

**Report of the**

**Targeted Market Conduct Examination**

**for the**

**Maine Bureau of Insurance**

**of the**

**Hartford Life and Accident**  
**Insurance Company**  
NAIC Company # 70815  
Hartford, Connecticut

**December 14, 2012**

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December 14, 2012

Honorable Eric A. Cioppa  
Superintendent  
Maine Bureau of Insurance  
34 State House Station  
Augusta, Maine 04333

Dear Superintendent Cioppa:

Pursuant to the authority granted by ME. REV. STAT. tit. 24-A § 221, your instructions, and in accordance with the *NAIC Market Regulation Handbook* (“Handbook”), a targeted market conduct examination has been conducted of the disability income insurance claim handling practices of:

**Hartford Life and Accident Insurance Company**  
 (“Hartford L & A” or the “Company”)

The report of examination is herewith respectfully submitted.

## **Foreword**

This report on the targeted market conduct examination of Hartford L & A is provided pursuant to the Handbook and is made by exception, i.e. it omits discussion of those claim files reviewed during the examination that did not show possible errors.

### **Background and Scope of Examination**

On December 12, 2011, the Maine Bureau of Insurance initiated a targeted market conduct examination of the disability income (“DI”) insurance claim handling practices of Hartford L & A.<sup>1</sup> This examination was organized into two phases. The first phase involved review of the Company’s DI policy forms, claim administration manuals, claim training manuals, and organizational charts. The second phase of the examination involved the review of fifty-five Maine long-term disability (“LTD”) claim files, the selection methodology for which is described in further detail below.

The purpose of the examination was to determine whether Hartford L & A’s claim handling practices conformed with the standards reflected in the National Association of Insurance Commissioners (“NAIC”) Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance Model Act (1972), NAIC Claims Settlement Practices Model Act (1990) (together, the “Model Act”), and more specifically in ME. REV. STAT. ANN. tit. 24-A, c. 23. Initial review of the claim files was conducted by the examiners on a rolling basis between March and June of 2012.

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<sup>1</sup> The Connecticut Insurance Department, the Massachusetts Division of Insurance, and the New Jersey Department of Banking and Insurance also instituted targeted market conduct examinations of Hartford L & A’s DI claim handling practices. The four examinations were conducted simultaneously and on a coordinated basis by the same examiners. (An additional examiner participated in the Connecticut examination).

## **Profile of the Company**

At all relevant times Hartford L & A has been a licensed insurance company domiciled in the State of Connecticut and authorized to write life and health insurance in the State of Maine. Hartford L & A is a subsidiary of Hartford Life, Inc., which is a Delaware corporation and the Company's ultimate parent is The Hartford Financial Services Group, Inc., which is a Delaware holding company. Hartford L & A is the only affiliate of The Hartford Financial Services Group, Inc., that wrote DI coverage in Maine during the examination period. Maine DI claims are adjusted at various claim offices in the eastern United States.

## **Claim Selection Methodology**

The examiners requested that Hartford L & A provide a comprehensive database including all pending DI claims as of June 30, 2011 for Maine residents, all DI claims for Maine residents that were closed in the twelve month period ending November 30, 2011, all DI claims for Maine residents appealed in the twelve month period ending November 30, 2011, and all litigations closed during the twelve month period ending November 30, 2011 respecting DI claims for Maine residents. There were no litigations respecting DI claims for Maine residents that were closed during the examination period. The selection of claims was limited to group long term disability claims ("LTD Claims").<sup>2</sup> The claims were then divided by category -- closed LTD Claims and appealed LTD Claims. In addition, the examiners randomly selected fifty closed LTD Claims and five appealed LTD Claims. Where a single file was selected in both categories the examiners selected

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<sup>2</sup> Hartford L & A and its affiliates did not issue individual disability income policies in Connecticut, Maine, Massachusetts, or New Jersey during calendar year 2011. The Company had no such individual DI policies in force in Maine during that period while it had two such policies in force in Connecticut. During calendar year 2011, Hartford L & A's affiliate, the Hartford Life and Annuity Insurance Company, had four individual DI policies in force in Massachusetts and one policy in force in New Jersey.

an additional closed LTD Claim. The examiners were also required to make additional selections because a large number of the claims initially selected for review were unsuitable due to the fact that they involved no substantive LTD claims handling.<sup>3</sup> In total, the examiners selected seventy-four LTD Claims of which fifty-five were suitable for review. Table 1 depicts the distribution of such claims by category for both the population and the sample.<sup>4</sup>

**Table 1**

	<u>Population</u>	<u>Files Reviewed</u>	<u>Files Reviewed as a Percent of Population</u>
Closed LTD Claims	335	50	14.9%
Appealed Claims	23	5	21.7%
Litigated Claims	--	--	--
Total	358	55	15.4%

**Examination Results**

One or more areas of concern were identified in four of the randomly selected claim files. The examiners provided Hartford L & A with preliminary results on July 9, 2012, including description of these concerns. Hartford L & A provided written responses to these concerns on August 24, 2012 and October 17, 2012. After considering the Company’s responses, the examiners remained concerned regarding four of the reviewed files:

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<sup>3</sup> To accelerate the claim determination process, Hartford L & A regularly opened LTD files on behalf of claimants prior to the claimants’ exhaustion of short term disability benefits and the LTD elimination period. Where claimants did not receive LTD benefits for a reason other than the substantive merits of their claim (e.g. returned to work) the files were still classified as denied claims in the database from which the examiners initially selected claims for review. A significant number of the LTD claims selected by the examiners fell within this category and, as they lacked any substantive LTD claims handling activity, were deemed unsuitable for review.

<sup>4</sup> Population and sampling information for the Connecticut, Maine, Massachusetts, and New Jersey examinations, together with aggregate figures, is presented in the attached Exhibit A.

<u>Claim No.</u>	<u>Concern(s)</u>
AP 15	<p><i>Failure to secure an independent medical examination (“IME”) –</i> The examiners were concerned that, though the Company initially concluded an IME would be appropriate, it failed to secure one due to its inability to locate a specialist in the claimant’s area. The examiners were also concerned that an IME with a non-specialist may have been more appropriate than foregoing an IME altogether.</p> <p><i>Undue delay in processing claim –</i> The examiners were concerned that the Company unnecessarily delayed its consideration of the claimant’s appeal. [The Company agreed that processing of the appeal was unduly delayed.]</p>
ME 33	<p><i>Failure to fairly consider the medical record –</i> The examiners were concerned that the Company formed an opinion as to the claimant’s capacity at “test change” on the basis of the claimant’s condition several months earlier. Further, the examiners were concerned that the Company’s reading of the medical record was cramped and that this reading provided the basis for an unreasonable evaluation of the claimant’s employment prospects. [The Company agreed that the parameters used in its employability analysis were not appropriate and has reinstated the claim and paid the benefits owed.]</p>
RME 16	<p><i>Failure to secure an IME –</i> The examiners were concerned that, though the Company initially concluded an IME would be appropriate, it failed to secure one due to its inability to locate a specialist in the claimant’s area. The examiners were concerned that an IME with a different specialty may have been more appropriate than foregoing an IME altogether.</p> <p><i>Failure to fairly consider the complete medical record –</i> The Company relied on a conversation with an assistant to the claimant’s attending physician in terminating benefits. The examiners were concerned that the assistant’s statement conflicted with the physician’s recent written opinion and that the Company should not have relied on that statement to the exclusion of the remainder of the medical record. The examiners were also concerned that the claim file does not suggest that the Company gave consideration to the Claimant’s use of strong medications.</p> <p><i>Failure to consider Social Security Disability Income (“SSDI”) award –</i> The examiners were concerned that nothing in the claim file suggests the Company gave consideration to the claimant’s receipt of SSDI benefits.</p>

RME 18     *Failure to adequately investigate claim* – The examiners were concerned that, when the Company learned of the claimant’s death, it did not advise the surviving spouse of her entitlement to a survivor income benefit and did not, in fact, pay such benefit. [The Company has now paid the survivor income benefit.]

The examiners’ review of Hartford L & A’s DI policy forms, claim administration manuals, claim training manuals, and organizational charts does not suggest that these errors arose from inadequate policies and procedures. The examiners’ review of the LTD Claim files does not support the conclusion that the Company’s DI claims handling practices are deficient. The examiner-asserted error rate in this examination was 7.3% (four errors out of fifty-five claims reviewed) and the errors do not appear to be systemic.<sup>5</sup> Hartford L & A accepts that three of the four claims did involve a claim handling error and it has taken remedial action regarding claim numbers ME 33 and RME 18. The aggregate examiner-asserted error rate of the Connecticut, Maine, Massachusetts, and New Jersey examinations was 6.1% (thirteen errors out of 212 claims reviewed). (See attached Exhibit B). Based upon our review of the selected claims in all four examinations, a small number of claim handling errors were identified but, in my opinion, true errors did not occur with such frequency as to constitute a general business practice.

### **Acknowledgment**

The Examiners express their appreciation to Hartford L & A for its cooperation throughout the course of the examination.

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<sup>5</sup> Litigated claims were not randomly selected so they are not included in the calculation of error rates.



## Report Submission

The report of examination is herewith respectfully submitted.

Sincerely,



**J. David Leslie**  
**Examiner-in-Charge**

Examiners:

*Rackemann, Sawyer & Brewster, P.C.*

Ronald S. Duby, Esq.

Margaret L. Hayes, Esq.

Stuart T. Leslie, Esq.

*Monarch Life Insurance Company*

Kevin J. McAdoo, Special Deputy Receiver

John S. Coulton, Esq.

Claudia J. Reed

## Exhibit A

### Connecticut

	Population	Files Reviewed	Files Reviewed as a Percent of Population
Closed Claims	464	68	14.7%
Appealed Claims	43	5	11.6%
Litigated Claims	3	3	100%
State Total	510	76	14.9%

### Maine

	Population	Files Reviewed	Files Reviewed as a Percent of Population
Closed Claims	335	50	14.9%
Appealed Claims	23	5	21.7%
Litigated Claims	--	--	--
State Total	358	55	15.4%

### Massachusetts

	Population	Files Reviewed	Files Reviewed as a Percent of Population
Closed Claims	942	48	5.1%
Appealed Claims	69	5	7.2%
Litigated Claims	3	3	100%
State Total	1,014	56	5.5%

### New Jersey

	Population	Files Reviewed	Files Reviewed as a Percent of Population
Closed Claims	1,024	48	4.7%
Appealed Claims	46	5	10.9%
Litigated Claims	5	5	100%
State Total	1,075	58	5.4%

### Aggregate

	Population	Files Reviewed	Files Reviewed as a Percent of Population
Closed Claims	2,765	192	6.9%
Appealed Claims	181	20	11.0%
Litigated Claims	11	11	100%
Total	2,957	223	7.5%

**Exhibit B**

	<b>Connecticut</b>	<b>Massachusetts</b>	<b>Maine</b>	<b>New Jersey</b>	<b>Total</b>
Files Reviewed*	51	53	55	53	212
Errors	2	3	4	4	13
Error Rate	3.9%	5.7%	7.3%	7.5%	6.1%

\* All figures exclude litigated claim files