

Notice of Adoption and Filing of Examination Report

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

North American Insurance Company
P O Box 44160
Madison, WI 53744-4160

dated February 26-March 7, 2001, and served upon the company on January 18, 2002, 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 27th day of February, 2002.

Connie L. O'Connell
Commissioner of Insurance

North American Insurance Company
Madison, Wisconsin

February 26 - March 7, 2001

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March 7, 2001

Honorable Connie L. O'Connell
Commissioner of Insurance
Madison, WI

Commissioner:

Pursuant to your instructions and authorization, a market conduct examination was made February 26, 2001 to March 7, 2001 of:

NORTH AMERICAN INSURANCE COMPANY
1232 Fourier Dr.
Madison, Wisconsin

The report of this examination is herein respectfully submitted.

I. INTRODUCTION

North American Insurance Company (NAI) was originally incorporated as a stock company under the laws of Wisconsin on September 25, 1962. Its original name was Reliable Casualty Company. The Reliable Casualty Company received its certificate of authority and began operations on December 31, 1965. In 1968 the company changed its name to the Reliable Life and Casualty Company (RLCC).

On August 31, 1981, the Dane County Circuit Court on petition of the Office of the Commissioner of Insurance of the state of Wisconsin issued an order of rehabilitation on RLCC.

On September 16, 1986, North American Group, Ltd. (NAGL), formerly known as the Reliable Investors Corporation, the parent of RLCC, applied for reinstatement of the company's certificate of authority. An amended application for reinstatement was submitted on March 6, 1987.

The Dane County Circuit Court released RLCC from rehabilitation on August 13, 1987. NAGL provided approximately \$4,000,000 of recapitalization for the company. NAI commenced the writing of business in September of 1987. On September 21, 1990, North American Insurance Company was purchased by a newly formed holding company, Encore Financial Inc. Upon its inception; its main business was the writing of stop-loss insurance for groups self-insuring its members' accident and health coverage via an ERISA Trust. NAI also administered a block of Medicare supplement and other individual health policies originally written by RLCC and acquired from the Wisconsin Insurance Security Fund.

Since 1987 the company has added individual health and disability insurance programs, group credit life and disability, multiple employer trust programs, as well as annuity and single premium whole life. NAI has also developed individual and group Medicare supplement policies. The Medicare supplement, major medical, disability, and other individual accident and health, and life coverages are sold mostly through independent agents.

During 1997, Oxford Life Insurance Company acquired North American's parent Encore Financial, Inc., which is a wholly owned subsidiary of AMERCO. Management of Oxford Life has spent the last year and a half integrating the operations of North American into Oxford Life, producing significant cost savings.

Table A summarizes the company's premium and loss ratios for the years 1999 and 1998 for Medicare supplement business:

Table A: Premium and Loss Ratio Summary

Wisconsin Business Line of Business	1999			
	Premium	% of Total	Loss Expenses	Loss Ratio
Group Medicare Supplement	965,538	13%	854,730	88.5%

Individual Medicare Supplement	6,495,635	87%	4,720,548	72.7%
Total	7,461,173	100%	5,575,277	74.7%
Wisconsin Business Line of Business	1998			
	Premium	% of Total	Loss Expenses	Loss Ratio
Group Medicare Supplement	354,312	8%	424,802	119.9%
Individual Medicare Supplement	4,170,001	92%	3,435,813	82.4%
Total	4,524,313	100%	3,860,615	85.3%

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II. PURPOSE AND SCOPE

The examination was conducted to determine whether NAI's practices and procedures comply with Wisconsin insurance statutes and rules. The scope of the examination was targeted to review the insurer's operations in Medicare supplement business. The scope of the examination was limited to the business for the period, January 1, 1999, through December 31, 2000. Specifically, the examination focused on the following areas:

- a review of policy forms
- a review of administration
- a review of marketing and advertising
- a review of complaints and complaint procedures
- a review of claims administration
- a review of new business and medical underwriting
- a review of agent files

Complaints

In reviewing the OCI complaints filed against North American Insurance for the period of review, it was noted that 17 complaints in 1999 and 18 complaints in 2000 were based on claim handling, claim delays, and claim denials. In many of the final dispositions involving the claim problems, the observation was made that many of these claims were eventually paid, settled or information was furnished. The review also showed 9 complaints in 1999 and 4 complaints in 2000 that dealt with premium notices/billing problems and return of premium delays. There were 6 complaints in 1999 involving Medicare supplement and 6 complaints in 2000. The majority of the complaints involving Medicare supplements were for claims handling. North American Insurance Company was ranked second on the above average complaint summary for Individual accident and health in 1999. The company's complaint ratio was .37% compared to the average of .11% per \$100,000 of premium

written for all individual accident and health business in the state. In 2000, North American was ranked fourth on the above average complaint summary. The company's complaint ratio was .30% compared to the average of .10% per \$100,000 of premium written for all individual accident and health business in the state.

During the year 1999, OCI received 37 complaints against the company. There were 33 complaints received against this company for 2000. The company received the majority of its complaints in individual accident and health. Over half of all the complaints against the company are related to claim handling.

Table B: Complaints

Categories	2000 Number	1999 Number
Underwriting	3	6
Marketing and Sales	0	2
Claims	19	18
Policyholder Service	8	11
Other	3	0
TOTAL	33	37

(Complaints may involve more than one category)

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III. MANAGEMENT AND OPERATIONS

North American Insurance was purchased by Oxford Life Insurance in 1997. Because of this purchase North American Insurance has its management team and its operations divided between Oxford Life in Phoenix, and North American in Madison. President Mark Haydukovich, Senior Vice President Larry Goodyear, and Business Consultant Bruce Brockhagen are located in the Phoenix office of Oxford Life. Vice President Diane Martin is the only North American director located in the Madison office.

All business areas relating to compliance matters are located at Oxford Life including, complaints, form filings, and some advertising. Alan Gloeckle is the Director of Compliance for both Oxford Life and North American Insurance. The North American office in Madison is responsible for credit insurance administration, claims and business services, policyholder service, and office administration. The Vice President of Operations for the Madison office is Diane Martin.

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IV. EXAMINATION FINDINGS

Policy Forms

The compliance department at Oxford Life Insurance Company in Phoenix maintains all approved rates and forms. The compliance department is responsible for filing all policy forms with the various insurance departments and responds to any objections they may have. The Director of Compliance is Alan Gloeckle who also was the contact person during the examination.

The examiners made a comparison of the forms used by NAI and the approved-stamped transmittal forms NAI received from OCI following form approval, including a review that the language in the forms was in compliance with recent changes in insurance law. The examiners reviewed all 16 policy forms that were used by NAI during the period of review, paying special attention to verify that the policy forms contained positive language regarding the benefits mandated under Wisconsin insurance law and s. Ins 3.39, Wis. Adm. Code.

The sale of North American's Medicare supplement policies in Wisconsin is on the decline, and by the end of the year 2001, all Medicare supplements will be marketed by Oxford Life Insurance Company.

The examiners determined that the policy forms were in compliance with Wisconsin insurance laws and regulations, and no exceptions were noted.

Administrative Agreements

The examiners reviewed the company's organizational chart, reviewed the list of officers, directors, and committees, the company bylaws which describe the duties of the board of directors, the minutes of board meetings, service contracts, and the company's business plan. No exceptions were noted.

Electronic Commerce

The examiners reviewed the company's electronic commerce activities. The company's website at the time of the examination, www.nais.com, is an alias that forwards to the Oxford Life Insurance Company website. At this time, the company does not allow a consumer to apply for an insurance policy online. No leads are generated from the website. Inquiries received via e-mail are forwarded to the Director of Business Services for handling. North American Insurance does not anticipate allowing applications to be taken through their website before 2002. No exceptions were noted.

Marketing and Advertising

The majority of the company's Marketing and Sales Department is located in the Phoenix office of Oxford life. However, the section responsible for Medicare supplement marketing is located in the Madison office at this time. Medicare supplement policies are primarily marketed through brokers and agents. The agents and brokers are responsible for all marketing efforts. North American does not provide any leads for the agents. Agents may prepare their own advertisements, but generally do not. All agent advertisements must be approved by the program manager, the compliance department, and filed with the Office of the Commissioner of Insurance. This also includes agents that maintain insurance related websites that use the company name. North American does not have a list of agents' websites. The compliance department has searched for agent sites, but has no written procedures for doing so.

The examiners reviewed the company's advertising file and all 5 Medicare supplement advertisements in the file that were used by North American. The company is not in compliance with s. Ins 3.27 (28), Wis. Adm. Code. A notation concerning the manner and extent of distribution, and the form number of the policy referred to was not attached to any of the advertisements. The company does not currently maintain hard copy screen prints of its website information in the advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code. The company also does not comply with s. Ins 3.39 (25)(d), Wis. Adm. Code. In response to the examiners' exception JZ#7, the company stated that it allows agents to solicit Medicare supplements up to six months before the applicant is eligible for Medicare.

1. It is recommended that the company develop and implement procedures to have the manner and extent of distribution as well as policy information noted and attached to each advertisement in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.
2. It is recommended that the company immediately notify its agents in writing that Medicare supplement policies can not be solicited more than three months before an applicant becomes eligible, and that the company develop and implement procedures to ensure that it does not accept any Medicare supplement applications that are written more than three months before an applicant becomes eligible, pursuant to s. Ins 3.39 (25)(d), Wis. Adm. Code.
3. It is recommended that the company develop and implement procedures to monitor or control its agents' web sites to ensure their compliance with ss. Ins 3.27 and 3.39, Wis. Adm. Code.
4. It is recommended that the company maintain hard copy screen prints of any web site pages in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policyholder Service and Complaints

The Policyholder Service Department issues all new policies and processes policy changes. It generates policy billings, notices of rate increases, and processes premium refunds. The only manual provided to policyholder service employees is a step-by-step data entry manual that tells how to make changes to policyholder information, including terminations and refunds.

All twelve OCI complaints involving Medicare supplement coverage were reviewed. In all the complaints, the examiners could not determine the final disposition nor could it be determined whether any final disposition letters were sent to the complainants. The company's complaint handling procedures are not clear. According to the compliance department, all complaints go to Phoenix for handling. According to policyholder services, agent complaints are forwarded to the agency department. The claims department states OCI complaints are handled by the compliance department, and telephone complaints and written complaints/appeals are maintained by North American's claims department in Madison, Wisconsin. The compliance department states it maintains the NAIC Complaint Log, the complaint files, and processes all related information. North American Insurance has three categories of complaints, including telephone complaints, OCI complaints, and written complaints/appeals. The compliance department logs in each complaint, and determines the response due date. After all the information has been gathered from other departments, the compliance department drafts the response. If the compliance department cannot make a determination of the appropriate resolution, it will forward the complaint and related information to the Complaint Committee. The Complaint Committee consists of three members including a member from the compliance department, a

policyholder service representative, and the line manager for the product involved in the complaint. The Complaint Committee will investigate the complaint and respond back to the compliance department. Compliance will then send a recommended response back to the Complaint Committee for review. If that response is not agreeable with the committee, they will draft a response. Any complaint that cannot be resolved by the committee will be forwarded to the senior management level for review. The company stated that the Complaint Committee for the Medicare supplement line of business has never needed to meet, and therefore there are no minutes of committee meetings. The company has no written procedures in place for how complaints and appeals are handled. There appears to be little oversight and procedures in place to review and audit responses to complaints and appeals. The company has never submitted to OCI an annual report summarizing any appeals involving the denial of benefits under Medicare supplement policies, and their disposition as required by s. 632.84, Wis. Stats.

5. It is recommended that the company develop and implement written procedures, and submit them to OCI within 30 days from the date the report is adopted, that demonstrate how the company will comply with the benefit appeal requirements of s. 632.84, Wis. Stat.
6. It is recommended that the company develop and implement consistent written procedures for processing consumer complaints.
7. It is recommended that the company develop and implement internal auditing procedures for reviewing responses to complaints and for ensuring there is a final disposition with each complaint.
8. It is recommended that the company develop and implement written procedures for distinguishing between various types of complaints and for recording complaint information.

Claims

The examiners reviewed 125 paid claims and 125 denied claims. The company utilizes a major medical claim tracking system and "Medicare Crossover". Crossover is the filing of a claim electronically and North American receives the claim from Medicare on an electronic tape. The company will automatically deny any claim that is received 15 months past the date of service. However they will process an "old" claim if Medicare paid on the claim and it was just received from Medicare 15 months or more past the date of service. However, the company will process these "old" claims only if they are received by the company within 90 days from the date that Medicare processed or reprocessed the claim.

North American was asked by the examiners to provide on a monthly basis, for the period of review, the aggregate number of Medicare supplement claims received, the number of claims paid, the number of claims denied, and the number of claims in backlog status. The company was also asked to provide an example of any claims aging reports used by the company. In the company's response, it was noted that during the period of review, one hundred eighty-nine claims from one day were suspended and never processed or paid. The claims were suspended for missing information from either Medicare or the provider. The company indicated that the problem was the result of either a claims examiner not handling the claims as required or the company's computer department failing to back up the daily list of suspended claims on this particular day. NAI indicated that a new systems program will be instituted on April 1, 2001 to rectify this problem and prevent it from happening in the future.

Although the claims department does not have any written procedures to direct employees as to their job responsibilities, the company does have many audit procedures to keep track of how claims are processed and the correctness of those claims by each claims examiner per week and each month. Errors are categorized by those involving payment and by those involving procedure. The accuracy requirement is 99% for payment errors and 97% for procedure errors. Audit procedures are also in place for monitoring customer service representatives and support staff. The claim/customer service department audit quality statistics for the period of review were reviewed by the examiners who determined that the accuracy standards for this time period were met. The company audits both telephone calls and correspondence.

9. It is recommended that the company develop and implement program procedures to ensure that suspended claims are processed on a daily basis and without delay, pursuant to s. Ins 6.11 (3), Wis. Adm. Code.
10. It is recommended that the company develop and implement written claim processing procedures for its claims department employees as required by s. Ins 6.11 (3), Wis. Adm. Code.

New Business and Underwriting

New applications for Medicare supplement policies are either accepted or rejected based on the answers to the questions on the applications. Any positive answer to a health question (after the open enrollment period) results in the application being rejected. If the application is accepted, the information is keyed into the company's administration system, and a policy is issued and mailed. If an application is rejected a rejection letter is sent to the applicant along with a refund of premium. The company's computer system requires that a policy be "issued" in order to process a refund check. Premiums must accompany Medicare supplement applications. An applicant's initial premium check must be payable to North American Insurance. No checks will be accepted from an agent's account. Any refund of premium checks are sent directly to the policyholder from the home office.

The company stated that its new business computer system will not allow a Medicare supplement policy to be issued if written by a non-appointed agent. An agent number must be assigned to all appointed agents. If an agent number isn't on the application, the company will not pay commissions until the agent has been appointed. The system also is supposed to prevent applications from being processed that have been written by agents that have been terminated. In such cases, the company will send the agent appointment information (if the company is interested in re-appointing the agent) and advise the agent of his or her terminated status.

During the period of review, 2,106 Medicare supplement applications were received. Only 3 applications were declined. As of December 31, 2000, North American Insurance had 5,409 Medicare supplement policies in force. The examiners reviewed 53 new business files (50 approved and the 3 declined). The examiners noted a number of problems associated with these files. In one file, the agent was not listed with the company at the time of application as required by s. Ins 6.57, Wis. Adm. Code. The company accepted the application and then had the agent listed. In two other files, the agent never was listed with the company but the company accepted the applications anyway, which indicates a possible problem with the edits in the new business computer system that are to ensure that agents are appropriately listed with the company before the business is accepted. In another file, the application and replacement form indicated that the applicant may have

two Medicare supplement policies in effect. The replacement question on the application was answered "yes" and "no". The company failed to investigate the discrepancy to determine if there was an existing policy still in force prior to issuing a new policy in violation of s. Ins 3.39 (25), Wis. Adm. Code. The examiners also reviewed NAI's agent commission schedules for Medicare supplements to determine their compliance with s. Ins 3.39 (21), Wis. Adm. Code. No exceptions were noted.

11. It is recommended that the company modify and test its computer procedures to verify that all agents are properly licensed and listed prior to accepting business from agents as required by s. Ins 6.57 (5), Wis. Adm. Code.
12. It is recommended that the company develop and implement written procedures to ensure that discrepancies in the answer to the replacement question on new business applications and to any other application questions are resolved prior to issuing a policy, pursuant to s. Ins 3.28 (5), Wis. Adm. Code.

Agent Records

The Agency Department assists agents in their ability to sell and help potential insureds in the purchase of company products by developing marketing packets, including advertisements and the proper application materials, and mailing the materials to agents and potential insureds. North American Insurance does not require that business be written by an agent, however the company utilizes agents in most cases. Each agent must be licensed and appointed with OCI to solicit business. The examiners compared a list of all intermediary agents that represented the company, which was provided by the company on 3/6/01, to all agents appointed with the company according to OCI's records, pursuant to s. Ins 6.57 (1), Wis. Adm. Code, as of that date. The examiners found the company's list contained 28 agents that were not appointed with OCI during the period of review and 4 agents that were appointed for only a portion of the period of review.

North American Insurance currently has fourteen general agents in Wisconsin who supervise 291 writing agents. There are also 99 independent agents that write for North American. The company did not recruit any agents during the period of review. However, the general agents did recruit agents to sell group and individual products for North American. When a prospective agent's application is received, a background check is done through Applicant Insight at a cost of \$28 per agent. North American does not provide continuing education or any formal sales training for agents. The company expects the general agents (brokers) to provide this service for their subagents. Information about the company, policy and law changes, and general information is provided to agents through newsletters or commission stuffers throughout the year.

North American Insurance maintains files for all agents, active and inactive in alphabetical order in the agency department. Each file is to contain the agent agreement, compensation schedule, copy of the agent's license, welcome letter, and any other correspondence between the agent and the company or the Office of the Commissioner of Insurance.

The examiners reviewed a random sample of 25 active agent files and 5 terminated agent files. Two of the files from the active sample were not provided and could not be located because the company was converting to an imaging system to be in place April 1, 2001. Ten of the files did not have an appointment letter or dated form to document the agent listing date. Eleven of the files did not have a copy of an executed contract (eight files were

missing the entire contract and three files were not signed or dated.) Six active agent files were missing the OCI 11-001 listing form and one file did not have a dated OCI 11-001 form. Ten files had documentation to show that the contract was signed and dated prior to the company sending the OCI 11-001. One active file indicated that the agent was terminated, but the file did not contain a copy of a termination letter asking the agent to return all indicia of agency. None of the agent files that were reviewed contained evidence that a written notice was given agents that explained the agent's responsibility to maintain policyholder and business records as required by s. Ins 6.61 (17), Wis. Adm. Code. Four terminated agent files did not contain a copy of the agent termination letter. Two terminated agent files did not contain the OCI 11-001 form. One file did not include a copy of the agent contract and one file did not include a copy of the agent appointment letter. The examiners found that there was no consistency as to what information was contained in the agent files, making it difficult to determine whether the company was in compliance with the requirements of s. Ins 6.57, Wis. Adm. Code. The company has no written procedures to specify what information needs to be included in its agent files and to explain how agent files are to be maintained.

13. It is recommended that the company develop and implement written procedures for maintaining its active and terminated agent records pursuant to s. Ins 6.80, Wis. Adm. Code, to ensure that agent licensing and listing information is readily available to OCI upon request.
14. It is recommended that the company amend its agent termination letter to include a formal request that the agent return all indicia of agency as required by s. Ins 6.57 (2), Wis. Adm. Code, and to send such letter to each terminated agent.
15. It is recommended that the company develop and implement a procedure to give written notice to agents of their responsibility to maintain policyholder and business records as required by s. Ins 6.61 (17), Wis. Adm. Code.
16. It is recommended that the company develop and implement written procedures to ensure that all agents representing the company are properly appointed with OCI as required by s. Ins 6.57 (1), Wis. Adm. Code.

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V. CONCLUSION

The examination disclosed some areas of concern in the every-day operations of North American Insurance Company. The examination produced sixteen recommendations that concerned advertising, policyholder service and complaints, claims, new business and underwriting, and agent records. North American Insurance does not have written procedures for most of its operations. By the year 2002, North American Insurance plans to have all its Medicare supplement policies sold through Oxford Life Insurance Company. North American Insurance will no longer market a Medicare supplement policy after 2001.

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VI. SUMMARY OF RECOMMENDATIONS

[Marketing and Advertising](#)

1. It is recommended that the company develop and implement procedures to have the manner and extent of distribution as well as policy information noted and attached to each advertisement in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.
2. It is recommended that the company immediately notify its agents in writing that Medicare supplement policies can not be solicited more than three months before an applicant becomes eligible, and that the company develop and implement procedures to ensure that it does not accept any Medicare supplement applications that are written more than three months before an applicant becomes eligible, pursuant to s. Ins 3.39 (25)(d), Wis. Adm. Code.
3. It is recommended that the company develop and implement procedures to monitor or control its agents' web sites to ensure their compliance with ss. Ins 3.27 and 3.39, Wis. Adm. Code.
4. It is recommended that the company maintain hard copy screen prints of any web site pages in its advertising file as required by s. Ins 3.27 (28), Wis. Adm. Code.

Policyholder Service and Complaints

5. It is recommended that the company develop and implement written procedures, and submit them to OCI within 30 days from the date the report is adopted, that demonstrate how the company will comply with the benefit appeal requirements of s. 632.84, Wis. Stat.
6. It is recommended that the company develop and implement consistent written procedures for processing consumer complaints.
7. It is recommended that the company develop and implement internal auditing procedures for reviewing responses to complaints and for ensuring there is a final disposition with each complaint.
8. It is recommended that the company develop and implement written procedures for distinguishing between various types of complaints and for recording complaint information.

Claims

9. It is recommended that the company develop and implement program procedures to ensure that suspended claims are processed on a daily basis and without delay, pursuant to s. Ins 6.11 (3), Wis. Adm. Code.
10. It is recommended that the company develop and implement written claim processing procedures for its claims department employees as required by s. Ins 6.11 (3), Wis. Adm. Code.

New Business and Underwriting

11. It is recommended that the company modify and test its computer procedures to verify that all agents are properly licensed and listed prior to accepting business from agents as required by s. Ins 6.57 (5), Wis. Adm. Code.
12. It is recommended that the company develop and implement written procedures to ensure that discrepancies in the answer to the replacement question on new business applications and to any other application questions are resolved prior to issuing a policy, pursuant to s. Ins 3.28 (5), Wis. Adm. Code.

Agent Records

13. It is recommended that the company develop and implement written procedures for maintaining its active and terminated agent records pursuant to s. Ins 6.80, Wis. Adm. Code, to ensure that agent licensing and listing information is readily available to OCI upon request.
14. It is recommended that the company amend its agent termination letter to include a formal request that the agent return all indicia of agency as required by s. Ins 6.57 (2), Wis. Adm. Code, and to send such letter to each terminated agent.
15. It is recommended that the company develop and implement a procedure to give written notice to agents of their responsibility to maintain policyholder and business records as required by s. Ins 6.61 (17), Wis. Adm. Code.
16. It is recommended that the company develop and implement written procedures to ensure that all agents representing the company are properly appointed with OCI as required by s. Ins 6.57 (1), Wis. Adm. Code.

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VII. ACKNOWLEDGMENT

In addition to the undersigned, the following personnel from the Office of the Commissioner of Insurance participated in the examination and preparation of this report.

Ashley Natysin, Insurance Examiner
Gordon Krueger, Insurance Examiner

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

Respectfully submitted,

Gerald M. Zimmer
Examiner-in-Charge

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Updated: March 1, 2002