplement coverage. Medicare select policies permitted under sub. (30), or riders permitted under sub. (5) (i), for which an application is submitted prior to, or during the 6 month period beginning with the first month, in which, an individual first enrolled for benefits under Medicare Part B, or the month in which an individual turns age 65; for any individual who was first enrolled in Medicare Part B when under the age of 65 on any of the following grounds: health status, claims experience, receipt of health care, and medical condition.

17. **Recommendation:** It is recommended that National States revise the language in its *A&H Underwriting Guidelines* manual to properly describe and define open enrollment into a Medicare supplement as stated in s. Ins 3.39 (4m), Wis. Adm. Code.

The examiners reviewed the company's Medicare supplement application process and documented that it provides individuals eligible for coverage under

guarantee issue with the best rate available for the age group they are in as required by s. Ins 3.39 (34) (a) 2, Wis. Adm. Code.

The examiners also reviewed a random sample of 50 Medicare supplement issued files, 50 Medicare supplement not issued files and 50 Medicare supplement policies not taken. No exceptions were noted regarding the Medicare supplement file review.

Replacement

The examiners reviewed the company's response to the replacement interrogatory, company's replacement procedures, instructions to agents regarding replacement, and replacement notices. National States reported that it did not have any internal replacements during the period of review. The company stated that 18% of its business in Wisconsin involved external replacement. National States did not have formal limitations on the amount of replacement business that is acceptable in Wisconsin.

The examiners reviewed a random sample of 50 life policies involving replacement. The examiners found one life file involving replacement included a replacement letter that was not sent to the replaced company. Section Ins 2.07 (5) (a) 1.b, Wis. Adm. Code, states that within 5 days of receipt of the application, and prior to commencing any underwriting, a company must send a written notification of the replacement or possible replacement to the home office of each replaced insurer.

Premiums, Billings and Refunds

The company's accounting department is responsible for premiums and billings. The company's policy service department is responsible for handling refunds. The examiners reviewed the company's response to the premium, billing, and refunds

interrogatory, its refund process, and process for handling complaints of misconduct involving premiums, billings.

No exceptions were noted regarding the premiums, billings and refunds review.

Privacy Program

The examiners reviewed the company's response to the privacy of consumer financial and health information interrogatory, procedure manual, corporation privacy, confidentiality agreement for employees, privacy notice and policy for information systems and technology. The company's vice president of administration serves as its chief privacy officer. National States stated that it did not disclose any personal information to outside parties other than outside vendors they may hire to perform certain services as part of its claims or underwriting process. No information is released to nonaffiliated third parties without specific customer authorization, or as required by law. All electronic data is password protected and all data whether paper or electronic is accessible only by the company employees during the performance of their jobs in administering policies.

The company provided documentation that it had provided a notice of federal and state privacy requirements to all general agents writing business in Wisconsin.

In response to the new business and underwriting interrogatory, the company reported that it responds to written requests from applicants for access to their personal medical information by advising the applicant to contact their medical provider when the information was obtained from that provider. Section 610.70, Wis. Stat., provides that if an individual submits a written request to an insurer for access to recorded personal medical information that concerns the individual and that is in the insurer's possession, within 30 business days after receiving the request the insurer shall at the option of the individual permit the individual to inspect and copy the recorded personal medical

information, or provide by mail to the individual a copy of the recorded personal medical information.

18. Recommendation: It is recommended that National States implement a process for providing individuals access to their recorded personal medical information in order to document compliance with s. 610.70, Wis. Stat.

Company Operations/Management

The examiners reviewed the company response to the operations/management interrogatory. The examiners requested from National States copies of its internal audit reports involving Wisconsin business for the period of review. The company reported that it did not have audit reports specific to its LTC and Medicare supplement business in Wisconsin for the period of review. The company did provide a copy of its general claim audit procedures.

IV. CONCLUSION

The examination involved a review of National State's insurance practices and procedures specific to its Medicare supplement and long term care insurance and life replacement activities for the period January 1, 2000 through June 30, 2002. The examination report makes 18 recommendations. The recommendations in the examination report involve primarily the company's claims activities for its Medicare supplement and long term care business, producer licensing activities and policyholder service.

V. SUMMARY OF RECOMMENDATIONS

Claims

- Page 5 1. It is recommended that National States develop and implement written procedures for performing claim audits and preparing reports to ensure compliance with s. Ins 6.11 (1), Wis. Adm. Code.
- Page 5 2. It is recommended that National States develop written procedures for claims personnel to ensure timely payment and payment of interest on claims in order to comply with s. 628.46, Wis. Stat.
- Page 6 3. It is recommended that National States implement a process to ensure that claims are denied within a reasonable time in order to comply with s. Ins 6.11 (3), Wis. Adm. Code.
- Page 7 4. It is recommended that National States develop and implement written procedures for the payment of those benefits mandated under Wisconsin insurance law in order demonstrate compliance with s. 632.895, Wis. Stat.
- Page 8 5. It is recommended that National States file with the OCI on an annual basis a summary of all benefit appeals filed during the previous calendar year and the disposition of these appeals for both its Medicare supplement and long term care policies in order to comply with s. Ins 3.55 (5), Wis. Adm. Code.

Marketing, Sales & Advertising

- Page 9 6. It is recommended that National States develop and implement a process for ensuring that all sales materials that meet the definition of an advertisement and used in Wisconsin are included in its advertising file, along with a notation indicating the manner and extent of distribution and the form number of any policy advertised in order to comply with s. Ins 3.28 (28), Wis. Adm. Code.

Policyholder Service and Complaints

- Page 10 7. It is recommended that National States develop and implement written procedures for recording and retaining complaints and defining a complaint to comply with s. Ins 18.01 (2), Wis. Adm. Code.
- Page 11 8. It is recommended that National States provide documentation to OCI in response to OCI complaint files that it has contacted the complainant or insured within 10 days of receiving a complaint as required by OCI form 51-11 and in order to document compliance with s. 601.42, Wis. Stat.

Grievances

- Page 13 9. It is recommended that National States develop and implement a procedure for handling expedited grievances for mandated benefits in Medicare supplement policies in order to comply with s. Ins 18.05, Wis. Adm. Code.
- Page 13 10. It is recommended that National States develop and implement a process to ensure that Medicare supplement insureds receive notice of the right to independent review when a mandated benefit complaint occurs in order to comply with s. Ins 18.11, Wis. Adm. Code.
- Page 13 11. It is recommended that National States develop and implement a training process for employees to educate them regarding the right of Wisconsin Medicare supplement insureds to the IRO process as provided by s. Ins 18.10 (3) Wis. Adm. Code.
- Page 13 12. It is recommended that National States submit a grievance experience report required by s. 632.83 (2) (c), Stats., to the commissioner by March 1 of each year as required by s. Ins 18.06 (2), Wis. Adm. Code.

Producer Licensing

- Page 14 13. It is recommended that National States develop and implement a process that will ensure that all agent information be accurately entered into the agent database to comply with s. Ins 6.57, Wis. Adm. Code.
- Page 14 14. It is recommended that National States develop and implement a process that ensures that it obtains from agents a copy of an active license to verify licensing status and in order to document compliance with s. Ins 6.57 (5), Wis. Adm. Code.
- Page 15 15. It is recommended that National States develop and implement a process to ensure that it submits to and receives verification from OCI of the validity of the agent listing prior to completing its internal listing process in order to document compliance with s. Ins 6.57 (1), Wis. Adm. Code.
- Page 15 16. It is recommended that National States implement a process to ensure that it notify agents of termination and terminate agents from its database no more that 60 days from the notice of suspension due to failure to pay biennial fees in order to comply with s. Ins 6.58 (5) (b) & (c), Wis. Adm. Code.

New Business and Underwriting

- Page 19 17. It is recommended that National States revise the language in *its A&H Underwriting Guidelines* manual to properly describe and

define open enrollment into a Medicare supplement as stated in s. Ins 3.39 (4m) Wis. Adm. Code.

Privacy Program

- Page 21 18. It is recommended that National States implement a process for providing individuals access to their recorded personal medical information in order to document compliance with s. 610.70, 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.

<u>Name</u>	<u>Title</u>
Kevin Zwart	Insurance Examiner
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Respectfully submitted,

Jerry Zimmer
Examiner-in-Charge