

**REPORT OF TARGETED EXAMINATION**

**OF THE**

**MARKET CONDUCT AFFAIRS**

**OF**

**UNITED AMERICAN INSURANCE COMPANY**

**2909 NORTH BUCKNER BOULEVARD**

**DALLAS, TEXAS 75221**

**AS OF**

**AUGUST 31, 1994**

**NAIC COMPANY CODE 92916**

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April 21, 1995

Honorable James H. "Jim" Brown  
Commissioner of Insurance  
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Baton Rouge, Louisiana 70804-9214

Sir:

Pursuant to your instructions and authorization, and in compliance with statutory provisions, a targeted market conduct examination has been made of the affairs of

**UNITED AMERICAN INSURANCE COMPANY**  
at its Home Office at  
2909 NORTH BUCKNER BOULEVARD  
DALLAS, TEXAS 75221

as of August 31, 1994 and the report of examination is herewith submitted.

## FOREWORD

This Market Conduct Examination Report reflects the insurance activities of United American Insurance Company (UAIC), as of, August 31, 1994.

The Market Conduct Examination is, in general, a report by exception. This means that references to Company practices, procedures or files that are subject to review may be omitted if no improprieties or errors are observed.

Unless otherwise stated, the NAIC Market Conduct Examiners' Handbook was used as a measure of compliance.

## SCOPE OF EXAMINATION

The examination of United American Insurance Company, hereinafter referred to as UAIC or Company, was conducted by the Louisiana Department of Insurance (Department or DOI) in accordance with the laws of the State of Louisiana and the guidelines set forth by the National Association of Insurance Commissioners (NAIC).

This examination covered the period of January 1, 1992 through August 31, 1994. The purpose of this examination was to review compliance by the Company with Louisiana Insurance Laws, Regulations and to determine if the Company's operation was consistent with the public interest.

The examination included, but was not limited to the following areas of the Company's operations.

1. Marketing of Medicare Supplement Policies
2. Louisiana policy form filings with the Department
3. Underwriting practices relating to Medicare Supplements
4. Complaint handling

## COMPANY OVERVIEW

### COMPANY HISTORY AND OPERATIONS

The Company was organized as a limited capital stock life, health and accident insurance company on June 13, 1947 and commenced business on August 13, 1947.

The NU Life Insurance Company of Delaware, incorporated August 14, 1981, was wholly owned by Globe Life and Accident Insurance Company (Delaware) of Oklahoma City, Oklahoma. The Company was formed to facilitate the acquisition and re-domestication of United American Insurance Company (Texas).

On December 31, 1981, all outstanding shares of United American Insurance Company were purchased for a price in excess of \$137 million by Torchmark (formerly Liberty National Insurance Holding Company). United American continues its operations as a freestanding company under its present management with its home office located in Dallas, Texas.

### COMPANY AUTHORIZATION

With regard to the lines of insurance authorized, the Company's operations in Louisiana were in compliance with its Certificate of Authority, which was issued by the Louisiana Department of Insurance and reviewed during this examination.

## **MARKETING**

### **POLICY FORMS AND FILINGS**

Procedures relating to the review of the Company's Louisiana Policy Form Approvals as of August 31, 1994 were performed without exception.

### **REVIEW OF COMPANY'S MEDICARE SUPPLEMENT MARKETING ACTIVITIES**

During two visits to the Company's home office in Dallas, Texas, 431 Louisiana Medicare supplement application files were selected.

According to the application and supporting documentation, the files were sorted by the name of the insurer that had been replaced by the Company. Questionnaires were mailed to replaced insurers, which requested various policy data and copies of policy benefits. This data was compared against the Company's records to determine if the Medicare supplement replacement activities were in compliance with Louisiana Insurance Regulations 33, 33B and Louisiana Revised Statutes Title 22:1214.

In cases where replacement was not evident or policy data and benefits from the replaced insurer were unavailable, the application files were reviewed to determine proper compliance with Regulation requirements for marketing standards, application forms and/or notice of replacement forms.

TOTAL NUMBER OF MEDICARE SUPPLEMENT APPLICATION FILES SELECTED	431
APPLICATION FILES ELIMINATED DUE TO INAPPLICABLE DATA	<u>3</u>
APPLICATIONS EXAMINED	428

SUMMARY OF MEDICARE SUPPLEMENT INSURANCE ERRORS IN  
REPLACEMENT OF OTHER MEDIGAP COVERAGE

The following report is the result of a review of 354 application files involving replacement of other coverage in which 255 contained various errors as indicated by the Error Symbol. Three application files were deleted from the examination because they involved out of state business.

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
1.	R*,A
2.	R*,A
3.	C,R,A
4.	C,R*,A
5.	C,R*,A
6.	C,R*,A
7.	C,R*,A
8.	R*,A
9.	C,R*,A
10.	R*,A
11.	R*,A
12.	R*,A
13.	R,A
14.	R*,A
15.	R*
16.	C,R*,A
17.	C,R,A
18.	C,R*,A
19.	C,R*,A
20.	R*,A
21.	R*
22.	C,R
23.	R*

ITEM #ERROR SYMBOL

24.	C, I
25.	C, I
26.	R*
27.	R*
28.	R*
29.	C
30.	C
31.	C, R*
32.	I
33.	R*
34.	C
35.	C
36.	C
37.	C
38.	C
39.	C, R*
40.	R*
41.	C, I
42.	I
43.	I
44.	C, R*
45.	I
46.	C, R*
47.	C, R
48.	C, R
49.	C, R
50.	C
51.	C
52.	C
53.	C
54.	C
55.	C
56.	C
57.	C
58.	C
59.	C, R*
60.	C, R*
61.	C, R*
62.	C, I
63.	C
64.	C
65.	I
66.	C
67.	C, I
68.	C
69.	C, I
70.	C, R
71.	C, I
72.	C

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
73.	C
74.	C
75.	C,
76.	C,R*,A
77.	C,R*,A
78.	C,R,A
79.	C,R*,A
80.	C,R,A
81.	C,R*,A
82.	C,R*,A
83.	C,R*,A
84.	C,R*,A
85.	C,R,A
86.	C,R*,A
87.	C,R*,A
88.	C,R*,A
89.	C,R*,A
90.	C,R*,A
91.	C,R*,A
92.	C,R*,A
93.	C,R*,A
94.	C,R*,A
95.	C,R*,A
96.	C,R*,A
97.	C,R,A
98.	C,R*,A
99.	C,R*,A
100.	C,R*,A
101.	C,R*,A
102.	C,R*,A
103.	C,R*,A
104.	C,R*,A
105.	C,R*,A
106.	C,R*,A
107.	C,R*,A
108.	C,R*,A
109.	C,R*,A
110.	C,R*,A
111.	C,R*,A
112.	C,R*,A
113.	C,R*,A
114.	C,R*,A
115.	C,R*,A
116.	C,R*,A
117.	C,R*,A
118.	C,R*,A
119.	C,R*,A
120.	C,R,A
121.	C,R*,A

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
122.	C,R*,A
123.	C,R*,A
124.	C,R*,A
125.	C,R*,A
126.	C,R*,A
127.	C,R*,A
128.	C,R*,A
129.	C,R*,A
130.	C,R*,A
131.	C,R*,A
132.	C,R*,A
133.	C,R*,A
134.	C,R*,A
135.	C,R*,A
136.	C,R*,A
137.	C,R*,A
138.	C,R*,A
139.	C,R*,A
140.	C,R*,A
141.	C,R*,A
142.	C,R,A
143.	C,R*,A
144.	C,R*,A
145.	C,R*,A
146.	C,R*,A
147.	C,R*,A
148.	C,R*,A
149.	C,R*,A
150.	C,R*,A
151.	C,R*,A
152.	C,R*,A
153.	C,R*,A
154.	C,R,A
155.	C,R*,A
156.	C,R*,A
157.	C,R*,A
158.	C,R*,A
159.	I,A
160.	C,R*,A
161.	C,R*,A
162.	C,R*,A
163.	C,R,A
164.	C,A
165.	C,R*,A
166.	C,R*,A
167.	C,R*,A
168.	C,R*,A
169.	I
170.	C

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
171.	C,R*
172.	C
173.	C
174.	C,R
175.	C,I
176.	C,R
177.	I
177.	C,R
178.	C,R
179.	I
180.	I
181.	I
182.	I
183.	C
184.	C
185.	I
186.	C,R
187.	C,I
188.	C,I
189.	I
190.	I
191.	C,I
192.	C,R
193.	I
194.	I
195.	C,I
196.	C
197.	C,I
198.	C,I
199.	C,I
200.	I
201.	I
202.	I
203.	C,I
204.	C,I
205.	C,I
206.	C,R
207.	C
208.	C,R*
209.	C,R
210.	C,R
211.	I
212.	C,R
213.	C,R
214.	I
215.	C,I
216.	C,I
217.	C,R
218.	C,R
219.	C,R

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
220.	C,R
221.	C,I
222.	C,R
223.	C,R
224.	I
225.	C
226.	C,R*
227.	C,R
228.	C,R
229.	C,R
230.	I
231.	C,I
232.	C,R
233.	C,I
234.	C,I
235.	C,I
236.	I
237.	I
238.	C,R
239.	C,I
240.	I
241.	I
242.	C,I
243.	C,I
244.	I
245.	C,I
246.	C,I
247.	C,I
248.	C,I
249.	C,R
250.	C,R
251.	C,I
252.	C
253.	C,I
254.	C,I

SUMMARY OF MEDICARE SUPPLEMENT INSURANCE ERRORS  
IN REPLACEMENT BY CONVERSION

The following report is the result of a review of twenty-two (22) of the Company's Medicare supplement policies that were replaced (converted) by another of UAIC's Medicare supplement policies. All 22 cases were cited as errors as indicated by the Error Symbols.

It should be noted that the Company's practices are inconsistent with the computer underwriting page generated with these replacements that indicated that replacement and comparison forms were required with these conversions/replacements.

<u>ITEM #</u>	<u>ERROR SYMBOLS</u>
1.	C,R
2.	C,R
3.	C,R
4.	C,R
5.	C,R
6.	C,R
7.	I
8.	C,I
9.	C,R
10.	C,R
11.	R
12.	C,R
13.	C,R
14.	C,R,A
15.	C,R,A
16.	C,R
17.	C,R
18.	C,R
19.	C,R
20.	C,R
21.	C,R
22.	C,R

SUMMARY OF MEDICARE SUPPLEMENT INSURANCE ERRORS IN  
REPLACEMENT OF NON-MEDIGAP COVERAGE

Nineteen (19) application files were reviewed which clearly involved replacement of accident and sickness coverage other than Medicare supplement insurance. Of this number, the following seven (7) policies were written on improper application forms.

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
1.	A
2.	A
3.	A
4.	A
5.	A
6.	A
7.	A

SUMMARY OF MEDICARE SUPPLEMENT INSURANCE ERRORS-  
NO REPLACEMENT

Twenty-eight (28) application files reviewed indicated that no existing coverage would be replaced by the new UAIC policy. Sixteen (16) were written on improper application forms.

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
1.	A
2.	A
3.	A
4.	A
5.	A
6.	A
7.	A

<u>ITEM #</u>	<u>ERROR SYMBOL</u>
8.	A
9.	A
10.	A
11.	A
12.	A
13.	A
14.	A
15.	A
16.	A

SUMMARY OF MEDICARE SUPPLEMENT INSURANCE ERRORS IN  
REPLACED INSURER UNKNOWN

Five (5) application files reviewed indicated replacement of existing coverage. However, the name of the replaced insurer was either not given on the application form / replacement notice or, two different insurer names were given without a policy number. None of the five included completed comparison forms.

<u>ITEM #</u>	<u>ERROR SYMBOLS</u>
1.	C, R*, A
2.	C, R
3.	C, R*, A
4.	C, R
5.	C, R

## EXPLANATIONS OF ERROR SYMBOLS

- C - Missing, incomplete or improperly completed COMPARISON FORM with application (1)
- R - No REPLACEMENT FORM with these application (2)
- R\* - Errors detected in use of REPLACEMENT FORM with Application (3)
- I - Incomplete REPLACEMENT FORM with application (4)
- A - Incorrect APPLICATION FORM (5)

(1) C - During review of these applications, it appeared Form U-1366 was designed for comparison of benefits to comply with Louisiana Regulation 33, Sections 19A (1), (2), (4) and (5) or, prior to July 20, 1992, with Louisiana Regulation 33B, Sections 16A (1), (2), (3), (5) and (6).

Although UAIC did not intend Form U-1366 to serve as an auditable procedure for verifying compliance with Section 19A, that requirement was met, in some cases, when the form was properly completed and submitted along with the application to the Company. This review of application files revealed missing, incomplete and/or inaccurately completed comparison forms.

Failure of UAIC to establish and enforce marketing procedures for the replacement of accident and sickness insurance is not in compliance with the above regulations.

(2) R - this application files indicated replacement of other existing coverage. Louisiana Regulation 33, Section 17D requires a "Notice to Applicant Regarding Replacement of Medicare Supplement Insurance" form to be completed and signed by the applicant and agent. One copy must be left with the applicant and another must be retained by the insurer. Applications taken prior to July 20, 1992 must comply in the same manner with Louisiana Regulation 33B, Section 14C. Replacement notices issued after July 20, 1992 must include specific reason(s) for replacement. Those issued prior to that date must include a "Statement to Applicant by Agent" which states that the replacement materially improves the position of the applicant.

This review of application files revealed missing replacement notices or notices giving no reason for replacement indicating

non-compliance of the above regulations.

(3) R\* - These application files contained erroneous versions of the "Notice to Applicant Regarding Replacement of Medicare Supplement Insurance" form. Louisiana Regulation 33, Section 17E sets forth the format, language, type size, and "Statement to Applicant by Issuer or Agent" which must be substantially followed. Prior to July 20, 1992, these requirements were set forth in Louisiana Regulation 33B, Section 14D.

Failure to use the proper replacement notices containing all necessary disclosures, signatures, and other requirements is in conflict with the above regulations.

Company forms U-1318RE, U-1318 (17), U-1318LTC and U-1318MS were reviewed during this examination.

(4) I - Some "Notice to Applicant Regarding Replacement of Medicare Supplement Insurance" forms, subsequent to July 20, 1992, were not completed by the agent as required in Louisiana Regulation 33, Sections 17D and 17E.

(5) A - These application files did not contain all of the required questions necessary to elicit information regarding the existence, type and extent of other coverage. Louisiana Regulation 33, Sections 17A and 17B require specific questions and statements on the application form or on a supplementary form. Prior to July 20, 1992, these requirements were set forth in Louisiana Regulation 33B, Sections 14A and 14B.

Failure to include all required questions and statements in or with an application for Medigap coverage is not in compliance with the above regulations.

#### AGENT REVIEW

A review of the Company's marketing procedures regarding commissions earned on Medicare supplement replacements indicated procedural errors in determining whether a replacement policy contained benefits clearly and substantially greater than the benefits under the replaced policy. Such procedures are necessary to determine when to trigger first year commissions as required by Louisiana Regulation 33B, Section 16A (3), on

policies issued prior to July 20, 1992.

As a result of this examination, over 300 cases of agent errors relating to the marketing of Medicare supplement insurance were referred to the Department's Consumer Affairs Division.

These errors were the result of incomplete or improperly completed comparison, replacement and/or application forms. In many cases, no comparison or replacement forms were present with the application.

**UNDERWRITING**  
**REVIEW OF MEDICARE SUPPLEMENT INSURANCE MARKETING PRACTICES**

A review of Company's practices indicated its agents were required to complete a Form U-1366 designed for comparison purposes in replacement transactions. When fully completed, this form would identify the insurer replaced, policy numbers, policy form numbers, premium charged for the policy/certificate replaced and a comparison of common Medigap benefits between plans. After completion, the form is signed and dated by both the applicant and the agent and forwarded to United American as a part of the application whenever replacement was involved.

The completed application, replacement notice and comparison form in combination provided, in most cases, sufficient auditable information to determine compliance with the Standards for Marketing Medicare supplement insurance. A review of the Company's practices in which coverage to be replaced involves a major medical plan or policy other than a Medicare supplement

contract, the Company's comparison form was inconsistent with required standards. Most importantly, the form does not provide space for notation of many non-standard benefits found in older Medigap plans that are no longer available under new standardized plans.

The examiners found only one case out of 19 applications involving replacement of Non-Medigap coverage in which the agent appeared to properly compare the Medigap plan offered to overall coverage under a group major medical plan. In the remaining 18 applications, the agents appeared to be trying to compare only specific Medigap benefit provisions without taking into consideration the usually broad coverages provided by group major medical plans. It should be noted that some group major medical plans (coverage via an actively working employee) would pay primary to Medicare thereby providing valuable coverage unavailable under any Medigap plan.

Some of the comparison forms on these replacements of group major medical plans did not accurately reflect the benefits of the existing coverage by indicating that there were "no benefits".

Procedures are needed to address such replacements in order to determine whether the major medical or other health plan is being replaced due to termination of eligibility or other right to maintain coverage. Many such plans are nonrenewed upon attaining age 65 or upon an insured's effective date of Medicare coverage. Otherwise, procedures are needed to determine whether

Medicare or the group plan to be replaced is primary payor and; whether the group plan contains a coordination of benefits provision applicable to Medicare (combines with Medicare benefit payment to assure up to 100% coverage of eligible charges), a Medicare carve-out provision (determines liability and deducts the Medicare benefit payment therefrom before issuing benefit) or, a nonduplication of benefit provision (will not duplicate any benefit paid by Medicare). With full disclosure of pertinent policy details, the appropriateness of replacing a major medical plan can be determined.

Proper comparison of benefits between older, nonstandardized Medigap plans and newer, standardized plans would be difficult under UAIC's current procedures. The current comparison form used by the Company includes only two nonstandard benefits, coverage of hospital expenses for a private hospital room and coverage of all expenses (NO LIMIT) after Medicare Part A is exhausted. There is no area provided for disclosing other nonstandard benefits. In reference to different standardized plans, a number of agents inaccurately indicated positive answers on comparison forms for both the nonstandard benefits noted.

Many non-standardized plans provide various combinations of the standardized benefits contained in Plans A - J in addition to other valuable benefits no longer available such as extended coverage for Skilled Nursing Facility Services, Vision/Dental Care, Private Nurses, and so forth. Although such a benefit is available in several standardized plans, it is not listed on the form for

comparison purposes.

By failing to disclose the potential loss of other benefits in its replacement activities, the Company cannot assure that the benefit comparisons conducted by its agency force are fair and accurate. Such omitted benefits may be of substantial value to an insured. Furthermore, the Company does not require agents to complete the comparison form for any plan, which is, standardized (A - J).

UAIC and its appointed agents cannot accurately determine the appropriateness of a replacement without complete comparison information. For example, a replacement notice giving the reason for replacement as "Additional Benefits" with a comparison form indicating the addition of coverage for the Medicare Part B Deductible. If premiums remain the same or are only slightly higher for the plan to be issued, the replacement appears appropriate. The loss of other valuable benefits not disclosed on the comparison form may offset the additional coverage of the Part B Deductible.

A significant number of Medicare supplement application files reviewed either did not include a completed comparison form or, included only a partially completed comparison form. For example, five application files clearly reported existing coverage to the Company. One indicated that the applicant could not remember the name of the insurer for the current coverage. Apparently, no comparison of benefits was performed by the agent. There was no evidence that the Company made any effort to secure

properly completed comparison forms prior to issuing the five policies.

Most applications taken prior to standardization of benefits, included in the sampling, did not include completed comparison forms or, any other method of assuring fair and accurate comparison of policies by agents. The majority of application forms in the sampling, accepted by the Company for pre-standardized Medigap coverage, did not contain the required questions set forth in Regulation 33B, Sections 14A and 14B. Furthermore, inappropriate replacement notices were issued with most applications written prior to standardization. The replacement notices used did not include a "Statement to Applicant by Agent", appropriate disclosures, or the signature and typed name and address of the agent as required by Regulation 33B, Sections 14C and 14D.

Partially completed comparison forms affect auditability of the Company's marketing procedures. Several application files reviewed did not give the full name of the insurance company or the premium charged for the policy to be replaced. Most did not give the policy form number, which can be used by the Department to identify approved contracts and compare benefits.

The information provided on some of the comparison forms conflicted with the information given on the application and/or replacement form. For example, one comparison form indicated replacement of a Plan F for a Plan F with a replacement notice giving the reason for replacement as "Additional Benefits". On

another replacement, the application form indicated a different current insurer than the insurer named on the comparison form. There was no evidence that the Company made any effort to resolve these discrepancies.

Essentially, the Company's application files did not demonstrate that UAIC followed the marketing procedures established for Medicare supplement replacements.

However, through the Company's written response to an early draft of this report and subsequent informal meetings, examiners were informed that UAIC never intended the comparison form (Form U-1366) be used in Louisiana for the purpose of complying with the Standards for Marketing stated in Section 19A (1), (2), (4) and (5) of Louisiana Regulation 33.

Examiners were advised the comparison form was developed by UAIC to provide a basis for the Company to monitor the payment of appropriate agent commissions for Medigap replacement policies issued prior to Louisiana's leveling of replacement commissions in 1992. The methods used by UAIC for monitoring compliance with required Standards for Marketing were identified as 1) the replacement notice, 2) the NAIC Guide to Health Insurance for People with Medicare, 3) the federally prescribed outline of coverage and, 4) the detailed outline of coverage approved by the DOI for use in marketing Medigap coverage in Louisiana.

Section 19A lists the Standards for Marketing required under Regulation 33 in five numbered paragraphs. Either directly or through its producers, the insurer shall establish marketing

procedures to **assure** (1) any comparison of policies by its agents or other producers will be fair and accurate and, to **assure** (2) excessive insurance is not sold or issued. The replacement notice, Guide to Health Insurance for People with Medicare and outlines of coverage are all procedures *already* established by state and/or federal regulations. None of these documents provide sufficient information to allow an insurer to assure compliance.

Paragraph (4) of Subsection 19A requires the insurer to inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance. Again, the replacement notice, Guide to Health Insurance, etc. and outlines of coverage do not furnish the information necessary to assure compliance.

Finally, paragraph (5) of Subsection 19A directs the insurer to establish auditable procedures for verifying compliance with this Subsection A. Here again, the replacement notice, Guide to Health Insurance, etc. and outlines of coverage fail to provide complete, auditable information to verify UAIC's compliance.

This examination reveals several problem areas. First of all, agents may not have been properly trained and/or informed of Louisiana's Standards for Marketing Medigap coverage. Secondly, by UAIC's failure to establish its own marketing procedures to assure compliance, the Company has demonstrated deficient

knowledge of the laws of this state and a lack of concern for its citizens. This underwriting review indicates that the Company failed to consistently enforce state and/or federally mandated requirements through acceptance of incomplete applications without proper review or follow-up.

UAIC and its agents treated replacement of an existing United American Medigap policy with a new United American Medigap policy as a "conversion". Twenty of the twenty-two replacement by conversion applications reviewed contained no comparison form and/or replacement notice.

The Company and its agents also treated replacement of existing Globe Life and Accident Insurance Company's Medigap policies with new United American Medigap policies as "conversions". Although Globe Life was unable to respond to a late examination request for policyholder information before the initial report was completed, a limited review of four application files revealed that all four contained no comparison forms and three did not contain replacement notices.

Replacement involves any action where a policyholder intends to lapse or otherwise terminate an existing Medicare supplement policy and replace it with another. All such activity should be performed in full accord with all established marketing and underwriting procedures.

LAPSE / TERMINATION OF REPLACEMENT POLICIES

Findings indicating the Company has failed to establish and enforce proper marketing procedures appears supported by the poor retention rate for replacement policies. A significant percentage of replacement policies sold by the Company's agents were rejected during the thirty (30) day "Free Look" period or cancelled within the first 60 days of coverage.

STATUS OF TERMINATION	NUMBER OF POLICIES TERMINATED/LAPSED	PERCENTAGE OF TOTAL
Rescission	0	0%
Deceased (12) Converted (23)	35	8.2%
Currently Active	57	13.5%
In Force 60 Days or More	132	30.6%
In Force 60 Days or Less	45	10.5%
"Free Look" 30 Day Trial Exam. Period	159	37.2%

## POLICYHOLDER TREATMENT

### CONSUMER COMPLAINTS

The NAIC defines a complaint as a written communication primarily expressing a grievance. Complaints filed with the Department generally consisted of complaints due to the insured's misunderstanding of the policy provisions, delays in handling insured's requests, delays in payments due the insured, or dissatisfaction with the insurer's claim practices.

Consumer complaints involving the coverage type of Medicare supplement insurance were reviewed at the Department. United American received a significantly low number of complaints involving the issues of claims handling and underwriting as compared to other insurers. However, the Company consistently ranked first in the number of complaints involving marketing practices related to the sale of United American's Medicare supplement insurance products.

It was recommended to the Company during the examination that UAIC should review Medicare supplement complaints involving marketing practices very carefully in order to determine whether the agent complied with the required Standards for Marketing. The statistics on the following pages show United American Insurance Company leading all other insurers in this state in the total number of complaints involving marketing of Medicare supplement insurance.

*	LOUISIANA		NAME OF COMPANY	NUMBER OF MEDSUP MARKETING COMPLAINTS				
	PREMIUM VOLUME 1993	1994		'90	'91	'92	'93	'94
	61,054,865	60,786,180	Blue Cross of LA	(1) .. (1) .. (1) .. (0) .. (2)				
	53,265,385	46,706,536	Prudential [AARP]	(0) .. (0) .. (0) .. (0) .. (0)				
	10,921,211	10,891,142	UNITED AMERICAN	(3) .. (7) .. (15) .. (21) .. (13)				
	5,162,001	9,462,374	Physicians Mutual	(0) .. (1) .. (1) .. (1) .. (0)				
	7,892,815	8,388,663	Bankers L&C	(0) .. (0) .. (1) .. (0) .. (0)				
	6,060,457	4,738,124	Commonwealth Natl	(0) .. (2) .. (0) .. (0) .. (1)				
	4,433,113	7,882,664	Anthem Life of IN	(0) .. (0) .. (0) .. (0) .. (1)				
	4,231,020	4,991,896	Amer Family Life	(1) .. (0) .. (3) .. (1) .. (1)				
	3,784,490	3,118,452	Colonial Penn	(1) .. (0) .. (0) .. (0) .. (0)				
	3,124,073	2,845,281	Standard L&A	(0) .. (2) .. (1) .. (0) .. (0)				
	2,942,050	3,161,849	Amer General L&A	(1) .. (1) .. (1) .. (0) .. (0)				
	1,603,794	1,785,515	Golden Rule	(1) .. (0) .. (0) .. (0) .. (0)				
	1,190,536	1,044,261	Mutual Protective	(1) .. (1) .. (0) .. (0) .. (0)				
	**759,865	1,019,076	Life of Georgia	(1) .. (0) .. (2) .. (0) .. (0)				
	***	***	Amer Protective	(0) .. (1) .. (1) .. (0) .. (0)				
	***	***	Amer Travellers	(2) .. (1) .. (0) .. (0) .. (1)				
	***	***	Amer Union Life	(0) .. (1) .. (0) .. (0) .. (0)				
	***	***	Anthem Life	(0) .. (0) .. (0) .. (1) .. (0)				
	***	***	Equitable L&C	(2) .. (1) .. (0) .. (1) .. (0)				
	***	***	First Fidelity	(1) .. (0) .. (0) .. (0) .. (0)				
	***	***	Central State H&L	(0) .. (0) .. (0) .. (0) .. (1)				
	***	***	Continental of TN	(0) .. (0) .. (0) .. (0) .. (1)				

*	LOUISIANA		NAME OF COMPANY	NUMBER OF MEDSUP MARKETING COMPLAINTS				
	1993	1994		'90	'91	'92	'93	'94
***	***	***	Kanawha	(0)	..(0)	..(0)	..(0)	..(1)
***	***	***	Life Investors	(0)	..(0)	..(0)	..(0)	..(1)
***	***	***	Monumental Life	(0)	..(0)	..(0)	..(0)	..(1)
***	***	***	Mutual of Omaha	(0)	..(0)	..(1)	..(0)	..(0)
***	***	***	Natl Foundation	(0)	..(0)	..(0)	..(0)	..(1)
***	***	***	Natl States	(1)	..(1)	..(0)	..(0)	..(0)
***	***	***	Pioneer Life	(0)	..(0)	..(0)	..(0)	..(1)
***	***	***	Statesman Natl	(1)	..(0)	..(0)	..(0)	..(0)
***	***	***	United Teachers	(0)	..(0)	..(0)	..(1)	..(0)

\*As reported on '93 & '94 Medicare Supplement Experience Exhibits

\*\*Business reported prior to 1/1/94 by Associated Doctors H&L

\*\*\*These companies reported less than one million dollars

Compliance examiners at the Department report on-going problems with receiving proper responses from the Company. The primary area of concern is United American's failure to furnish complete explanations with supporting documentation addressing all issues alleged and/or brought out in the course of investigating a consumer complaint. Such lack of content to the Company's responses necessitated repeated requests from the DOI for specific explanations and relevant documentation. The end result were unnecessary delays in bringing consumer complaints to a final resolution.

## SUMMARY OF TOTAL ERRORS

The results of this examination show that after a review of 354 of UAIC's Medicare supplement insurance applications, 255 contained at least one error of regulation or statute.

In addition, a review of 22 Medicare supplement replacements by conversion revealed all 22 had at least two or more errors. Out of 19 application files involving replacement of non-Medigap coverage, 7 were found to contain one error each.

Twenty-eight application files indicating no existing coverage to be replaced were reviewed and 16 were determined to contain one error each. Finally, 5 application files sampled indicated the existence of other, unidentified coverage to be replaced. Each of the 5 contained a minimum of two errors.

The total number of errors of Louisiana Medicare supplement insurance regulations alleged, as a result of this examination was 622. The various categories of errors are as follows:

- 234 - Errors of Louisiana Regulation 33, Sections 19A (1), (2), (4) and (5). Prior to July 20, 1992, Regulation 33B, Sections 16A (1), (2), 3, 5, and 6.
- 63 - Errors of Regulation 33, Section 17D. Prior to July 20, 1992, Regulation 33B, Section 14C.
- 120 - Errors of Regulation 33, Section 17E. Prior to July 20, 1992, Regulation 33B, Section 14D.
- 66 - Errors of Regulation 33, Sections 17D and 17E. Prior to July 20, 1992, Regulation 33B, Sections 14C and 14D.
- 139 - Errors of Regulation 33, Sections 17A and 17B. Prior to July 20, 1992, Regulation 33B, Sections 14A and 14B.

## COMMENTS AND RECOMMENDATIONS

It is recommended that UAIC establish and enforce auditable marketing and underwriting procedures for Medicare supplement insurance which will be in compliance with applicable regulations and statutes. Furthermore, the Company is encouraged to develop a Training and/or Compliance manual containing detailed descriptions of the marketing and underwriting procedures to be followed by its agent producers. The manual(s) should inform agents of the consequences for failure to properly adhere to the requirements contained therein. Proper enforcement of those required procedures after diligent review of and follow-up on applications received should eventually eliminate the Company and agent errors depicted in this examination report.

Specifically, the Company's Comparison Form (U-1366), utilized for comparison of policy benefits, should become a requirement after revision to accommodate comparison of nonstandard benefits found in older Medigap plans which are no longer available under standardized plans. In addition, this form should be revised or a different form designed to elicit coverage information relating to non-Medigap plans such as group major medical coverage. The Compliance / Training manual(s) should explain how to review nonstandard and non-Medigap plans and direct agents in appropriate comparison between such plans and a standardized Medigap policy. Regardless if the current policy is a "model" or standardized plan, the comparison

policy is a "model" or standardized plan, the comparison information should completely disclose each benefit on the form. Finally, it is recommended that any manual should specifically inform agents that Automatic Claims Filing (ACF) is a service, not a benefit. Should ACF be given as the reason for replacement on a replacement notice, it must be stated in the "Other" category and so identified in the blank space following.

Finally, it is recommended that UAIC promptly acknowledge all complaint inquiries from the Department. Each complaint should be thoroughly investigated by the Company's Compliance Specialists and, if necessary, its Field Office Managers. United American may anticipate the Department's review of all aspects of the required Standards for Marketing in connection with every complaint involving Medicare supplement insurance and be prepared to fully address any discrepancies or improper activity noted.

Reports of the Company's findings to the Department should include a detailed narrative explanation, copies of all available documentation (entire application file, agent's statement, etc.) and a full description of the Company's actions taken or proposed to resolve any wrongdoing discovered by the Company. In the event additional time is needed to allow for complete response, a request should be made to the Department within the allowed time stated in the Department's written inquiry. Should there be any confusion or misunderstanding arising out of a departmental directive, UAIC's compliance specialists are welcome to telephone the DOI compliance examiner handling the complaint.

## **SAMPLING METHODOLOGY**

Prior to the first visit to the Company the examiner requested that a computer listing of Louisiana Medigap Replacements be prepared in order to expedite this review at the Company's home office. This request was important, as the Company had requested the Department to conduct the on-site review of this targeted examination in one week. The Company indicated this request was due to other examinations in progress at the Company's home office.

Upon arriving at the Company the examiner was provided a computer listing titled *UNITED AMERICAN INSURANCE COMPANY-LOUISIANA MED-SUPP ISSUED POLICES*. The examiner selected a small test sampling and determined that this computer listing contained Louisiana Medigap replacements as well as new business issued.

At this point the examiner asked the Company to rerun this listing and provide the Medigap replacements as originally requested. The Company responded that it was not possible to provide a listing with only Medigap replacements. After several discussions with the Company, the Company did agree to rerun this computer listing with a "Y" next to the policies that were Med-Supp replacements.

Due to the time frame and listing provided by the Company the only sampling that could be extracted was an "at random sampling" of policies with the "Y" indicator.

Initially, the Department had requested that a sampling of approximately 200 Medigap replacement policies be selected. After returning to the Department and reviewing the first sampling a large number of errors were detected. At that point it was decided that the examiner should return to the Company and sample another 200 Medigap replacement policies.

The second "at random sampling" of approximately 200 Medigap replacement policies was performed by using the same computer run and the same methodology as previous explained.

## CONCLUSION

Acknowledgement is made of the courteous cooperation of the Officers and Employees of UAIC during this examination.

In several meetings with Officers of the Company, assistance in developing marketing procedures acceptable to the Department and input on revising UAIC's comparison form was requested from DOI examiners.

As a result, the Company's Officers have submitted a proposed comparison form revised from the original Form U-1366. To avoid agent error in disclosure of the benefits for UAIC standardized plans marketed in Louisiana responses are pre-printed beside each benefit listed for comparison. The Company has assured that all standardized benefits are listed and included a additional line for disclosure of other benefits or services found in non-Medigap and non-standardized Medigap plans.

Compliance examiners from the Department's Consumer Affairs Division will continue to work with UAIC Officials and staff to complete revision of the Company's comparison form and as otherwise needed.

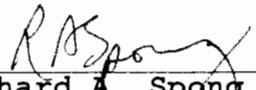
I, the undersigned, hereby certify that a Market Conduct Examination has been made of United American Insurance Company, and the preceding report of examination results are true to the best of my ability.

The original report draft was dated April 21, 1995 and submitted to the Company on May 16, 1995. After subsequent

meetings a final revised report was submitted to the Company in June, 1998.

In addition to the undersigned, Pamela P. Williams, Compliance Examiner, representing the Department's Consumer Affairs Division participated in this examination.

Respectfully submitted,

  
Richard A. Spong, CFE, AIE  
Department of Insurance  
State of Louisiana

## APPENDIX

### REVIEW OF MEDICARE SUPPLEMENT MARKETING REGULATIONS

Louisiana Revised Statutes 22:224C directs the Commissioner of Insurance to issue reasonable regulations in order to establish specific standards for policy provisions of Medicare supplement (also referred to as "Medigap") insurance policies and certificates. The standards include **nonduplication of coverage, marketing practices and requirements for replacements.**

Louisiana Regulation 33B became effective January 20, 1991, setting forth minimum standards for Medicare supplement insurance. It was revised and renamed Regulation 33 effective July 20, 1992. Except for standardization of coverage accomplished with the current version, the purposes for each regulation have always been to simplify terms and benefits, to facilitate public understanding and comparison of policy benefits, to eliminate provisions contained in such policies which may be misleading or confusing in connection with the purchase of such policies or with the settlement of claims, and to **provide for full disclosures in the sale of accident and sickness insurance coverages to persons eligible for Medicare.**

Section 19A of Regulation 33 (prior to 7/20/92: Section 16A of Regulation 33B), states the **Standards for Marketing.** Insurers are directed to do the following:

1. Establish marketing procedures to assure that any comparison of policies by its agents will be fair and accurate.
2. Establish marketing procedures to assure excessive insurance is not sold or issued.

3. [Reg. 33B] Establish marketing procedures which set forth a mechanism or formula for determining whether a replacement policy/certificate contains benefits clearly and substantially greater than the benefits under the replaced policy in order to trigger first year commissions.

4. [Reg. 33B - 5] Inquire and otherwise make every reasonable effort to identify whether a prospective applicant already has accident and sickness insurance and the types and amounts of any such insurance.

5. [Reg. 33B - 6] Establish auditable procedures for verifying compliance with this Subsection A.

Sections 20A of Regulation 33 and 17A of Regulation 33B charge agents with the responsibility of making reasonable efforts to determine the appropriateness of a recommended purchase or replacement before making recommendation of purchase or replacement. Section 20B of Regulation 33 strictly prohibits the sale of Medicare supplement coverage which will provide an individual with more than one Medicare supplement policy or certificate.

The above Standards for Marketing may be partially met by proper compliance with the Regulations' requirements for application and replacement forms.

1. Section 17A, B & C - Application forms must include certain questions designed to elicit information as to whether the applicant has another Medigap or other health insurance policy/certificate in force or, whether a Medigap policy/certificate is intended to replace any other policy/certificate of accident and sickness insurance presently in force.

(Regulation 33B, Sections 14A & B)

2. Section 17D - Upon determining that a sale will involve replacement of Medigap coverage, the issuer must furnish the applicant, prior to issuance or delivery of the Medigap policy/certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent must be provided to the applicant and an additional signed copy must be retained by the issuer.

(Regulation 33B, Section 14C)

3. Section 17E - The required notice must be provided in a certain format, language and type size and, include a "Statement to Applicant by Issuer or Agent". The statement section of the older version of the Regulation states, "I believe the replacement of insurance involved in this transaction materially improves your position" and goes on to disclose the factors considered. The current version of the Regulation states that

"The replacement of insurance involved in this transaction does not duplicate coverage, to the best of my knowledge" and includes a checklist of reasons for replacement. On both versions, the full name and address of the Company and the agent must be typed or printed clearly.

(Regulation 33B, Section 14D)