



# THE STATE OF FLORIDA

## OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

**TARGET MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**KANAWHA INSURANCE COMPANY**

**ISSUED ON**

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## EXECUTIVE SUMMARY

A targeted review of Kanawha Insurance Company's annual rate certification filings, annual Medicare Supplement filings, forms and rates filings, and anti-fraud plan was conducted. The following table represents general findings; however, specific details are located in each section of the report.

<b><u>TABLE OF TOTAL VIOLATIONS</u></b>			
<b>Statute/Rule</b>	<b>Description</b>	<b>Number of Violations</b>	<b>Number Reviewed</b>
627.410(7)(a)	Failure to make annual rate certification filings.	302	72 Forms
627.410(7)(a)	Failure to make annual rate certification filings within 12 months after a previous filing.	105	85 Forms
627.410(7)(d)	Failure to make an annual rate certification filing within 60 days after the date the filing was due.	1	1 Form
627.6745(2)	Failure to file annual Medicare Supplement rates.	10	3 Forms
627.410(1) & (6)(a)	Use of unapproved forms and rates.	1,715	7 Forms
627.6515(4)	Use of disapproved forms.	628	1 Form
627.410(1)	Failure to file forms for informational purposes (out of state group supplemental health products).	270	2 Forms
627.410(1)	Failure to file forms for informational purposes (out of state group life products).	229	1 Form
627.410(1)	Failure to file forms for informational purposes (PEO master policies).	27	8 Forms
627.410(1)	Failure to file forms for informational purposes (PEO certificates of coverage).	4,340	8 Forms
626.9891(3)(b)	Failure to report suspected fraudulent insurance acts to the Division of Insurance Fraud.	1	32 Files

## PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations, conducted a target market conduct examination of Kanawha Insurance Company (Company) pursuant to Section 624.3161, Florida Statutes. The examination was performed off-site by Fatzinger Consulting, Inc. The scope period of this examination was January 1, 2008, through May 31, 2013. The examination began July 22, 2013, and ended October 30, 2013.

The purpose of this examination was to review the Company's compliance with:

- Annual rate certification filings required by Section 627.410(7), Florida Statutes;
- Annual Medicare Supplement rate filings required by Section 627.6745(2), Florida Statutes; and
- Form and rate filings required by Sections 627.410(1), 624.410(6), 627.6515(4), and 627.5515(4), Florida Statutes.

The examiners reviewed:

- Policyholder lists to identify policy forms issued in Florida;
- Rate filing procedures;
- Form filings and policy effective dates to determine if forms and rates were approved before issuance;
- Form filings and policy effective dates to determine if out of state master policies and certificates of coverage were filed for informational purposes;
- Form filings to determine if annual rate certifications were filed no later than 12 months after previous filings;
- Medicare Supplement filings to determine if annual rate filings were made; and
- Anti-Fraud Plans to ensure filings were made and plans were implemented.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company. Procedures and conduct of the examination were in accordance with the *Market Regulation Handbook* produced by the National Association of Insurance Commissioners.

## COMPANY OPERATIONS

Kanawha Insurance Company is a foreign Life and Health insurer licensed to conduct business in the State of Florida on August 4, 1988. The Company provides Accident and Health, Life, Group Life, and Annuity coverage in the State of Florida.

Total Direct Premiums Written in Florida for Accident and Health (A&H) are as follows:

Year	Total Written A & H Premium In Florida (Per Schedule T of the Annual Statement)
2008	\$18,233,079
2009	\$17,943,172
2010	\$18,568,253
2011	\$24,617,822
2012	\$26,815,153
2013	\$20,214,673

On November 30, 2007, Humana Inc. purchased KMG America, owner of Kanawha Insurance Company and its affiliates. Corporate actuarial work and certain compliance support are performed in the Company's offices located in Lancaster, SC. Actuarial pricing support is performed in Humana's Louisville, KY office.

The Company currently offers the following product portfolios:

- **Workplace Voluntary Benefits** comprise critical illness, hospital indemnity, disability income, accident, specified disease or cancer supplemental health, whole and term life insurance policies. These products are sold exclusively to employees at employer worksites by agents and brokers. Premium payments are made through payroll deduction.
- **Financial Protection Products** are sold directly to consumers through agents and brokers as part of HumanaOne's portfolio of offerings. As of May 31, 2013, the Company offers one critical illness supplemental health insurance policy in Florida.
- **Group Core Benefits** comprise short and long term disability income and group term life insurance policies sold through agents and brokers.

## **REINSURED AND ACQUIRED BUSINESS REVIEW**

### **Metropolitan Life**

The Company entered into a 100% coinsurance contract with Metropolitan Life (Met) effective July 1, 1995. Kanawha Health Solutions (KHS), a third party administrator licensed in Florida as of February 8, 2001, administers all Met hospital indemnity and expense policies subject to the coinsurance agreement. Met records are maintained in three locations:

- Policies are administered by Gilsbar, a Covington, LA third party administrator engaged by KHS to fulfill its obligations to Met;
- Historical records, including historical experience data, are maintained in Lancaster, SC; and
- Current experience data and historical electronic records are maintained in Louisville, KY. In this location, actuaries prepare rate increase and annual rate certification filings, and manage the Gilsbar relationship.

### **Life of Virginia**

Supplemental health insurance products, including hospital indemnity, hospital income, disability income, cancer expense and accidental death and dismemberment policies, were acquired via Assumption Reinsurance effective July 1, 1990. Under the acquisition, the Company became the policy writer. No new business was issued by the Company under Life of Virginia and records are maintained in two locations:

- Historical records, including experience data, customer service, premium receipt, and claims administration are maintained in Lancaster, SC; and
- Product oversight and actuarial support, including support for rate filings, are performed in Louisville, KY.

### **Professional Investors Life Insurance Company**

Supplemental health insurance products, including accident only, hospital and surgical expense, hospital indemnity, and accidental death and dismemberment policies, were acquired via Assumption Reinsurance effective January 1, 1990. Under the acquisition, the Company became the policy writer. No new business was issued by the Company under Professional Investors and records are maintained in two locations:

- Historical records, including experience data, customer service, premium receipt, and claims administration are maintained in Lancaster, SC; and
- Product oversight and actuarial support, including support for rate filings, are performed in Louisville, KY.

### **United Life and Annuities**

The Company was contracted for policy administration by United Life and Annuities (United), an ING affiliate, which ceded 100% of the risk to the Company in 1999 for policies dating from 1971 through 1986. United's accident and health business includes one disability income policy, as well as cancer, and accidental death and dismemberment policies.

## **CLOSED BOOKS OF BUSINESS REVIEW**

The Company sold Medicare Supplement policies from 1992 until 1997. As of May 31, 2013, 142 policies remain in force. Long term care policies were sold from 1995 until 2005. As of May 31, 2013, 8,985 policies remain in force.

## **RATE FILING PROCESS REVIEW**

The Company's rate filings are overseen by Humana's actuaries in the following divisions:

### **Specialty Benefits Division**

The Specialty Benefits Division manages rate filings for Workplace Voluntary Benefit products as well as employer and non-employer paid short and long term disability products. As of January 2013, rate filings for cancer, critical illness, accident, disability, and hospital indemnity products are produced by a Workplace Voluntary Benefits actuary located in Milwaukee, WI. Employer paid group short and long term disability products are overseen by an actuary located in Green Bay, WI. This actuary also works with Group Reinsurance Plus to determine the long and short term disability rates. The Specialty Benefits Division works with HumanaOne for Financial Protection Product rate filings.

The Specialty Benefits Division also manages rate filings for Professional Investors' and Life of Virginia's closed books of business. The responsibility for obtaining historical data for these filings is assigned to Corporate Actuarial Operations located in Louisville, KY. In 2012, rate filing operations began moving from the Specialty Benefits Division to Corporate Actuarial Operations. The move will be complete in 2014.

- 1) **FINDING**: The Company does not maintain formal written rate filing procedures for these products. The following process was described:

Each January, the assigned actuary identifies the deadlines for submitting annual rate certifications based on the prior year's submission. For products overseen by the actuary in the Milwaukee, WI office, the required annual rate certification or rate requests are filed annually in March. The Company maintains filing documents on a shared drive and filing information is tracked on an Excel spreadsheet. In a Corrective Action document dated December 2012, the Company informed the Office that the Excel spreadsheet would be amended to include a column reflecting the next filing due date. A screenshot of the Excel spreadsheet provided in 2013 did not contain the new column.

- 1a) **CORRECTIVE ACTION**: The Company should adopt formal written rate filing procedures and utilize tracking mechanisms that ensure timely rate filings and certifications are made.

## Corporate Actuarial Operations

Located in Louisville, KY, Corporate Actuarial Operations manages rate filings for long term care, Met, and United. A formal written rate filing procedure, dated December 7, 2010, was provided for Met's accident and health products acquired from KMG.

Medicare Supplement filings are overseen by the Senior Products Division located within Corporate Actuarial Operations. A second formal written rate filing procedure, dated March 30, 2011, was provided and included Medicare Supplement policies. In a Corrective Action Plan dated May 13, 2013, the Company provided the Office with a detailed rate filing procedure for Medicare Supplement policies. Documents are maintained on a shared drive and filings are tracked on an Excel spreadsheet with a column reflecting the next filing due date.

Oversight of long term care rate filings is assigned to a separate actuary and tracked on an Excel spreadsheet.

- 2) **FINDING:** The Company does not maintain written rate filing procedures for the acquired blocks of United business or for long term care policies.
- 2a) **CORRECTIVE ACTION:** The Company should adopt formal written rate filing procedures and utilize tracking mechanisms that ensure timely rate filings and certifications are made.

## ANNUAL RATE CERTIFICATION FILING REVIEW

A review of the Company's annual rate certification filings was completed and the following violations are noted:

- 1) **In 302 instances involving 72 base forms, the Company failed to make annual rate certification filings, as required by Section 627.410(7)(a), Florida Statutes.**
  - 1a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure annual rate certifications are made, make or refile all delinquent annual rate certifications, and utilize tracking mechanisms that ensure annual rate certifications are made.
  - 1b) **COMPANY RESPONSE:** The Company agreed with these violations.
- 2) **In 105 instances involving 85 base forms, the Company failed to make annual rate certifications within 12 months after its previous filing, as required by Section 627.410(7)(a), Florida Statutes.**
  - 2a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure annual rate certifications are filed no later than 12 months after the previous filing, and make or refile all delinquent annual rate certifications.
  - 2b) **COMPANY RESPONSE:** The Company agreed with these violations.

- 3) **In one (1) instance, after receiving approval for a 30 day extension, the Company failed to make the annual rate certification filing within 60 days after the date the filing was due, as required by Section 627.410(7)(d), Florida Statutes.**
- 3a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure annual rate certifications are made no later than 60 days after the filing is due, and make or refile all delinquent annual rate certifications.
- 3b) **COMPANY RESPONSE:** The Company disagreed with this violation but counted the number of days using the date of an incomplete filing, not the date the filing was accepted by the Office.

The following was also noted during the examination:

- 1) **FINDING:** The Company reported a total of 28 riders associated with long term care policies and 25 riders associated with supplemental health policies. In certain filings, the Company made generic references to the associated riders; in others, the Company specifically referenced the form numbers of the riders.
- 1a) **CORRECTIVE ACTION:** The Company should specify the form numbers for all riders in rate or annual rate certification filings.

#### **MEDICARE SUPPLEMENT RATE FILING REVIEW**

A review of the Company's annual rate filings for Medicare Supplement policies was completed. The review revealed the Company included two (2) policy forms covering Florida residents who moved to Florida after coverage was issued out of state in rate filings made in 2010 for Florida approved forms. The following violations are noted:

- 1) **In 10 instances involving three (3) forms, the Company failed to file annual Medicare Supplement rates, as required by Section 627.6745(2), Florida Statutes.**
- 1a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure Medicare Supplement rates are filed annually and make or refile all delinquent Medicare Supplement rates.
- 1b) **COMPANY RESPONSE:** The Company agreed with these violations.
- 1c) **SUBSEQUENT EVENT:** Upon completion of the examination, the Company made two additional filings involving the same three (3) forms on February 14, 2014, and March 27, 2014. Both filings were returned incomplete on February 17, 2014, and April 14, 2014, respectively, as neither filing satisfied annual rate filing requirements.
- 1d) **COMPANY RESPONSE:** The Company submitted rate filings to the Office for the three (3) Medicare Supplement forms on or before December 2014, and the Company will quickly revise and resubmit such filings if they are disapproved or returned as incomplete by the Office.

## FORM AND RATE FILING REVIEW

A review of the Company's forms and rates filings was completed by comparing the effective date of the form to the effective date of the policy or certificate of coverage. The following violations are noted:

- 1) **In 1,715 instances involving seven (7) forms, the Company issued coverage using forms and rates that were not approved by the Office, in violation of Sections 627.410(1) and (6)(a), Florida Statutes.**
  - 1a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure forms and rates are not used until approved by the Office. The Company should review all rates charged for accuracy, and refund, with interest, all overpaid premiums. The Company should review all forms and reissue utilizing only forms approved by the Office.
  - 1b) **COMPANY RESPONSE:** The Company agreed with these violations and implemented a corrective action plan for 532 violations involving long and short term group disability forms. The Company confirmed it reimbursed \$3,183.27 to four groups that were charged higher rates than those approved by the Office
- 2) **In 628 instances involving one (1) form, the Company issued certificates of coverage to Florida residents on an out of state trust form that was disapproved by the Office, in violation of Section 627.6515(4), Florida Statutes.**
  - 2a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure disapproved filings are reviewed and obtain the appropriate approval prior to issuing forms. The Company should review all forms and reissue utilizing only forms approved by the Office.
  - 2b) **COMPANY RESPONSE:** The Company agreed with these violations but noted that the forms included in the disapproved filing were consistent with Florida law.
- 3) **In 270 instances involving two (2) forms, the Company failed to file forms for informational purposes for out of state group supplement health products issued to Florida residents, in violation of Section 627.410(1), Florida Statutes.**
  - 3a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure all forms issued to Florida residents who are members of out of state groups are filed for informational purposes. The Company should identify all out of state group supplement health products delivered to Florida groups and make informational filings with the Office.
  - 3b) **COMPANY RESPONSE:** The Company agreed with these violations.
- 4) **In 229 instances involving one (1) form, the Company failed to file forms for informational purposes for life products issued to Florida residents who are employees of out of state employer groups and/or trusts, in violation of Section 627.410(1), Florida Statutes.**

- 4a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure all forms issued to Florida residents who are members of out of state groups are filed for informational purposes. The Company should identify all out of state life products delivered to Florida groups and make informational filings with the Office.
- 4b) **COMPANY RESPONSE:** The Company agreed with these violations.

### **OUT OF STATE GROUP MASTER POLICY SITUS**

During a review of the Company's life insurance applications, it was noted that Florida residents were issued Georgia certificates of coverage. This finding prompted a review of the master policies issued to groups associated with Florida residents. The review was expanded to include supplemental health policies. The following findings were noted:

- Group A<sup>1</sup> is a Professional Employer Organization (PEO) and a Florida for-profit domestic corporation located in West Palm Beach, FL.
- Group applications show Group A has an Atlanta, GA business address.
- Group applications show Group A has a West Palm Beach, FL billing address.
- Group applications show the situs state as Georgia.
- The 2006 and 2009 group applications were dated at West Palm Beach, FL.
- The 2010 group application was dated at Atlanta, GA.
- Master policies provided to the examiner were mailed to West Palm Beach, FL.
- The agent of record is a Florida resident agent.
- Group A employees were offered supplement health and life insurance products including critical illness, disability income, accident, supplemental health, and term life.
- The Company issued 3,925 certificates of coverage to Florida residents who were Group A employees and 31 certificates were issued to internal employees of Group A.
- The Company issued 16 master policies to Group A for external and internal employees involving 8 policy forms.

The Company identified two sub-groups within Group A (Groups B and C) as the PEO offers a number of services to its clients. Employers may elect to manage their own billing needs and remain a Group A client. Group A administers the benefits and enrollment under a master agreement. The Company was requested to provide master policies and group applications for these two sub-groups for review.

Group B is a Florida for-profit corporation located in Boca Raton, FL. A review of the Georgia group application concluded that Group B's corporate situs is Florida. The Company mailed Georgia master policies for critical illness, cancer, disability, and hospital indemnity products to Group B in Florida on June 25, 2013. During the scope period, the Company issued four (4) certificates of coverage to Florida residents who were employees of Group B. The Company issued one (1) master policy to Group B involving one (1) policy form.

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<sup>1</sup> Group policyholder names are omitted for confidentiality purposes.

Group C is a Florida foreign corporation located in Boca Raton, FL. A review of the large group application concluded the corporation's Boca Raton location is the same as the employer's physical and billing address. The Company issued 379 certificates to Florida residents on policies issued to Group C. The Company issued nine (9) master policies to Group C involving eight (8) policy forms.

During the review of sample health enrollment forms, another Florida domestic with a Georgia situs policy was identified. The Company issued a critical illness master policy to Group D, a Florida for-profit corporation in Hialeah, FL. The large group application shows the business and billing address in Hialeah, FL and a situs state of Georgia. The group application<sup>2</sup> was dated at Hialeah, FL. The Company issued one (1) certificate to a Florida resident and one (1) master policy to Group D.

**SUBSEQUENT EVENT:** The Company confirmed the PEO's correct situs is Atlanta, GA.

The following violations are noted:

- 1) **In 27 instances involving eight (8) forms, the Company failed to file forms for informational purposes for products issued to Florida residents who are employees of an out of state Professional Employer Organization, in violation of Section 627.410(1), Florida Statutes.**
  - 1a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure all forms for products that are issued to Florida residents who are members of out of state Professional Employer Organizations are filed for informational purposes.
  - 1b) **COMPANY RESPONSE:** The Company agreed with these violations.
- 2) **In 4,340 instances involving eight (8) forms, the Company issued certificates of coverage to Florida residents on forms that had not been filed for informational purposes with the Office, in violation of Section 627.410(1), Florida Statutes.**
  - 2a) **CORRECTIVE ACTION:** The Company should adopt procedures to ensure all forms for products that are issued to Florida residents who are members of out of state Professional Employer Organizations are filed for informational purposes.
  - 2b) **COMPANY RESPONSE:** The Company agreed with these violations.

### **ANTI-FRAUD PLAN REVIEW**

A review of the Company's written Anti-Fraud Plan was completed. The review determined the Company submitted its Special Investigation Unit (SIU) description to the Division of Insurance Fraud (Division), Florida Department of Financial Services on November 30, 2006. The Company's filing stated *any indicated cases of insurance fraud would be reported to the*

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<sup>2</sup> The group application for Group D included a request for term life as well.

*appropriate Insurance Department or its Fraud Unit; in the manner approved by that Department and all required information would be submitted.*

On May 14, 2010, Humana notified the Division it desired to add the Company to its SIU description. On May 17, 2010, the Division received the updated SIU description filing which included the Company and acknowledged it would *report all suspected instances of fraudulent insurance acts to the Division at the time it was determined or reasonably suspected that such an act was committed.*

The Company was requested to provide a list of all SIU cases of suspected fraud recorded during the scope period for review. The Company advised that it opened 32 case files during the scope period which were reviewed for compliance with the respective SIU filing. The following violation is noted:

1) **In one (1) instances, prior to the updated SIU description filing made by Humana, the Company failed to follow its procedures for the mandatory reporting of suspected fraudulent insurance acts to the Division of Insurance Fraud, as required by Section 626.9891(3)(b), Florida Statutes.**

1a) **CORRECTIVE ACTION:** Humana should adopt procedures to ensure suspected fraudulent insurance acts are reported to the Division on behalf of the Company.

1b) **COMPANY RESPONSE:** The Company agreed with this violation.

The following was also noted during the examination:

1) **FINDING:** In five (5) instances, Humana failed to follow its procedures for the mandatory reporting of the Company's suspected cases of fraudulent insurance acts to the Division. Humana's SIU staff reported they were unaware suspected cases of fraudulent insurance acts involving products sold by the Company were required to be referred to the Division.

1a) **CORRECTIVE ACTION:** Humana should adopt procedures to ensure suspected cases of fraudulent insurance acts are reported to the Division on behalf of the Company. Humana should conduct necessary training to ensure SIU staff aware that suspected cases of fraudulent insurance acts are referred to the Division.

1b) **COMPANY RESPONSE:** The Company agreed with this Finding.

### **EXAMINATION FINAL REPORT SUBMISSION**

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by the Company.