

**Market Conduct Examination**  
**Hartford Financial Services Group**

**1 Hartford Plaza**

**Hartford, Connecticut 06155**

**Examination Period:**  
**7/1/05 thru 12/31/05**

**STATE OF MAINE**

***BUREAU OF INSURANCE***

*IT IS HEREBY CERTIFIED THAT THE ANNEXED REPORT OF EXAMINATION FOR*

Hartford Financial Services Group

has been compared with the original on file in this bureau and that it is a correct transcript thereof and of the whole of said original.

***IN WITNESS WHEREOF,***

I have hereunto set my hand and affixed the official seal of this Office at the City of Augusta this

26th day of February, 2007

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Eric A. Cioppa  
Acting Superintendent  
Bureau of Insurance

I hereby certify that the attached report of a targeted market conduct examination dated February 16, 2007 shows the condition and affairs of Hartford Financial Services Group, as described in the scope of examination section of the report and has been filed in the Bureau of Insurance as a public document.

This report has been reviewed.

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Kendra Godbout  
Director Financial Analysis

This 26th day of February, 2007

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February 26, 2007

The Honorable Eric A. Cioppa  
Acting Superintendent of Insurance  
State Of Maine  
Bureau of Insurance  
State House Station #34  
Augusta, ME 04333

Dear Sir:

Pursuant to the certification of findings in accordance with 39-A M.R.S.A § 359(2) from the State of Maine Workers' Compensation Board ("WCB") and under the authority of 24-A M.R.S.A. § 221 and in conformity with your instructions, a targeted market conduct examination has been made of:

**The Hartford Financial Services Group**

**Composed of the following:**

**Hartford Fire Insurance Company, NAIC Co. Code 19682**

**Hartford Accident and Indemnity Company, NAIC Co. Code 22357**

**Hartford Casualty Insurance Company, NAIC Co. Code 22365**

**Hartford Underwriters Insurance Company, NAIC Co. Code 30104**

**Twin City Fire Insurance Company, NAIC Co. Code 22411**

hereinafter referred to collectively as the "Company". The examination covered indemnity claims that were open between July 1, 2005 and December 31, 2005 for employees residing in the State of Maine or claimants involved in losses in the State of Maine. The onsite phase of the examination was conducted at the offices of the Company servicing Maine businesses located at:

**Specialty Risk Services &  
Hartford Workers' Compensation Claim Office  
Bedford Executive Park – Bldg 2  
Route 3, South River Road  
Bedford, New Hampshire 03110**

The following report is respectfully submitted.

## **HISTORY OF ENGAGEMENT**

Pursuant to 39-A M.R.S.A. § 153(9), the Workers' Compensation Board established an audit, enforcement and monitoring program. The functions of the audit and enforcement program include but are not limited to auditing timeliness of payments and the claims-handling practices of insurers including the requirements of 39-A M.R.S.A. § 359. The WCB audited year 2002 claims and reported its results in a WCB Compliance Audit Report dated December 8, 2004. Findings outlined in the audit report included non-filing of forms, late and inaccurate filing of forms, and failing to have complete and available claim files during on-site examination. The WCB determined that the pervasiveness and magnitude of the findings constituted a pattern of questionable claims-handling techniques. In January 2005, the WCB and the Company entered into four Consent Decrees establishing the patterns of questionable claims-handling techniques and assessing fines therefore. In accordance with 39-A M.R.S.A. § 359(2), the WCB certified the audit findings to the Superintendent of Insurance. Section 359(2) requires the Superintendent of Insurance to take appropriate action to bring such practices to a halt.

## **SCOPE OF EXAMINATION**

In order to meet the statutory responsibilities of the Superintendent of Insurance, a determination as to whether or not the "pattern of questionable claims-handling techniques" found by the WCB still exists is in order. The examination was conducted in accordance with Title 24-A M.R.S.A. and the National Association of Insurance Commissioners (NAIC) Market Conduct Examiners' Handbook and Guidelines (the "Handbook") for purposes of sample determination and overall guidance. Specific procedures from the Handbook that apply to verifying the Company's compliance with certain form filing and claim processing procedures, as outlined in Title 39-A M.R.S.A. and the WCB Rules and Regulations, were used as part of this examination. Specifically, the scope of the examination consisted of reviewing all indemnity claims that were open during the examination period of July 1, 2005 thru December 31, 2005 and had dates of injury on or after January 1, 1993, to determine if all Workers' Compensation Board forms were filed timely and accurately and if indemnity claims were paid in a timely and accurate manner.

## **METHODOLOGY**

Company records indicated a total of 39 lost time claims between July 1, 2005 and December 31, 2005. All of these claims were reviewed. During the course of the examination, it was discovered that three of the claims were medical only. Additionally there was a total of 137 lost time claims open as of July 1, 2005 with dates of injury prior to our examination period. The Company processed 112 of these claims, its wholly-owned TPA subsidiary Specialty Risk Services ("SRS") processed 14, and other TPAs under contract with the Company processed the remaining 11 claims. A judgmental sample of 12 claims was selected from these open loss time claims with dates of injury prior to the examination period. Nine files were selected from the Company's claims, two from SRS and one from the remaining TPA population.

## STANDARDS

The following standards were applied and tested through review of the selected claims. All references are from either Title 39-A M.R.S.A., WCB Rules and Regulations or WCB Protocols of the Monitoring, Audit & Enforcement Division. The specific Handbook standards and tests developed by the examiners are outlined in this section.

### (1) Standard G-4

**The Company responds to claim correspondence in a timely manner.**

**Test Step 1:** Determine if correspondence (e.g. WCB forms) related to claims is responded to (filed) as required by applicable statutes, rules, regulations or protocols.

WCB-1, First Report of Injury	39-A M.R.S.A. § 303 Rules & Regs, Ch 8 § 13
WCB-2, Wage Statement	39-A M.R.S.A. § 303
WCB-2A, Schedule of Dependent(s) And Filing Status	39-A M.R.S.A. § 303
WCB-3, Memorandum of Payment	Rules & Regs, Ch 1 § 1.1
WCB-4, Discontinuance or Modification of Compensation	Rules & Regs, Ch 8 § 11
WCB-4A, Consent Between Employer and Employee	Rules & Regs, Ch 8 § 18
WCB-8, (21 Day) Certificate of Discontinuance or Reduction of Compensation	39-A M.R.S.A. § 205 (9)
WCB-9, Notice of Controversy (NOC)	Rules & Regs, Ch 1 § 1.1
WCB-11, Statement of Compensation Paid	Rules & Regs, Ch 8 § 1

Standard G-4 establishes a general framework for the timely correspondence of claim documentation. Failure to file any WCB forms within established time frames is a violation of 39-A M.R.S.A. § 360(1)(A) or (B).

### (2) Standard G-3

**Claims are resolved in a timely manner.**

**Test Step 2:** Determine if initial and subsequent claim payments are made in a timely manner.

Standard G-3 establishes a general framework for the timely settlement of claims in accordance with 39-A M.R.S.A. § 205(2).

### (3) Standard G-5

#### Claim files are adequately documented.

**Test Step 3:** Determine if quality of the claim documentation (e.g. wage statements, schedule of dependents and filing status) is sufficient to support or justify the ultimate claim determination (**accuracy of payment**) and meets state requirements.

Standard G-5 establishes a general framework for the adequacy of claim file documentation to correctly calculate claim payments in accordance with 39-A M.R.S.A. § 212, § 213 and § 215.

#### APPLICATION OF TESTS

This section outlines the application of the tests to the claims selected. The results of testing those open indemnity claims during the examination period are delineated in the following tables:

#### TEST 1: Verify the timely filing of the following forms with the Workers' Compensation Board in accordance with the applicable Statute, Rules & Regulations, or Protocol:

	Form Type	Filed Timely	Not Filed Timely	Not Filed	N/A	% in Compliance	2002 Audit (A)	CHG
Test	WCB-1	22	14 <sup>1</sup>	0	4	61.1%	53%	+15.28%
Test	WCB-2	29	5	0	6	85.3%	22%	+287.73%
Test	WCB-2A	27	6	1	6	79.4%	11%	+621.8%
Test	WCB-3	19	11	0	10	63.3%	38%	+66.58%
Test	WCB-4	27	0	1	12	96.4%	80%	+20.5%
Test	WCB-8	1	0	1	38	50.0%	100%	-50.0%
Test	WCB-9	5	1	0	34	83.3%	100%	-16.7%
Test	WCB-11 First	2	0	0	49 <sup>2</sup>	100.0%		NA
Test	WCB-11 Annual/Final	2	1	3	44 <sup>3</sup>	33.3%		NA

<sup>1</sup> Three of the WCB-1s not filed timely resulted from the employer not notifying the Company in a timely manner.

<sup>2</sup> Of the 49 First WCB-11s reported as NA, 39 were for claims with dates of injury during the examination period and therefore not be due to be filed during the exam period. Review of these files subsequent to the examination period revealed 23 filed timely, 2 not filed timely, 5 not filed and 9 NA.

<sup>3</sup> Of the 44 Annual WCB-11s reported as NA, 39 were for claims with dates of injury during the

examination period and therefore not due to be filed during the examination period. Review of these files subsequent to the examination period revealed 10 filed timely, 5 not filed and 24 NA.

**TEST 2: Verify that initial and subsequent indemnity payments were made in accordance with 39-A M.R.S.A. § 205 (2).**

	<b>Paid Timely</b>	<b>Not Paid Timely</b>	<b>N/A</b>	<b>% In Compliance</b>	<b>2002 Audit</b>
<b>Initial Payment</b>	<b>22</b>	<b>9</b>	<b>9</b>	<b>71.0%</b>	<b>72%</b>
<b>Subsequent Payments</b>	<b>13</b>	<b>14</b>	<b>20</b>	<b>48.1%</b>	<b>72%</b>

Numbers in this table represent number of claims rather than individual initial or subsequent payments. Subsequent payments not paid timely represents 17 claims where one or more subsequent payments were not made timely.

**TEST 3: Verify that the average weekly wages is calculated accurately and the subsequent indemnity payments are calculated accurately for both total and partial incapacity.**

	<b>Calculated Correctly</b>	<b>Calculated Incorrectly</b>	<b>NA</b>	<b>% In Compliance</b>	<b>2002 Audit</b>
<b>Average Weekly Wage (AWW)</b>	<b>25</b>	<b>9</b>	<b>12</b>	<b>73.5%</b>	<b>0.0% *</b>

\* - the 2002 audit looked at 7 claims – the AWW was incorrectly calculated in all 7

	<b>Paid Accurately</b>	<b>Not Paid Accurately</b>	<b>N/A</b>	<b>% In Compliance</b>	<b>2002 Audit</b>
<b>Partial &amp; Total Indemnity Payments</b>	<b>21</b>	<b>13</b>	<b>12</b>	<b>61.8%</b>	<b>0.0% *</b>

\* The 2002 audit examined seven claims. All of them had benefit calculation errors.

Numbers in this table represent number of claims rather than each specific calculation or payments. “Not Paid Accurately” represents 13 claims where one or more payments were not made accurately.

**Summary of Testing**

The major issues highlighted in the 2002 WCB audit include the following:

- Access and completeness of claim files
- Form filing rate of compliance
- Timeliness and accuracy of data/forms



- AWW calculation

Our general observations concerning the Board's issues are:

- Access and completeness of claim files
  - This area was not a substantial or major issue during this examination. According to the WCB audit report, the Company addressed this issue immediately.
- Form filing rate of compliance
  - While the Company has improved, the overall performance of timely filing of required forms is still below acceptable levels.
- Timeliness and accuracy of data/forms – There were 8 files that had forms filed with inaccurate data.
- AWW calculation – Calculation of AWW and accurate indemnity payments were still at unacceptable levels of compliance.

Other issues noted:

- Examination protocols call for the Company to respond to examiner inquiries within 3 working days. Although the Company was cooperative throughout the exam process, they failed to meet this requirement on several occasions.
- One claim adjuster regularly applied a three-day waiting period rather than the seven-day period required by 39-A M.R.S.A. § 204. This error benefits the injured worker whose incapacity does not continue more than 14 days, but it also results in higher claim cost to the insurer and employer.
- Three claims had benefits terminated based on a doctor's release date rather than actual return to work date.

In reviewing the information contained in this report, it is important to keep in mind the benchmarks that the Maine Workers' Compensation Board utilizes during its routine monitoring of claims. The benchmark for timely initial indemnity payments is 80% and for timely filing of memorandum of payments (WCB-3) the benchmark is 75% compliance.

## **COMMENTS AND RECOMMENDATIONS**

### **Comment 1:**

Test #1 was designed to determine compliance with Title 39-A's form filing requirements. As shown in the Test #1 table, while there has been improvement in the timely filing of certain required forms, the overall compliance ratio is still at unacceptable levels, especially in the case of the WCB-1 and the WCB-3. Insurers must file these forms accurately and timely as they are relied upon by the Board to monitor whether or not insurers are paying injured workers in accordance with the statute.

**Recommendation:**

It is recommended that the Company continue to train and monitor its and its third-party adjusting staff to ensure an adequate understanding of Maine requirements for timely filing of WCB forms.

It is also recommended that the Company develop a checklist to track the timely filing of WCB forms. Whether manual or automated, a file checklist is a proven method for adjusters and front line managers to monitor and meet the filing deadlines routinely. Managers should also review claims regularly to improve performance.

**Comment 2:**

Test #2 was designed to determine compliance with Title 39-A requirements for timely payment of initial and subsequent benefits. The percentage of compliance for initial payments made timely has not changed materially from the 2002 WCB audit. Compliance concerning subsequent payments dropped noticeably from the rates established in the 2002 audit.

**Recommendation:**

It is recommended that the Company continue to develop and implement policies and procedures to ensure that claims adjusters are aware of WCB payment requirements and that managers monitor performance regularly to ensure compliance. Steps that the Company might take to ensure compliance with the law include training both in-house and TPA claims personnel on the provisions of Title 39-A. Relevant topics include calculation of average weekly wages, derivation of benefit levels from average weekly wages, indemnity payment, and completing and filing relevant forms with the WCB; maintaining claims payment standards through ongoing staff education and supervision; and auditing claims payments through the Company's internal performance management audit program in order to assess employee understanding of claims payment under, and compliance with, Title 39-A.

**Comment 3:**

Test #3 was designed to verify accurate calculation of the average weekly wage and determine if indemnity payments were calculated accurately for both total and partial incapacity. While this category showed marked improvement from the 2002 WCB Audit, the compliance level is still unacceptably low. Incorrect payments resulted from various errors, including:

- Not applying Maine's maximum benefit rate
- Using wrong number of days of lost time because of a disabling injury in benefit calculation
- Incorrect calculation of average weekly wage
- Using benefits table incorrectly – wrong number of dependents

## **Recommendation:**

It is recommended that the Company implement policies and procedures to ensure that claims adjusters understand Title 39-A and WCB regulations and that managers monitor performance regularly to ensure compliance with Maine law. The Company should also apply its internal performance management audit program to indemnity payments.

## **CONCLUSION**

This examination reviewed all workers' compensation indemnity claims for Maine employees with dates of injury during the period of July 1, 2005 thru December 31, 2005. A sample of indemnity claims with dates of injury prior to the examination period and occurring on or after January 1, 1993 that were open during the examination period was also reviewed. In attempting to determine the continuance of questionable claims-handling practices as cited in the WCB Compliance Audit Report dated December 8, 2004 and the consent agreements dated January 2005, we also considered the "Corrective Action Plan Progress Report" issued October 4, 2006 by the WCB Monitoring Division. This progress report essentially states that the Company has failed to meet the goals established in the Corrective Action Plan ("CAP"). The WCB has therefore kept the CAP in place and will monitor the Company for an additional two calendar quarters (4th quarter 2006 and 1st quarter 2007). Considering all this information, we think that, while the Company has made improvements, it has not made the necessary commitment to raise itself to the required level of compliance.

## **ACKNOWLEDGMENT**

Notwithstanding the delays in responding to requests for information that are noted above, the courtesy and cooperation extended by the officers and employees of the Company during the course of the Examination is hereby acknowledged. The Examination was conducted and is respectfully submitted by the undersigned.

STATE OF MAINE

COUNTY OF KENNEBEC, SS

Van E. Sullivan, being duly sworn according to law, deposes and says that in accordance with the authority vested in him by Eric A. Cioppa, Acting Superintendent of Insurance, pursuant to the Insurance Laws of the State of Maine, he has made an examination on the condition and affairs of the

**The Hartford Financial Services Group**

As described in the scope of examination section of the report, subscribed to by him, is true to the best of his knowledge and belief.

The following examiners from the Bureau of Insurance assisted:

Paul C. Greenier  
Carolee B. Nichols

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Van E. Sullivan  
Market Conduct Division Supervisor

Subscribed and sworn to before me  
This 26th day of February, 2007

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Pat Galouch, Notary Public  
My commission expires: