

REPORT ON
TARGET MARKET CONDUCT EXAMINATION
OF
BANKERS LIFE AND CASUALTY
INSURANCE COMPANY
AS OF MARCH 31, 2011

Conducted from July 20, 2011
through
June 19, 2012

By

Market Conduct Section 1
Life and Health Market Regulation Division
BUREAU OF INSURANCE
STATE CORPORATION COMMISSION
COMMONWEALTH OF VIRGINIA

FEIN: 36-0770740
NAIC: 61263

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination of Bankers Life and Casualty Company, conducted at the State Corporation Commissions Bureau of Insurance in Richmond, VA, as of March 31, 2011, is a true copy of the original Report on file with this Bureau, and also includes a true copy of the Company's response to the findings set forth therein, the Bureau's review letter, the Company's offer of settlement, and the State Corporation Commission's Settlement Order in Case No. INS-2012-00253.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Bureau at the City of Richmond, Virginia this 21st day of March, 2013.

A handwritten signature in cursive script that reads "Jacqueline K. Cunningham".

Jacqueline K. Cunningham
Commissioner of Insurance

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I. SCOPE OF EXAMINATION

The Target Market Conduct Examination of Bankers Life and Casualty Insurance Company, (hereinafter referred to as “Bankers Life”), was conducted under the authority of various sections of the Code of Virginia (hereinafter referred to as “the Code”) and regulations found in the Virginia Administrative Code (hereinafter referred to as “VAC”), including but not necessarily limited to, the following: §§ 38.2-200, 38.2-515, 38.2-614, 38.2-1317, 38.2-1317.1 and 38.2-1809 of the Code, as well as 14 VAC 5-40-60 B, 14 VAC 5-90-170 A, 14 VAC 5-200-10 1 and 14 VAC 5-200-10 3.

As the result of an investigation by the Consumer Services Section of the Life and Health Market Regulation Division, Bankers Life offered a monetary settlement that was accepted by the State Corporation Commission on October 29, 2001 in Case No. INS010242.

A previous market conduct examination covering the period of January 1, 1984 through December 31, 1985 was concluded on June 27, 1986. As a result of that examination, Bankers Life offered a monetary settlement that was accepted by the State Corporation Commission on August 25, 1987 in Case No. INS870191.

The period of time covered for the current examination, generally, was October 1, 2010 through March 31, 2011. The desk examination was initiated on July 20, 2011 at the office of the State Corporation Commission's Bureau of Insurance in Richmond, Virginia, and concluded on June 19, 2012. The violations cited and the comments included in this Report are the opinions of the examiners.

The purpose of the examination was to determine whether Bankers Life was in compliance with various provisions of the Code and regulations found in the Virginia

Administrative Code. Compliance with the following regulations was considered in this examination process:

- | | |
|-------------------------|---|
| 14 VAC 5-30-10 et seq. | Rules Governing Life Insurance and Annuity Replacements; |
| 14 VAC 5-40-10 et seq. | Rules Governing Life Insurance and Annuity Marketing Practices; |
| 14 VAC 5-45-10 et seq. | Rules Governing Suitability in Annuity Transactions; |
| 14 VAC 5-70-10 et seq. | Rules Regarding Accelerated Benefit Provisions; |
| 14 VAC 5-90-10 et seq. | Rules Governing Advertisement of Accident and Sickness Insurance; |
| 14 VAC 5-100-10 et seq. | Rules Governing the Submission for Approval of Life, Accident and Sickness, Annuity, Credit Life and Credit Accident and Sickness Policy Forms; |
| 14 VAC 5-130-10 et seq. | Rules Governing the Filing of Rates for Individual and Certain Group Accident and Sickness Insurance Policy Forms; |
| 14 VAC 5-140-10 et seq. | Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act; |
| 14 VAC 5-170-10 et seq. | Rules Governing Minimum Standards for Medicare Supplement Policies; |
| 14 VAC 5-180-10 et seq. | Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS); |
| 14 VAC 5-200-10 et seq. | Rules Governing Long-Term Care Insurance; |
| 14 VAC 5-400-10 et seq. | Rules Governing Unfair Claim Settlement Practices; and |

The examination included the following areas:

- Advertising/Marketing Communications
- Policy and Other Forms
- Agents
- Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act
- Premium Notices/Collections/Reinstatement/Policy Loans and Loan Interest
- Cancellations/Non-Renewals
- Complaints
- Claim Practices

Examples referred to in this Report are keyed to the numbers of the examiners' Review Sheets furnished to Bankers Life during the course of the examination.

II. COMPANY HISTORY

Bankers Life and Casualty Company, a stock life and health insurance company domesticated in the State of Illinois, was issued a license on September 4, 1947, to transact the business of insurance in the Commonwealth of Virginia.

The present Bankers Life and Casualty Company (herein referred to as “Bankers Life” and/or the Company) is the outgrowth of the consolidation of the Illinois Standard Life Insurance Company (Illinois Standard Life), Chicago, a stock legal reserve life insurance company incorporated November 30, 1942, Hotel Men’s Assessment Association of the United States and Canada (Hotel Men’s), Chicago, a mutual assessment association incorporated April 6, 1880, and Bankers Life and Casualty Company, Chicago, a mutual assessment company formed May 24, 1932. The Hotel Men’s was consolidated with Illinois Standard Life on December 18, 1942 and Bankers Life and Casualty on December 31, 1942 and concurrently, the latter title was adopted for the consolidated Company. In accordance with 215 ILCS 5/166(3), Bankers Life adopted the age of the oldest merged or consolidated company, which was the Hotel Men’s.

Management and financial control of the Company had been held by the former chairman of the board, John D. MacArthur, who had been associated with the Company for more than three decades until his death on January 6, 1978. Control of the Company was subsequently transferred to the John D. and Catherine T. MacArthur Foundation, an Illinois not-for-profit corporation for the benefit of the charity. On October 30, 1984, I.C.H. Corporation, a Louisville, KY holding company, through its

wholly-owned subsidiary, Great Southern Life Insurance Company, Texas, acquired the Company from the MacArthur Foundation.

The Company became part of the Conseco, Inc. (Conseco) insurance holding company system on November 9, 1992, through the purchase by Bankers Life Insurance Company of Illinois (BLIC) of 100% of the outstanding common stock of Bankers Life from Southwestern Life Insurance Company, a subsidiary of I.C.H. Corporation. At the time, BLIC was a subsidiary of Bankers Life Holding Corporation (BLHC), a Delaware corporation and an indirect subsidiary of Conseco, which was organized for the purpose of acquiring Bankers Life.

Effective December 31, 1996, BLHC was merged with and into CIHC, Inc. (CIHC), a wholly-owned subsidiary of Conseco. Conseco owned 90% of BLHC's stock at the time of the merger. The remaining stock was acquired in exchange for Conseco common stock. Effective January 1, 1999, 100% of the outstanding common stock of BLIC was contributed by CIHC to Jefferson National Life Insurance Company of Texas, now named Conseco Life Insurance Company of Texas.

Effective January 1, 2000, Certified Life Insurance Company (Certified Life), an Illinois domiciled company, merged with and into Bankers Life after obtaining regulatory approvals from the Illinois Department of Insurance and the California Insurance Department. Certified Life re-domiciled from California, effective June 3, 1996, and had been a member of the Conseco insurance holding company system since 1992. Effective November 20, 2007, BLIC, Bankers Life's then parent company, was merged into the Company after approval by the Illinois Department of Insurance with Bankers Life being the surviving entity.

As of December 31, 2010, life insurance premiums in Virginia were \$7,357,787; annuity considerations were \$17,334,745; and accident and health premiums totaled \$30,339,639.

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III. ADVERTISING/MARKETING COMMUNICATIONS

A review was conducted of Bankers Life's advertising materials to determine compliance with the Unfair Trade Practices Act, to include §§ 38.2-502, 38.2-503 and 38.2-504 of the Code, as well as § 38.2-3609 of the Code, 14 VAC 5-40-10 et seq., Rules Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-90-10 et seq., Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-170-10 et seq., Rules Governing Minimum Standards for Medicare Supplement Policies, 14 VAC 5-200-10 et seq., Rules Governing Long-Term Care Insurance, and 14 VAC 5-420-10 et seq., Rules Governing Military Sales Practices.

Where this Report cites a violation of this regulation it does not necessarily mean that the advertisement/marketing communication has actually misled or deceived any individual to whom the advertisement/marketing communication was presented. An advertisement/marketing communication may be cited for violations of certain sections of the regulations if it is determined by the Bureau of Insurance that an advertisement/marketing communication has the capacity or tendency to mislead or deceive from the overall impression that the advertisement/marketing communication may be reasonably expected to create within the segment of the public to which it is directed and, furthermore for marketing communications, the overall impression that may be reasonably expected to create upon a person of average education or intelligence within such segment of the public. (14 VAC 5-90-50 or 14 VAC 5-40-40)

14 VAC 5-40-60 B (currently 14 VAC 5-41-150 C) and 14 VAC 5-90-170 A require an insurer to maintain at its home or principal office a complete file of all advertisements with a notation indicating the manner and extent of distribution and the form number of any policy referred to in the advertisement. The review revealed that Bankers Life failed to include a notation in the file of the manner and extent of distribution in 12 of the 32 sample advertisements reviewed, in violation of these sections.

Bankers Life disagreed with the examiners' observations in every instance. An example is discussed in Review Sheet AD25, where Bankers Life responded that, "This ad was available but never used and therefore, there is no record of the manner and extent of distribution." Bankers Life had previously informed the examiners that "We contacted the Virginia Branch Offices to inquire as to whether or not any ads were ordered for distribution and the reply was no for this advertising piece." The examiners responded that:

...the regulation requires that there be a notation attached to each advertisement that indicates the manner and extent of distribution and that all the advertisements shall be maintained in a file for the longer of four years or until the filing of the next regular report on examination of the insurer. In addition, the advertising file must be maintained at the company's home or principal office, not the company's branch sales offices...Bankers Life has failed to maintain its advertising in accordance with 14 VAC 5-90-170 A, and therefore, can make no definitive statement regarding the use or non-use of this advertisement.

In response, Bankers Life persisted in its disagreement, and stated that:

The Company would argue that there would be no notation in the file as to the manner and extent of distribution of this advertisement if the advertisement was never distributed. We would further clarify that home office was checked first and then the branch offices as a double measure to ensure that there was no distribution history for this advisement.

The examiners maintain the findings. Item 2.A of the Coordinator's Handbook presented to Bankers Life at the inception of the examination had specifically requested a population of "...all advertisements used to solicit business in Virginia during the examination time frame" and that a Vice President of the Company had certified in writing to the examiners on June 10, 2011 that the documents, as requested by the Bureau of Insurance, were "...complete and accurate."

A sample of 32 was selected from an unknown population of advertisements/marketing communications distributed in Virginia during the examination time frame. The review revealed that 16 of the advertisements contained violations. In the aggregate, there were 15 violations, which are discussed in the following paragraphs.

LIFE INSURANCE AND ANNUITY MARKETING COMMUNICATIONS

14 VAC 5-40-40 A 1 (currently 14 VAC 5-41-30 B) states that a marketing communication shall be truthful and not misleading in fact or by implication. The review revealed 1 violation of this section. As discussed in Review Sheet AD30B, the marketing communication, a flyer distributed for a "Financial Preservation Workshop," contained the misleading statement that, "During the workshop we will discuss several areas that affect today's current and future retirees, including how to possibly double, even triple your returns on what your CD's are paying with no risk to principal."

14 VAC 5-40-50 C (currently 14 VAC 5-41-140 C) states that a marketing communication shall not create the impression that the insurer, its financial condition or status or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity. The review

revealed 1 violation of this section. As discussed in Review Sheet AD11C, the marketing communication stated that "...the **safety of your principal is guaranteed** with an annuity. Insurance companies are required by state regulation to maintain adequate reserves to fund annuity policies..." The examiners observed that this statement created the impression that the advisability of the purchase of an annuity was endorsed by a government entity. Bankers Life disagreed with the examiners, and stated that:

This is a statement of fact. Insurance regulations do require that companies maintain adequate reserves. We do not feel that citing a regulatory requirement is akin to implying that our policies are endorsed by a government agency. The disclosure page further states that annuity policies are products of the insurance industry, and are not guaranteed by any bank, nor Insured by the FDIC.

The examiners maintained our findings and commented that "...the fact that life insurance companies are required by state regulation to maintain adequate reserves does not equate to a guarantee of principal."

ACCIDENT AND SICKNESS INSURANCE ADVERTISING

14 VAC 5-90-55 A states that an invitation to inquire shall contain a provision in the following or substantially similar form: "This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [write] your insurance agent or the company [whichever is applicable]." The review revealed 7 violations of this section. An example is discussed in Review Sheet AD10A, where the invitation to inquire failed to contain the required disclosure. Bankers Life agreed with the examiners' observations.

14 VAC 5-90-90 A states that an advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all current and relevant facts. The review revealed 1 violation of this section. As discussed in Review Sheet AD10B, the advertisement used statistical information from the 1996 Statistical Abstract of the United States that was not current or relevant. Bankers Life agreed with the examiners' observations.

Standards for Marketing – Medicare Supplement Insurance

14 VAC 5-170-180 B 3 states that cold lead advertising must disclose in a conspicuous manner that the purpose of the advertisement is the solicitation of insurance and that contact will be made by an insurance agent or insurance company.

As discussed in Review Sheet AD10F, the review revealed 1 violation of this section. Bankers Life agreed with the examiners' observations, and stated that "This is an obsolete ad that should not have been available for use and has been pulled from marketing."

Filing Requirements for Long-Term Care Insurance Advertising

14 VAC 5-200-160 A states that every insurer providing long-term care insurance or benefits in this Commonwealth shall provide a copy of any long-term care insurance advertisement intended for use in this Commonwealth. To the extent that it may be required or permitted under the laws of this Commonwealth, the Commission may review or review for approval all such advertisements.

The review revealed 2 violations of this section. An example is discussed in Review Sheet AD04, where the long-term care advertisement used during the examination time frame had not been filed with the Commission. Bankers Life agreed with the examiners' observations.

SUMMARY

Bankers Life violated 14 VAC 5-40-40 A 1, 14 VAC 5-40-50 C, 14 VAC 5-90-55 A, 14 VAC 5-90-90 A, and 14 VAC 5-170-180 B 3, which placed it in violation of subsection 1 of § 38.2-502 and § 38.2-503 of the Code. Bankers Life was also found to be in violation of 14 VAC 5-40-60 B, 14 VAC 5-90-170 A, and 14 VAC 5-200-160 A.

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IV. POLICY AND OTHER FORMS

A review was made to determine if Bankers Life complied with various statutory, regulatory and administrative requirements governing the filing and approval of forms.

Section 38.2-316 of the Code sets forth the filing and approval requirements for forms and rates that are to be issued or issued for delivery in Virginia.

14 VAC 5-170-130 sets forth the applicable filing and approval requirements for Medicare supplement policies and 14 VAC 5-200-77 and 14 VAC 5-200-153 set forth the applicable filing and approval requirements for long-term care policies.

The scope of the review was confined to individual (non-group) lines of business.

LIFE INSURANCE AND ANNUITIES

The examiners reviewed a sample of 157 from the total population of 1,259 life and annuity policies/contracts issued during the examination time frame.

The review revealed that the policies/contracts and the amendments/riders issued were filed with and approved by the Commission.

ACCIDENT AND SICKNESS INSURANCE

The examiners reviewed a sample of 83 from the total population of 282 accident and sickness policies issued during the examination time frame.

The review revealed that the policies and the attached amendments/riders issued were filed with and approved by the Commission. However, as discussed in Section VI of the Report, the review revealed that Bankers Life failed to file the Long-Term Care Personal Worksheet it used to assess suitability for its home health care policies, as required by 14 VAC 5-200-175 C 2.

ACCIDENT AND SICKNESS RATE FILING

Sections 38.2-316 A and 38.2-316 C of the Code set forth the requirements for the filing of rates and rate changes. 14 VAC 5-170-130 B sets forth the requirements for the filing of rates or rate changes for Medicare supplement policies. 14 VAC 5-200-77 and 14 VAC 5-200-153 set forth the filing of rate and rate changes for long-term care insurance policies.

The review revealed that Bankers Life was in substantial compliance.

APPLICATIONS

Sections 38.2-316 B and 38.2-316 C of the Code set forth the requirements for the filing and approval of application forms prior to use.

The review revealed that the application forms used by Bankers Life were filed with and approved by the Commission.

EXPLANATION OF BENEFITS (EOB)

Section 38.2-3407.4 A of the Code requires that each insurer issuing an accident and sickness policy shall file its explanation of benefits forms for approval.

As discussed in Review Sheet PF23, the review of claims revealed that Bankers Life failed to file its long-term care EOB forms for approval as required, in violation of § 38.2-3407.4 A of the Code. Bankers Life agreed with the examiners' observations.

V. AGENTS

The purpose of this review was to determine compliance with various sections of Title 38.2 of Chapter 18 of the Code. The 121 writing agents designated in the 240 new business files were reviewed.

LICENSED AGENT REVIEW

Section 38.2-1822 A of the Code requires that a person be licensed prior to soliciting contracts. The review revealed that Bankers Life was in substantial compliance.

APPOINTED AGENT REVIEW

Section 38.2-1833 A 1 of the Code requires that an insurer, within 30 calendar days of the date of execution of the first application submitted by a licensed but not yet appointed agent, either reject such application or appoint the agent.

The review revealed 3 violations of this section. An example is discussed in Review Sheet AG06, where a review of the file indicated that Bankers Life had accepted an application submitted by an agent that was not appointed. Bankers Life agreed with the examiners' observations.

COMMISSIONS

Section 38.2-1812 A of the Code prohibits the payment of commission or other valuable consideration to an agent that was not appointed at the time of the transaction.

The review revealed 3 violations of this section. An example is discussed in Review Sheet AG05, where Bankers Life paid a commission to an agent that was not appointed. Bankers Life agreed with the examiners' observations.

TERMINATED AGENT APPOINTMENT REVIEW

Section 38.2-1834 D of the Code requires that an insurer notify the agent within 5 calendar days, and the Commission within 30 calendar days, upon termination of the agent's appointment. A sample of 25 was selected from the total population of 129 agents whose appointments terminated during the examination time frame.

The review revealed that Bankers Life was in substantial compliance.

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VI. UNDERWRITING/UNFAIR DISCRIMINATION/INSURANCE INFORMATION AND PRIVACY PROTECTION ACT/INSURANCE REPLACEMENT AND SUITABILITY

The examination included a review of Bankers Life's underwriting practices to determine compliance with the Unfair Trade Practices Act, §§ 38.2-500 through 38.2-514; the Insurance Information and Privacy Protection Act, §§ 38.2-600 through 38.2-620; 14 VAC 5-30-10 et seq., Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-45-10 et seq., Rules Governing Suitability in Annuity Transactions, 14 VAC 5-70-10 et seq., Rules Governing Accelerated Benefit Provisions, 14 VAC 5-180-10 et seq., Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS), 14 VAC 5-200-10 et seq., Rules Governing Long-Term Care Insurance and 14 VAC 5-420-10 et seq., Rules Governing Military Sales Practices.

UNDERWRITING/UNFAIR DISCRIMINATION

The review was conducted to determine whether Bankers Life's underwriting guidelines were unfairly discriminatory, whether applications were underwritten in accordance with Bankers Life's procedures, and whether correct premiums were being charged.

UNDERWRITING REVIEW

The examiners reviewed a sample of 117 from the total population of 1,064 individual life policies; a sample of 40 from the total population of 195 individual annuity contracts; and a sample of 83 from the total population of 282 individual accident and sickness policies, issued during the examination time frame.

The review revealed no evidence of unfair discrimination.

UNDERWRITING PRACTICES – AIDS

14 VAC 5-180-10 et seq. sets forth rules and procedural requirements that the Commission deems necessary to regulate underwriting practices and policy limitations and exclusions with regard to HIV infection and AIDS.

The review revealed that Bankers Life was in substantial compliance.

MECHANICAL RATING REVIEW

The review revealed that Bankers Life calculated premium amounts in accordance with its established guidelines.

INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

Title 38.2, Chapter 6 of the Code requires a company to establish standards for collection, use and disclosure of personal/privileged information gathered in connection with insurance transactions.

NOTICE OF INSURANCE INFORMATION PRACTICES (NIP)

Section 38.2-604 of the Code sets forth the requirements for a NIP, either full or abbreviated, to be provided to all applicants that are individually underwritten.

The review revealed that the NIP forms provided to applicants for coverage complied with the requirements of this section.

DISCLOSURE AUTHORIZATION FORMS

Section 38.2-606 of the Code sets forth standards for the content and use of the disclosure authorization forms to be used when collecting personal or privileged information about individuals.

Subsection 4 of § 38.2-606 of the Code states that no insurer shall utilize a disclosure authorization form unless the form specifies the nature of the information authorized to be disclosed. Subsection 6 of § 38.2-606 of the Code states that no insurer shall utilize a disclosure authorization form unless the form specifies the purpose for which the information is collected. Subsection 7 of § 38.2-606 of the Code states that no insurer shall utilize a disclosure authorization form unless the form specifies the length of time such authorization shall remain valid.

As discussed in Review Sheets UN100 and UN102, the review revealed that 2 of the disclosure authorization forms utilized by Bankers Life during the examination time frame, Forms 7022R and 9816 (1/00), failed to contain the specified requirements of subsection 4, subsection 6 and subsection 7 of § 38.2-606 of the Code, in violation of these sections.

Subsection 8 of § 38.2-606 of the Code states that no insurer shall utilize a disclosure authorization form unless the form advises the individual or the individual's authorized representative that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

As discussed in Review Sheets UN100, UN101 and UN102, the review revealed that 3 of the disclosure authorization forms utilized during the examination time frame,

Forms 7022R, 15084 and 9816 (1/00), failed to comply with subsection 8 of § 38.2-606 of the Code.

ACCELERATED BENEFITS

14 VAC 5-70-80 requires that a written disclosure, including a brief description of the provisions of an Accelerated Benefit Rider, be given to each applicant and an acknowledgment of the disclosure shall be signed by the applicant and agent.

The review revealed that Bankers Life was in substantial compliance.

INVESTIGATIVE CONSUMER REPORTS

Section 38.2-607 A of the Code requires that if an investigative consumer report is requested or prepared about an individual in connection with insurance transactions, the insurance institution or agent shall inform the individual that he/she may be interviewed, and pursuant to § 38.2-608 of the Code, the individual is entitled to receive a copy of the investigative consumer report.

No investigative consumer reports were requested or prepared by Bankers Life in the files reviewed by the examiners.

ACCESS TO RECORDED PERSONAL INFORMATION

Section 38.2-608 sets forth the requirements of providing access to personal information and the correction or amendment of such information.

The review revealed that Bankers Life did not receive any requests for access to recorded personal information in the sample of files reviewed by the examiners.

ADVERSE UNDERWRITING DECISIONS (AUD)

Section 38.2-610 A of the Code requires that in the event of an adverse underwriting decision, the insurance institution responsible for the decision shall give a written notice in a form approved by the Commission.

Administrative Letter 1981-15 provides life and health insurers with a prototype AUD notice. An AUD notice containing wording substantially similar to the wording in the prototype notice is deemed to be approved for use in Virginia.

A sample of 45 from a total population of 181 declined applicant files was reviewed along with a sample of 25 from a population of 52 rated policies. Additionally, a sample of 2 was selected from a total population of 6 postponed annuity contract files.

Section 38.2-610 A 1 of the Code states that, in the event of an adverse underwriting decision, the insurer shall give a written notice that either provides the applicant with the specific reason or reasons for the adverse underwriting decision in writing or advises such person that upon written request he may receive the specific reason or reasons in writing.

The review revealed 35 violations of this section. An example is discussed in Review Sheet UN35. Bankers Life agreed with the examiners' observations.

Section 38.2-610 A 2 of the Code states that in the event of an adverse underwriting decision, the insurer responsible for the decision shall give a written notice in a form approved by the Commission that provides the applicant with a summary of the rights established under subsection B of this section and §§ 38.2-608 and 38.2-609 of the Code.

The review revealed 76 violations of this section. In 19 of the violations, Bankers Life failed to send an AUD Notice as required by § 38.2-610 A 2 of the Code. In the remaining 57 violations, Bankers Life sent an AUD notice to the applicant, but the notice used wording that was not substantially similar to the wording contained in the prototype AUD notice in Administrative Letter 1981-15, and therefore, failed to comply with the requirements of § 38.2-610 A 2 of the Code. An example is discussed in Review Sheet UN17. Bankers Life disagreed with the examiners' observations, and stated that:

The AUD Notice provided to the applicant complies with Va. Code Ann. §§ 38.2-610 A 1 and 38.2-610 A 2 as follows:

38.2-610 A1 – The notice advises the applicant that additional information concerning the adverse decision and copies of information used as the basis for that decision can be obtained by submitting a written request to the company.

38.2-610 A2 – The notice provides a summary of the requirements of 38.2-610 B by identifying the right to submit a request for additional information within 90 business days, as well as the company's required response within 21 business days. The notice also provides a summary of the rights pursuant to §38.2-608 (Access to recorded personal information) and § 38.2-609 (Correction, amendment, or deletion of recorded personal information) by identifying the right to submit a written request to access personal information, and the right to correct that information. It also identifies possible privileged information that may not be provided to the individual. The statute does not require an enumeration of all items listed in subsection B of 38.2-610 or §§ 38.2-608 and 38.2-609. The notice complies with the intent of the Virginia Code by informing the applicant of the options available upon receipt of an Adverse Underwriting Decision.

Prototype AUD Notice – Administrative Letter 1981-15 provides a prototype notice illustrating "...the kinds of information that should be contained in AUD notices on or after January 1, 1982." It requires use of substantially similar wording to convey the rights of individuals in receipt of Adverse Underwriting Decisions. We believe the content of the notice is substantially similar to the wording of the prototype and conveys the required information.

The examiners do not concur. The AUD notice it used during the examination time frame was not substantially similar to the prototype AUD notice specified in the Administrative Letter for the following reasons:

The notice failed to state that the applicant has the right to obtain the *specific reason* for the adverse underwriting and that the applicant has the right to know the *specific items of information that support the reason for the decision and the identity of the source of that information*.

The notice failed to state the applicant's right to give Bankers Life a concise statement of what the applicant believes is the correct information.

The notice incorrectly refers to "*...privileged information we can't release*." Absent a reasonable suspicion of criminal activity, fraud, material misrepresentation, or material nondisclosure, Bankers Life is obligated to release all information related to the adverse underwriting decision to either the applicant or his or her medical professional.

Additionally, as discussed in Review Sheet UN43, during a review of the sample cancellation files, it was discovered that Bankers Life had declined coverage for an applicant who had submitted a reinstatement request. Bankers Life failed to provide the applicant with an AUD notice, as required.

INSURANCE REPLACEMENT

A review was conducted to determine if Bankers Life was in compliance with the requirements of 14 VAC 5-30-10 et seq., Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-140-90 of Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act, 14 VAC 5-170-160 of Rules Governing Minimum Standards for Medicare Supplement Policies and 14 VAC 5-200-110 of Rules Governing Long-Term Care Insurance.

LIFE INSURANCE AND ANNUITIES

14 VAC 5-30-51 A 2 states that where a replacement is involved in the transaction, the replacing insurer shall notify any other existing insurer within 5 business days of receipt of a completed application.

As discussed in Review Sheets UN18 and UN24, the review revealed 2 violations of this section. Bankers Life agreed with the examiners' observations.

14 VAC 5-30-40 D states that in connection with a replacement transaction, the agent shall leave with the applicant, at the time an application for a new contract is completed, a copy of all marketing communications.

14 VAC 5-30-40 E states that except as provided in 14 VAC 5-30-51 C, in connection with a replacement transaction, the agent shall submit to the insurer to which an application for a policy or contract is presented, a statement identifying any preprinted or electronically presented company-approved marketing communications used, and copies of any individualized marketing communications, including any illustrations related to the specific policy or contract purchased.

14 VAC 5-30-51 C states, in part, that if an insurer prohibits the use of a marketing communication other than that approved by the company, as an alternative to the requirements made of an insurer pursuant to 14 VAC 5-30-40 E, the insurer may:

1. Require with each application a statement signed by the agent that:
 - a. Represents that the agent used only company-approved marketing communications; and
 - b. States that copies of all marketing communications were left with the applicant in accordance with 14VAC5-30-40 D.

Bankers Life included such a signed statement in its Replacement Notice Form L-14697A, and Page 9 of Bankers Life's Agent Compliance Guidelines states that "...the Company must approve all advertising material prior to being used." However, the review revealed 8 violations of 14 VAC 5-30-51 C 1 a and 14 VAC 5-30-51 C 1 b. An example is discussed in Review Sheet UN15, where Bankers Life failed to require a statement signed by the agent that represented that the agent used only company-approved marketing communications and that copies of all marketing communications were left with the applicant. Bankers Life agreed with the examiners' observations.

14 VAC 5-30-60 A 5 states that each insurer shall maintain a system of supervision and control that shall include procedures to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported by the applicant or agent. Compliance with this chapter may include, but shall not be limited to, systematic customer surveys, interviews, confirmation letters, or programs of internal monitoring. 14 VAC 5-30-60 B 4 requires an insurer's capacity to monitor to include the ability to produce records for each agent's number of transactions that are unreported replacements of existing policies or contracts by the existing insurer

detected by the company's monitoring system as required by subdivision A 5 of this section.

As discussed in Review Sheet UN39 and UN40, Bankers Life was in violation of these sections. A review of procedures and agent training materials revealed that Bankers Life's system for supervision and control had no means to detect transactions that were replacements of existing policies or contracts by the existing insurer, but had not been reported by the applicant or agent.

ACCIDENT AND SICKNESS INSURANCE

14 VAC 5-200-110 C requires that, upon determining that a sale will involve replacement, an insurer shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage.

As discussed in Review Sheet UN06, the review revealed 1 violation of this section. Bankers Life agreed with the examiners' observations.

SUITABILITY

A review was conducted to determine if Bankers Life was in compliance with the requirements of 14 VAC 5-45-10 et seq., Rules Governing Suitability in Annuity Transactions, and 14 VAC 5-200-175 of Rules Governing Long-Term Care Insurance.

ANNUITIES

The examiners reviewed a sample of 40 from a total population of 195 annuity contracts issued during the examination time frame.

14 VAC 5-45-40 B requires that prior to the purchase of an annuity, an insurer shall make reasonable efforts to obtain information concerning the consumer's financial status, tax status, investment objectives and other information considered to be reasonable by the insurer, in making recommendations to the consumer.

The review revealed that Bankers Life was in substantial compliance.

14 VAC 5-45-40 D 1 requires that an insurer establish and maintain a system to supervise recommendations that is reasonably designed to achieve compliance with this chapter. Such system shall include, but is not limited to maintaining written procedures and conducting periodic reviews of its records.

The review revealed that Bankers Life was in substantial compliance.

LONG-TERM CARE INSURANCE

The examiners reviewed a sample of 10 from a total population of 16 long-term care insurance policies issued during the examination time frame.

14 VAC 5-200-175 C 1 states that, to determine whether the applicant meets the suitability standards developed by the issuer, the issuer shall develop procedures that take the following into consideration:

- a. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage;
- b. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and
- c. The values, benefits and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement.

The review revealed that Bankers Life had developed suitability standards and trained its agents in the use of such standards during the examination time frame.

14 VAC 5-200-175 C 2 states that the issuer shall make reasonable efforts to obtain the information set out in subdivision 1 of this subsection. The efforts shall include presentation to the applicant, at or prior to application, of the "Long-Term Care Insurance Personal Worksheet." A copy of the issuer's personal worksheet shall be filed with the Commission for approval as required for a policy pursuant to § 38.2-316 of the Code.

The review of the sample files revealed that the personal worksheet was completed for each applicant. However, as discussed in Review Sheet PF24, the personal care worksheet that Bankers Life used to determine suitability for home health care policies, FORM #15773, had not been filed with the Commission for approval, in violation of 14 VAC 5-200-175 C 2. Bankers Life agreed with the examiners' observations and immediately filed the form for approval.

ADMINISTRATIVE LETTER 2010-12

The purpose of this Administrative Letter is to inform life and accident and sickness insurers of the disclaimer required to be attached to policies in order to comply with § 38.2-1715 B of the Code, which states that an insurer may not deliver a policy or contract to a policy or contract owner unless the summary document is delivered to the policy or contract owner at the time of delivery of the policy or contract. The summary document, Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association, was approved effective November 1, 2010.

As discussed in Review Sheet UN42, the review revealed that Bankers Life failed to deliver the summary document to the policy or contract owner in 112 instances, in violation of § 38.2-1715 B of the Code in each instance. Bankers Life agreed with the examiners' observations.

VII. PREMIUM NOTICES/REINSTATEMENTS POLICY LOANS AND LOAN INTEREST

The examiners reviewed Bankers Life's procedures and practices for processing premium notices and reinstatements.

PREMIUM NOTICES

LIFE INSURANCE

One month prior to the due date, a Billing Notice is sent to the policyholder. One day after the due date, a Past Due Notice is generated that informs the policyholder that "Payment must be made on or before the 45th day after the premium due date shown above..." The policyholder is also informed that the "...late acceptance of premium does not extend the grace period for any future premium increases." Universal life policyholders are given 61 days from the due date to remit premium for policies that have entered into the grace period due to insufficient value to cover the monthly cost of insurance and other expenses. A "Grace Notice" letter is sent upon entry into the grace period and a second notice is sent on the 31st day of the grace period. A lapse notice is sent to the policyholder on the 61st day from the due date.

The review revealed that Bankers Life was in substantial compliance with its procedures.

ACCIDENT & SICKNESS INSURANCE

One month prior to the due date, a Billing Notice is sent to the policyholder. At the end of the grace period, a "Grace Notice" letter is sent to the policyholder allowing 45 days after the due date to pay the past due premium to avoid lapse.

The Grace Notice states that "...late acceptance of premium does not extend the grace period for any future premium increases."

The review revealed that Bankers Life was in substantial compliance with its established procedures.

REINSTATEMENTS

LIFE INSURANCE

A sample of 25 was selected from a population of 81 life insurance policies for which reinstatement was requested.

For Bankers Life's traditional life products, a reinstatement offer letter is sent to the policyholder 10 days after the policy has lapsed. The policyholder is provided with a form whereby he or she can request reinstatement. A universal life policyholder receives a letter after the policy has lapsed urging him or her to apply for reinstatement.

The review revealed that Bankers Life was in substantial compliance with its established procedures.

ACCIDENT & SICKNESS INSURANCE

A sample of 12 from an unknown population of accident and sickness policies for which reinstatement was requested was reviewed. A reinstatement request found in the sample of terminated accident and sickness policy files was also reviewed.

As discussed in Review Sheet CN01, the review revealed that Bankers Life's established procedures were in conflict with the reinstatement provision of its long-term care, home health care, nursing home and short-term care policies. Bankers Life's procedures state the following:

LTC policies are no longer reinstated. However, late payment can be accepted on policies that are lapsed up to 65 days.

Policies lapsed 66 or more days may be reactivated if there is a provision in the policy that states the policy may be reactivated at a later date if the policy lapsed due to a Functional Incapacity or Cognitive Impairment.

If a policyholder whose coverage has lapsed for 66 days or more is interested in once again obtaining coverage, the policyholder must contact their Agent, who will determine if there is suitable product available for the policyholder. If so, the agent can submit a completed new business application, which we will consider, subject to regular underwriting requirements.

The reinstatement provision of Bankers Life's Tax-Qualified Home Health Care Policy GR-N500, states that:

If the premium isn't paid before the grace period ends, this policy will lapse. Later acceptance of premiums by Us (or by an agent authorized to accept payment) without requiring an application for reinstatement, will reinstate the policy.

If We or Our agent require an application You'll get a conditional receipt for the premium. If the application is approved, this policy will be reinstated as of the approval date. Lacking such approval, this policy will be reinstated on the 45th day after the date of the conditional receipt unless We previously notified You in writing of Our disapproval.

In the event of lapse due to Severe Cognitive Impairment or Functional Incapacity of a Family Member, You, or any person authorized to act on Your behalf, may request reinstatement of this policy. Such request must be made within six (6) months after this policy lapsed.

If proof of Severe Cognitive Impairment or Functional Incapacity is provided and medically verified and We receive past due premium, We'll reinstate the policy. Payment of premium must be made within 15 days following Our request.

On May 11, 2011, Bankers Life accepted a check for \$3,238.99 from a policyholder whose coverage had lapsed, without requiring an application for reinstatement. The receipt of the premium was more than 82 days past the February 18, 2011 premium due date. On May 11, 2011, Bankers Life sent a denial letter to the policyholder stating that,

"We are unable to process your request, because this policy is not eligible for reinstatement." On May 12, 2011, Bankers sent a refund check in the amount of \$3,238.99 to the policyholder, which was cashed by the policyholder on May 27, 2011.

The examiners observed that the cashing of the policyholder's premium check without requiring a reinstatement application constituted an "acceptance of premium" under the terms of the reinstatement provision, and that the policy should have been reinstated. Bankers Life disagreed, stating that:

The policy states that if premium is accepted we will reinstate. The letter sent to the insured designee on 3/21/11 advised that premium needed to be received within 65 days from the premium due date of 2/18/11. The premium check was received on 5/11/11 and refunded to the insured on 5/12/11. Receipt of the premium was more than 83 days past the 2/18/11 premium due date.

Our records show that the premium was not accepted, (see attached premium history) but rejected and refunded to the insured. Since the check would have been part of a batch of payments received it was cashed; but not accepted or applied to the policy.

The Company receives thousands of checks everyday and in order to track monies received, all checks are cashed right away. This process does not imply that the money is accepted or applied to a policy.

The statement in the May 11, 2011 reinstatement denial letter, *"...this policy is not eligible for reinstatement,"* was misleading in light of the fact that the policy allows reinstatement for up to 6 months from lapse in the case of cognitive impairment or functional incapacity of a family member, the insured, or anyone authorized to act on the insured's behalf. The examiners requested that Bankers Life provide a justification for administering its policies as if they contained no provision for reinstatement after the 65th day of policy lapse and that Bankers Life explain what basis it had to accept

premium and hold funds in its accounts for coverage that was no longer in force.

Bankers Life responded that:

The Company reinstates a policy if there is a functional incapacity or cognitive impairment that contributed to the cause of the lapse. However, proof of such incapacity or impairment is required.

The pre-screening process is a screening of the check image. The live check is not available as it has been sent to the bank for tracking and security purposes. There is no opportunity to return the original check to the consumer. This is all automated. We cannot determine at the time that the checks are being sent to the bank if a policy is active or lapsed. All payments are treated in the same fashion. They are cashed, and then applied or placed in suspense for review.

Bankers Life's stated practice of reinstating a policy "...if there is a functional incapacity or cognitive impairment..." would contradict the statement in the reinstatement denial letter that "...*this policy is not eligible for reinstatement.*" As discussed in Review Sheet CN01, this statement in the reinstatement denial letter was considered by the examiners to be a violation of § 38.2-503 of the Code, which prohibits placing before the public, a misleading statement related to the business of insurance.

POLICY LOANS AND LOAN INTEREST

The examiners reviewed a sample of 45 policy loan transactions from a total population of 387 life insurance policies with loan activity.

The review revealed that policy loans and loan interest were calculated in accordance with established procedures and the policy provisions.

VIII. CANCELLATIONS/NONRENEWALS

The examination included a review of Bankers Life's cancellation/nonrenewal practices and procedures to determine compliance with its policy provisions; the requirements of § 38.2-508 of the Code covering unfair discrimination; and the requirements of 14 VAC 5-200-10 et seq., Rules Governing Long-Term Care Insurance.

LIFE INSURANCE

Cash Surrenders

A sample of 60 from a total population of 610 policies surrendered for cash during the examination time frame was reviewed. The examiners reviewed the policy values and calculations for each cash surrender.

The review revealed that Bankers Life calculated the cash surrender amounts in accordance with the policy provisions.

Reduced Paid-Up and Extended Term Insurance

A sample of 5 from a total population of 18 policies converted to reduced paid-up insurance during the examination time frame was reviewed along with a sample of 5 from a total population of 22 policies that converted to extended term insurance.

The review revealed that the conversions were handled in accordance with established procedures and the policy provisions.

ACCIDENT AND SICKNESS

A sample of 74 was selected from a total population of 1,084 accident and sickness policies that were cancelled, non-renewed, or terminated during the examination time frame.

14 VAC 5-200-65 A 3 states that no individual long-term care policy shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated, at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice shall be given by first class United States mail, postage prepaid; and notice may not be given until 30 days after a premium is due and unpaid. Notice shall be deemed to have been given as of five days after the date of mailing.

As discussed in Review Sheets CN02, CN04, and CN08, the review revealed 3 instances where Bankers Life failed to provide the insured's designee with the required notice, in violation of 14 VAC 5-200-65 A 3.

As discussed in Review Sheets CN03, CN05, CN07 and CN10, the review revealed 4 instances where Bankers Life sent a notice of lapse to the policyholder, but the notice was not sent at least 30 days before the effective date of the lapse, in violation of 14 VAC 5-200-65 A 3.

During the review of long-term care cancellations it was revealed that the letters Bankers Life sent to the insured and the insured's designee referenced different time frames to remit payment for the past due premium. An example from one of the terminated files is discussed in Memo CNMEM01, where on March 12, 2011, the Grace Period Letter sent to the policyholder stated that:

Your payment must be received by us no later than the date shown above.
If you do not take advantage of this offer, your coverage will be considered lapsed as of the Due Date shown above and will no longer be in force.

The "date shown above" in the letter was March 24, 2011.

A subsequent March 14, 2011 letter sent to the insured's designee stated that:

The purpose of this letter is to advise you that the health insurance policy listed above will lapse for nonpayment of premium unless we receive a payment within 65 days of the premium due date.

Sixty-five (65) days from the due date indicated in the letter (February 10, 2011) would have been April 16, 2011. The examiners inquired as to why the letters sent to the insured and the designee referenced different dates. Bankers Life responded that:

The policyholder receives notices based on the prior date and the designee receives notices based on the actual day-65 lapse date.

The insured would receive the first notice with the true due date (current paid to date) and then would receive the 30-day notice with the 45-day date (from the current paid to date). The designee would then receive the 65-day notice as this is the last date the policyholder can pay premium and the purpose of the designee is to ensure that premium is paid by the 65th day.

The examiners noted that in the situations where an insured declined to elect a designee to receive premium notices, the notice of lapse letter sent to the insured would have to reference an effective date of lapse that is at least 35 days from the date the notice is mailed, in order for the lapse letter to comply with 14 VAC 5-200-65 A 3.

IX. COMPLAINTS

Bankers Life's complaint records were reviewed for compliance with § 38.2-511 of the Code. This section sets forth the requirements for maintaining complete records of complaints to include the number of complaints, the classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. A "complaint" is defined by this section as "any written communication from a policyholder, subscriber or claimant primarily expressing a grievance."

The total population of 27 written complaints received during the examination time frame was reviewed. However, as discussed in Review Sheet CP01, the population provided by Bankers Life did not include all of the complaints received during the examination time frame. An agent-related complaint was found in one of the cancellation files reviewed by the examiners. There was no record of the disposition, or the time it took to process this complaint, in violation of § 38.2-511 of the Code. Bankers Life agreed with the examiners' observations.

X. CLAIM PRACTICES

The examination included a review of Bankers Life's claim practices for compliance with §§ 38.2-510, 38.2-3115 and 38.2-3407.1 of the Code and 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

GENERAL HANDLING STUDY

The review consisted of a sampling of closed claims. All claims were processed at Bankers Life's office in Carmel, Indiana. The examiners were provided a copy of Bankers Life's claim handling procedures.

PAID CLAIM REVIEW

A sample of 185 was selected from a total population of 76,815 claims paid during the examination time frame. The review revealed that the claims were paid in accordance with the policy provisions.

Interest – Life & Annuity

Section 38.2-3115 B of the Code states that interest upon the principal sum shall be paid at an annual rate of 2.5% or the annual rate currently paid by the insurer on proceeds left under the interest settlement option, whichever is greater.

The review revealed that Bankers Life was in substantial compliance.

Interest – Accident & Sickness

Section 38.2-3407.1 B of the Code states that interest upon accident and sickness claim proceeds shall be computed daily at the legal rate of interest from the

date of fifteen working days from the insurer's receipt of proof of loss to the date of claim payment.

As discussed in Review Sheet CL06, the review revealed 1 violation of this section involving the underpayment of the amount of interest due. Bankers Life agreed with the examiners' observations.

TIME PAYMENT STUDY

The time payment study was computed by measuring the time it took Bankers Life, after receiving the properly executed proof of loss, to issue a check for payment. The term "working days" does not include Saturdays, Sundays, or holidays. The study was conducted on the total sample of 185 paid claims.

PAID CLAIMS		
<u>Working Days To Settle</u>	<u>Number of Claims</u>	<u>Percentage</u>
0 – 15	177	96%
16 – 20	1	0.2%
Over 20	7	3.8%

Bankers Life's established procedures state that claims will be paid within "...15 working days after receipt of proof of loss." Of the 185 paid claims reviewed for the time study, 4% of the claims were not settled within 15 working days.

DENIED CLAIM REVIEW

A sample of 82 was selected from a total population of 6,231 claims denied during the examination time frame. The review revealed that the claims were handled in accordance with the policy provisions.

UNFAIR CLAIM SETTLEMENT PRACTICES REVIEW

A total sample of 267 paid and denied claims was also reviewed for compliance with 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

14 VAC 5-400-50 A requires every insurer to acknowledge the receipt of notification of a claim within 10 working days, unless payment is made within that time.

14 VAC 5-400-50 D requires every insurer, upon receiving notification of a claim, shall promptly provide the necessary claim forms to the claimant.

14 VAC 5-400-60 A requires that within 15 working days after receipt of properly executed proofs of loss, the insurer shall advise the claimant of acceptance or denial of the claim by the insurer.

14 VAC 5-400-60 B requires that if the investigation of a claim has not been completed, every insurer shall, within 45 days from the date of the notification of the claim and every 45 days thereafter, send to the claimant a letter setting forth the reasons additional time is needed for investigation.

14 VAC 5-400-70 B requires an insurer to include a reasonable explanation of the basis for the denial of a claim in the written denial.

The review was conducted using the date the check was mailed as the settlement date. The areas of non-compliance are discussed in the following paragraphs.

14 VAC 5-400-50 A – In 7 instances, claims were not acknowledged within 10 working days upon receipt of notification. An example is discussed in Review Sheet CL03, where Bankers Life took 19 working days to acknowledge a claim. Bankers Life agreed with the examiners' observations.

14 VAC 5-400-50 D – As discussed in Review Sheet CL01, in 1 instance, a claimant was not promptly provided with the necessary claim forms and instructions. Bankers Life agreed with the examiners' observation.

14 VAC 5-400-60 A – In 8 instances, a claimant was not advised of acceptance or denial of a claim within 15 working days after proof of loss was received. An example is discussed in Review Sheet CL07, where Bankers Life took 136 working days to advise the claimant of acceptance of the claim. Bankers Life agreed with the examiners' observations.

14 VAC 5-400-60 B – In 7 instances, Bankers Life failed, within 45 days from the date of notification of a claim and every 45 days thereafter, to send a letter to the claimant setting forth the reasons additional time was needed for investigation. Review Sheet CL06 provides an example. Bankers Life agreed with the examiners' observations.

14 VAC 5-400-70 B – As discussed in Review Sheet CL13, there was 1 instance where Bankers Life failed to include a reasonable explanation of the basis for the denial in the written denial. Bankers Life's denial letter stated that, "...Medicare paid all the expense submitted." The Medicare EOB; however, stated that "these are non-covered services" and indicated that Medicare had paid nothing. Bankers Life agreed with the examiners' observations.

Bankers Life's failure to comply with the above regulations did not occur with such frequency as to indicate a general business practice.

THREATENED LITIGATION

There were no files that involved threatened litigation received during the examination time frame.

COPY

XI. CORRECTIVE ACTION PLAN

Based on the findings of the Report, Bankers Life shall implement the following corrective actions:

1. Bring its advertisements and its advertising file into compliance with the requirements of 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq.;
2. Establish and maintain procedures to ensure that any “cold lead” advertisements for its Medicare Supplement policies contain the disclosures required by 14 VAC 5-170-180 B 3;
3. Establish and maintain procedures to ensure that a copy of any long-term care insurance advertisement intended for use in this Commonwealth is provided to the Commission, as required by 14 VAC 5-200-160 A;
4. Establish and maintain procedures to ensure that all explanation of benefit (EOB) forms are filed with and approved by the Commission prior to use, as required by § 38.2-3407.4 A of the Code;
5. Strengthen its procedures for compliance with the requirements of §§ 38.2-1812 A and 38.2-1833 A 1 regarding the payment of commission to agents and the appointment of agents;
6. Immediately revise its disclosure authorization forms used in the underwriting process to comply with subsection 4 of § 38.2-606, subsection 6 of § 38.2-606, subsection 7 of § 38.2-606 and subsection 8 of § 38.2-606 of the Code;
7. Establish and maintain procedures to ensure that the AUD notice required by §§ 38.2-610 A 1 and 38.2-610 A 2 of the Code is provided to declined and

- rated applicants in accordance with the guidelines established by Administrative Letters 1981-15 and 2003-6;
8. Strengthen and maintain procedures to ensure that when a replacement is involved, the existing insurer is notified within 5 business days of receipt of the completed application, as required by 14 VAC 5-30-51 A 2;
 9. Establish and maintain procedures to only accept replacement forms where the section of the form that requires a statement signed by the agent that represents that the agent only used company approved marketing materials has been properly completed, as required by 14 VAC 5-30-51 C 1 a and 14 VAC 5-30-51 C 1 b;
 10. Strengthen and maintain a system of supervision and control to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported by the applicant or the agent, as required by 14 VAC 5-30-60 A 5 and 14 VAC 5-30-60 B 4;
 11. Strengthen and maintain procedures to ensure that, prior to the issuance of an individual long-term care insurance policy involving a replacement, applicants are furnished a replacement notice, as required by 14 VAC 5-200-110 C;
 12. Strengthen its procedures for filing all Long-Term Care Insurance Personal Worksheets for approval with the Commission, as required by 14 VAC 5-200-175 C 2;
 13. Establish and maintain procedures to ensure that the summary document Notice of Protection Provided by the Virginia Life, Accident and Sickness

Insurance Guaranty Association is delivered to the policy or contract owner at the time of delivery of the policy or contract, as required by § 38.2-1715 B of the Code;

14. Revise its procedures to ensure that reinstatements are handled in strict accordance with terms of the reinstatement provision of the insurance policy;
15. In order to comply with reinstatement provisions of its accident and sickness insurance policies, revise its procedures to ensure that a reinstatement application and conditional receipt is sent to a policyholder or the policyholder's designee whenever Bankers Life elects to accept premiums that the policyholder or the policyholder's designee has submitted for reinstatement of the policy;
16. Immediately remove all misleading statements regarding reinstatements from its written communications with long-term care and home health care policyholders;
17. Review all policies cancelled during the years 2008, 2009, 2010, 2011 and the current year to determine those insureds, or those persons designated by the insured, who were not provided the notice required by 14 VAC 5-200-65 A 3. For all instances of non-compliance, provide coverage until the notice required by this section was provided and make reimbursement on all valid claims for services incurred prior to the date coverage was terminated in accordance with 14 VAC 5-200-65 A 3. Send a letter to the most current address of the insured or the insured's designee stating that "As a result of a Target Market Conduct Examination by the

Virginia State Corporation Commission's Bureau of Insurance, it was revealed that Bankers Life failed to comply with 14 VAC 5-200-65 A 3, which requires that no individual long-term care policy shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated by the insured at the address provided by the insured for purposes of receiving notice of lapse or termination. Please submit any claims that occurred from [date] through [date].”;

18. Revise the Notice of Lapse Letter sent to the insured to comply with the requirements of 14 VAC 5-200-65 A 3;
19. Establish procedures for the maintenance of a complete record of all written complaints, as required by § 38.2-511 of the Code;
20. Strengthen its procedures for the payment of interest due on accident and sickness claim proceeds, as required by § 38.2-3407.1 B of the Code;
21. Review and strengthen its established procedures to ensure that claims are paid within 15 working days;
22. Strengthen its established procedures to ensure that it acknowledges the receipt of notification of a claim within 10 working days, as required by 14 VAC 5-400-50 A;
23. Strengthen its established procedures to ensure that claimants are promptly provided with the necessary claim forms and instructions, as required by 14 VAC 5-40-50 D;

24. Strengthen its established procedures to ensure that claimants are advised of the acceptance or denial of a claim within 15 working days of receipt of proof of loss, as required by 14 VAC 5-400-60 A;
25. Strengthen its established procedures to ensure that notification of pending Long-Term Care claims is sent every 45 days, as required by 14 VAC 5-400-60 B;
26. Strengthen its established procedures to ensure that the claimant is provided a reasonable explanation of the basis for the denial of a claim in the written denial, as required by 14 VAC 5-400-70 B; and
27. Within 120 days of this Report being finalized, furnish the examiners with documentation that each of the above actions has been completed.

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XII. ACKNOWLEDGMENT

The courteous cooperation extended to the examiners by Bankers Life's officers and employees during the course of this examination is gratefully acknowledged.

Gregory Lee, FLMI, CIE and Daedre Holland of the Bureau of Insurance participated in the work of the examination and writing of the Report.

Respectfully submitted,

Julie R. Fairbanks, AIE, AIRC, FLMI, ACS
Principal Insurance Market Examiner
Market Conduct Section II
Life and Health Division
Bureau of Insurance

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XIII. AREA VIOLATIONS SUMMARY BY REVIEW SHEET

ADVERTISING
14 VAC 5-40-60 B, 1 violation, AD16, AD26, AD30
14 VAC 5-90-170 A, 1 violation, AD04, AD05, AD06, AD07, AD08, AD09, AD16, AD25, AD26, AD28, AD29, AD30
14 VAC 5-40-40 A 1, 1 violation, AD30B
14 VAC 5-40-50 C, 1 violation, AD11C
14 VAC 5-90-55 A, 7 violations, AD02A, AD10A, AD25A, AD26A, AD28A, AD29A, AD30A
14 VAC 5-90-90 A, 1 violation, AD10B
14 VAC 5-170-180 B 3, 1 violation, AD10F
14 VAC 5-200-160 A, 2 violations, AD02A, AD04
POLICY AND OTHER FORMS
§ 38.2-3407.4 A, 1 violation, PF23
AGENTS
§ 38.2-1812 A, 3 violations, AG05, AG06, AG07
§ 38.2-1833 A 1, 3 violations, AG05, AG06, AG07
UNDERWRITING/UNFAIR DISCRIMINATION/INSURANCE INFORMATION AND PRIVACY PROTECTION ACT/INSURANCE REPLACEMENT AND SUITABILITY
Subsection 4 of § 38.2-606, 2 violations, UN100, UN102
Subsection 6 of § 38.2-606, 2 violations, UN100, UN102
Subsection 7 of § 38.2-606, 2 violations, UN100, UN102
Subsection 8 of § 38.2-606, 3 violations, UN100, UN101, UN102
§ 38.2-610 A 1, 35 violations, UN01, UN02, UN03, UN05, UN17, UN26, UN27, UN28, UN29, UN30, UN31, UN32, UN33, UN34, UN35, UN36 (15), UN37 (2), UN38 (2), UN43

§ 38.2-610 A 2, 76 violations, UN01, UN02, UN03, UN05, UN17, UN26, UN27, UN28, UN29, UN30, UN31, UN32, UN33, UN34, UN35, UN36 (15), UN37 (2), UN38 (43), UN43
14 VAC 5-30-51 A 2, 2 violations, UN18, UN24
14 VAC 5-30-51 C 1 a, 8 violations, UN08, UN09, UN10, UN15, UN16, UN20, UN23, UN25
14 VAC 5-30-51 C 1 b, 8 violations, UN08, UN09, UN10, UN15, UN16, UN20, UN23, UN25
14 VAC 5-30-60 A 5, 1 violation, UN39
14 VAC 5-30-60 B 4, 1 violation, UN40
14 VAC 5-200-110 C, 1 violation, UN06
14 VAC 5-200-175 C 2, 1 violation, PF24
§ 38.2-1715 B, 112 violations, UN42
PREMIUM NOTICES/REINSTATEMENTS/POLICY LOANS AND LOAN INTEREST
§ 38.2-503, 1 violation, CN01
CANCELLATIONS/NONRENEWALS
14 VAC 5-200-65 A 3, 7 violations, CN02, CN03, CN04, CN05, CN07, CN08, CN10
COMPLAINTS
§ 38.2-511, CP01
CLAIM PRACTICES
§ 38.2-3407.1 B, 1 violation, CL06
14 VAC 5-400-50 A, 7 violations, CL03, CL04, CL05, CL06, CL07, CL10, CL11
14 VAC 5-400-50 D, 1 violation, CL01
14 VAC 5-400-60 A, 8 violations, CL01, CL02, CL03, CL04, CL05, CL06, CL07, CL10
14 VAC 5-400-60 B, 7 violations, CL01, CL04, CL05, CL06, CL07, CL08, CL10
14 VAC 5-400-70 B, 1 violation, CL13

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

July 11, 2012

CERTIFIED MAIL 7011 0110 0001 6085 1987
RETURN RECEIPT REQUESTED

Ms. Karren Leonard
Director, Market Conduct
Bankers Life and Casualty Company
600 West Chicago Ave., 4th Floor
Chicago, IL 60654-2800

RE: Market Conduct Examination Report
Exposure Draft

Dear Ms. Leonard:

Recently, the Bureau of Insurance conducted a Market Conduct Examination of Bankers Life and Casualty Company (Bankers Life) for the period of October 1, 2010 through March 31, 2011. A preliminary draft of the Report is enclosed for your review.

Since it appears from a reading of the Report that there have been violations of Virginia Insurance Laws and Regulations on the part of Bankers Life, I would urge you to read the enclosed draft and furnish me with your written response within 30 days of the date of this letter. Please specify in your response those items with which you agree, giving me your intended method of compliance, and those items with which you disagree, giving your specific reasons for disagreement. Bankers Life's response(s) to the draft Report will be attached to and become part of the final Report.

Once we have received and reviewed your response, we will make any justified revisions to the Report and will then be in a position to determine the appropriate disposition of this matter.

Thank you for your prompt attention to this matter.

Yours truly,

Carly B. Daniel, AIE, AIRC
Principal Insurance Market Examiner
Market Conduct Section 1
Life and Health Division
Bureau of Insurance
(804) 371-9492

CBD:mhh
Enclosure
cc: Althelia Battle

August 24, 2012

Carly B. Daniel, AIE, AIRC
Principal Insurance Market Examiner
Market Conduct Section 1
Life and Health Division
State Corporation Commission, Bureau of Insurance
P.O. Box 1157
Richmond, VA 23218

RE: Bankers Life and Casualty Company Draft Examination Report

Dear Ms. Daniel:

The Company is in receipt of your July 11, 2012 correspondence containing the draft Report on Target Market Conduct Examination of Bankers Life and Casualty Insurance Company (the "Report"). Thank you for the opportunity to respond and for the extension that was granted.

The Company respectfully and timely submits the following responses and/or corrective actions to ensure future compliance with Virginia insurance laws and regulations. The sections in this response refer directly to those sections in the Report, and are in the same order as found therein. In addition, the Company respectfully requests deletions of certain sections of the Report, which are reproduced below. The beginning and end of the requested deletions are clearly delineated. These deletions represent the "back and forth" positions between the examiners and the Company during the exam, but it is the Company's position that to reiterate these positions in the Report itself is unnecessary. In addition, the Company notes the multiple examination areas where only one (1) or two (2) violations were found. In fact, of the 34 separately designated sections under XIII Area Violations Summary by Review Sheet, half (16) contain findings of only one (1) or two (2) violations. Another four (4) sections contain findings of only three (3) violations. Therefore, in the majority of areas of inquiry, the Company does not have systemic compliance issues.

III. Advertising/Marketing Communications

The Company requests deletion of the following on pages 8-9:

Bankers Life disagreed with the examiners' observations in every instance. An example is discussed in Review Sheet AD25, where Bankers Life responded that, "This ad was available but never used and therefore, there is no record of the manner and extent of distribution." Bankers Life had previously informed the examiners that "We contacted the Virginia Branch Offices to inquire as to whether or not any ads were ordered for distribution and the reply was no for this advertising piece." The examiners responded that:

... the regulation requires that there be a notation attached to each advertisement that indicates the manner and extent of distribution and that all the advertisements shall be

maintained in a file for the longer of four years or until the filing of the next regular report on examination of the insurer. In addition, the advertising file must be maintained at the company's home or principal office, not the company's branch sales offices ... Bankers Life has failed to maintain its advertising in accordance with 14 VAC 5-90-170 A, and therefore, can make no definitive statement regarding the use or non-use of this advertisement.

In response, Bankers Life persisted in its disagreement, and stated that:

The Company would argue that there would be no notation in the file as to the manner and extent of distribution of this advertisement if the advertisement was never distributed. We would further clarify that home office was checked first and then the branch offices as a double measure to ensure that there was no distribution history for this advertisement.

The examiners maintain the findings. Item 2.A of the Coordinator's Handbook presented to Banker's Life at the inception of the examination had specifically requested a population of "... *all advertisements used to solicit business in Virginia during the examination time frame*" and that a Vice President of the Company had certified in writing to the examiners on June 10, 2011 that the documents, as requested by the Bureau of insurance, were "... complete and accurate." (End of deletion request).

On page 9 of the Report, it states "there were 15 violations" in the area of advertising/marketing. The Company's calculations indicate there are 13, not 15, alleged violations in this section. Furthermore, it is unclear whether there was a finding of violation in the Final Review Sheet for AD04.

The Company must respectfully maintain and incorporate by reference its responses offered during the exam with respect to advertising and marketing review sheets. The pieces either were not used during the exam period, not required to be filed because they were institutional only/not product specific, or are now obsolete and have been pulled from marketing.

Life Insurance and Annuity Marketing Communications

The Company disagrees with the conclusion that it committed a violation of 14 VAC 5-40-40 A 1 (currently 14 VAC 5-41-30 B). The referenced flyer mentions a scenario that is certainly possible, if not likely, especially considering the very small returns paid on CDs and, therefore, is not misleading.

The Company requests deletion of the following on page 10:

The examiners observed that this statement created the impression that the advisability of the purchase of an annuity was endorsed by a government entity. Bankers Life disagreed with the examiners, and stated that:

This is a statement of fact. Insurance regulations do require that companies maintain adequate reserves. We do not feel that citing a regulatory requirement is akin to implying that our policies are endorsed by a government agency. The disclosure page further states that annuity policies are products of the insurance industry, and are not guaranteed by any bank, nor Insured by the FDIC.

The examiners maintained our findings and commented that "... the fact that life insurance companies are required by state regulation to maintain adequate reserves does not equate to a guarantee of principal." (End of deletion request).

The Company disagrees with the conclusion that it committed a violation of 14 VAC 5-40-50 C (currently 14 VAC 5-41-140 C). This regulation does not address whether a marketing communication is misleading with respect to a guarantee of principal, it addresses whether a marketing communication is misleading with respect to governmental entity endorsement. While the marketing communication at issue mentions an FDIC requirement, it in no way states or implies that the policies are endorsed or recommended by a governmental entity. The Company respectfully requests a finding of no violation.

IV. Policy and Other Forms

Accident and Sickness Insurance

The Company requests deletion of the following on page 13:

However, as discussed in Section VI of the Report, the review revealed that Bankers Life failed to file the Long-Term Care Personal Worksheet it used to assess suitability for its home health care policies, as required by 14 VAC 5-200-175 C 2. (End of deletion request).

V. Agents

Appointed Agent Review and Commissions

The Company respectfully points out that there was only one appointment error, as AG05, addressed by the examiners under Commissions, and AG06, addressed by the examiners under Appointed Agent Review, involved the same individual.

VI. Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act/Insurance Replacement and Suitability

Adverse Underwriting Decisions (AUD)

The Company requests deletion of the following on pages 22-23:

Bankers Life disagreed with the examiners' observations, and stated that:

The AUD Notice provided to the applicant complies with Va. Code Ann. §§ 38.2-610 A 1 and 38.2-610 A 2 as follows:

38.2-610 A1 - The notice advises the applicant that additional information concerning the adverse decision and copies of information used as the basis for that decision can be obtained by submitting a written request to the company.

38.2-610 A2 - The notice provides a summary of the requirements of 38.2-610 B by identifying the right to submit a request for additional information within 90 business days, as well as the company's required response within 21 business days. The notice also provides a summary of the rights pursuant to §38.2-608 (Access to recorded personal information) and § 38.2-609 (Correction, amendment, or deletion of recorded personal information) by identifying the right to submit a written request to access personal information, and the right to correct that information. It also identifies possible privileged information that may not be provided to the individual. The statute does not require an enumeration of all items listed in subsection B of 38.2-610 or §§ 38.2-608 and 38.2-609. The notice complies with the intent of the Virginia Code by informing the applicant of the options available upon receipt of an Adverse Underwriting Decision.

Prototype AUD Notice - Administrative Letter 1981-15 provides a prototype notice illustrating "... the kinds of information that should be contained in AUD notices on or after January 1, 1982." It requires use of substantially similar wording to convey the rights of individuals in receipt of Adverse Underwriting Decisions. We believe the content of the notice is substantially similar to the wording of the prototype and conveys the required information.

The examiners do not concur. The AUD notice it used during the examination time frame was not substantially similar to the prototype AUD notice specified in the Administrative Letter for the following reasons:

The notice failed to state that the applicant has the right to obtain the *specific reason* for the adverse underwriting and that the applicant has the right to know the *specific items of information that support the reason for the decision and the identity of the source of that information*.

The notice failed to state the applicant's right to give Bankers Life a concise statement of what the applicant believes is the correct information.

The notice incorrectly refers to "... *privileged information we can't release*." Absent a reasonable suspicion of criminal activity, fraud, material misrepresentation, or material nondisclosure, Bankers Life is obligated to release all information related to the adverse underwriting decision to either the applicant or his or her medical professional. (End of deletion request).

Insurance Replacement – Life Insurance and Annuities

The Company was not afforded the opportunity to agree or disagree with the examiners' findings in UN39 and UN40. While the "back and forth" between the examiners and the Company was occurring, the exam was concluded. Therefore, the Company must maintain its position taken in response to those Review Sheets.

VII. Premium Notices/Reinstatements Policy Loans and Loan Interest

Reinstatements – Accident & Sickness Insurance

The Company requests deletion of the following on pages 31-34:

Bankers Life's procedures state the following:

LTC policies are no longer reinstated. However, late payment can be accepted on policies that are lapsed up to 65 days.

Policies lapsed 66 or more days may be reactivated if there is a provision in the policy that states the policy may be reactivated at a later date if the policy lapsed due to a Functional Incapacity or Cognitive Impairment.

If a policyholder whose coverage has lapsed for 66 days or more is interested in once again obtaining coverage, the policyholder must contact their Agent, who will determine if there is suitable product available for the policyholder. If so, the agent can submit a completed new business application, which we will consider, subject to regular underwriting requirements.

The reinstatement provision of Bankers Life's Tax-Qualified Home Health Care Policy GR-N500, states that:

If the premium isn't paid before the grace period ends, this policy will lapse. Later acceptance of premiums by Us (or by an agent authorized to accept payment) without requiring an application for reinstatement, will reinstate the policy.

If We or Our agent require an application You'll get a conditional receipt for the premium. If the application is approved, this policy will be reinstated as of the approval date. Lacking such approval, this policy will be reinstated on the 45th day after the date of the conditional receipt unless We previously notified You in writing of Our disapproval.

In the event of lapse due to Severe Cognitive Impairment or Functional Incapacity of a Family Member, You, or any person authorized to act on Your behalf, may request reinstatement of this policy. Such request must be made within six (6) months after this policy lapsed.

If proof of Severe Cognitive Impairment or Functional Incapacity is provided and medically verified and We receive past due premium, We'll reinstate the policy. Payment of premium must be made within 15 days following Our request.

On May 11, 2011, Bankers Life accepted a check for \$3,238.99 from a policyholder whose coverage had lapsed, without requiring an application for reinstatement. The receipt of the premium was more than 82 days past the February 18, 2011 premium due date. On May 11, 2011, Bankers Life sent a denial letter to the policyholder stating that, "*We are unable to process your request, because this policy is not eligible for reinstatement.*" On May 12, 2011, Bankers sent a refund check in the amount of \$3,238.99 to the policyholder, which was cashed by the policyholder on May 27, 2011.

The examiners observed that the cashing of the policyholder's premium check without requiring a reinstatement application constituted an "acceptance of premium" under the terms of the reinstatement provision, and that the policy should have been reinstated. Bankers Life disagreed, stating that:

The policy states that if premium is accepted we will reinstate. The letter sent to the insured designee on 3/21/11 advised that premium needed to be received within 65 days from the premium due date of 2/18/11. The premium check was received on 5/11/11 and refunded to the insured on 5/12/11. Receipt of the premium was more than 83 days past the 2/18/11 premium due date.

Our records show that the premium was not accepted, (see attached premium history) but rejected and refunded to the insured. Since the check would have been part of a batch of payments received it was cashed; but not accepted or applied to the policy.

The Company receives thousands of checks everyday and in order to track monies received, all checks are cashed right away. This process does not imply that the money is accepted or applied to a policy.

The statement in the May 11, 2011 reinstatement denial letter, "*... this policy is not eligible for reinstatement,*" was misleading in light of the fact that the policy allows reinstatement for up to 6 months from lapse in the case of cognitive impairment or functional incapacity of a family member, the insured, or anyone authorized to act on the insured's behalf. The examiners requested that Bankers Life provide a justification for administering its policies as if they contained no provision for reinstatement after the 65th day of policy lapse and that Bankers Life explain what basis it had to accept premium and hold funds in its accounts for coverage that was no longer in force.

Bankers Life responded that:

The Company reinstates a policy if there is a functional incapacity or cognitive impairment that contributed to the cause of the lapse. However, proof of such incapacity or impairment is required.

The pre-screening process is a screening of the check image. The live check is not available as it has been sent to the bank for tracking and security purposes. There is no opportunity to return the original check to the consumer. This is all automated. We cannot determine at the time that the checks are being sent to the bank if a policy is active or lapsed. All payments are treated in the same fashion. They are cashed, and then applied or placed in suspense for review.

Bankers Life's stated practice of reinstating a policy "... if there is a functional incapacity or cognitive impairment ..." would contradict the statement in the reinstatement denial letter that "... *this policy is not eligible for reinstatement.*" (End of deletion request).

The Company does not request deletion, but correction, of the following on page 34:

As discussed in Review Sheet CN01, this statement in a reinstatement denial letter was considered by the examiners to be a violation of § 38.2-503 of the Code, which prohibits placing before the public, a misleading statement related to the business of insurance.

VIII. Cancellations/Nonrenewals

The Company did not receive a Final Review Sheet for CN06. Therefore, the Company must maintain its position taken in response to CN06.

IX. Complaints

The Company has no requested changes or deletions in this section.

X. Claim Practices

Unfair Claim Settlement Practices Review

The Company requests deletion of the following on page 42:

14 VAC 5-400-50 D – As discussed in Review Sheet CL01, in 1 instance a claimant was not promptly provided with the necessary claim forms and instructions. Bankers Life agreed with the examiners' observations. (End of deletion request).

Review Sheet CL01 was withdrawn. Furthermore, CL02 should be withdrawn as the policy was paid and, therefore, accepted within 15 working days after proof of loss was received. Please amend the instances with respect to 14 VAC 5-400-60 A to six (6) and the instances with respect to 14 VAC 5-400-60 B to six (6).

The Company requests deletion of the following on page 42:

14 VAC 5-400-70 B – As discussed in Review Sheet CL13, there was 1 instance where Bankers Life failed to include a reasonable explanation of the basis for the denial in the written

denial. Bankers Life's denial letter stated that "... Medicare paid all the expense submitted." The Medicare EOB, however, stated that "these are non-covered services" and indicated that Medicare had paid nothing. Bankers Life agreed with the examiners' observations. (End of deletion request).

CL13 should be removed. The Company provided reasonable explanation to the insured and the provider that expenses were paid 100% by Medicare and no benefits were due from the Company.

XI. Corrective Action Plan

1. The Company will "[b]ring its advertising and its advertising file into compliance with the requirements of 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq." Proposed corrective action includes the following:

In September 2012, the Company will be conducting a compatibility test in one of our branch offices in conjunction with [LIMRA Strategic Partner Distribution](#). This platform provides a complete solution that makes it easy for local sales agents to localize and personalize marketing messages without compromising brand or regulatory standards, and delivers complete, real-time tracking and reporting to corporate marketing.

2. The examiners state the Company shall "[e]stablish and maintain procedures to ensure that any 'cold lead' advertisements for its Medicare Supplement policies contain the disclosures required by 14 VAC 5-170-180 B 3." As there was only one (1) violation, the Company respectfully submits that revising only the lead card document in question to include in a conspicuous manner that the purpose of the advertisement is the solicitation of insurance and that contact will be made by an insurance agent or the Company is the more appropriate corrective action.

3. The examiners state the Company shall "[e]stablish and maintain procedures to ensure that a copy of any long-term care insurance advertisement intended for use in this Commonwealth is provided to the Commission, as required by 14 VAC 5-200-160 A." As there were only two (2) violations, the Company respectfully submits that filing a copy of any long-term care insurance advertisement intended for use in the Commonwealth is provided to the Commission, as required by 14 VAC 5-200-160 A, is the more appropriate corrective action. For Review Sheet AD02A, the Company will file Form 17615 on an expedited basis. For Review Sheet AD04, the Company filed the updated forms with the state as of October 6, 2011 under SERFF filing BNLA-127689069.

4. The examiners state the Company shall "[e]stablish and maintain procedures to ensure that all explanation of benefit (EOB) forms are filed with and approved by the Commission prior to use, as required by § 38.2-3407.4 A of the Code." The Company respectfully submits that it has already complied with this requirement. For Long Term Care and Home Health Care claims serviced after January 1, 2012, the claimant has been issued the EOB form filed with and approved by the Virginia Bureau of Insurance on November 11, 2011.

5. The examiners state the Company shall "[s]trengthen its procedures for compliance with the requirements of §§ 38.2-1812 A and 38.2-1833 A 1 regarding the payment of commission to agents and the appointment of agents." First, the Company respectfully reiterates that there was only one

appointment error, as AG05 and AG06 involved the same individual. Second, proposed corrective action includes the following:

The procedure will be strengthened by Agents Licenses notifying Agency Services when a licensing/appointment error is discovered to determine if any business was issued. Furthermore, License Specialists will review the appointment results prior to returning the file back to the branch office and update the agent's license record if the appointment was rejected. If the BOI does not update its website and forward license information to the Gateway on a timely basis, then the License Specialists will heighten their awareness. Finally, nomoreforms reports will be run weekly looking for rejected appointments and Agency Services will determine if commissions were paid when agents were not appointed.

6. The Company will “[i]mmediately revise its disclosure authorization forms used in the underwriting process to comply with subsections 4, 6, 7 and 8 of § 38.2-606 of the Code.” The 7022R, 9816 and 15084 are all obsolete forms. The most current version of the authorization is the 15084A (copy attached), which complies with subsections 4, 6, 7 and 8 of § 38.2-606 of the Code.

7. The Company will “[e]stablish and maintain procedures to ensure that the AUD notice required by §§ 38.2-610 A 1 and 38.2-610 A 2 of the Code is provided to declined and rated applicants in accordance with the guidelines established by Administrative Letters 1981-15 and 2003-6.” Proposed corrective action includes the following:

In the event of an adverse underwriting decision, the Company will provide a notice to the applicant which states the applicant has been declined and advises the applicant upon written request that he/she may receive a specific reason or reasons for the adverse decision. This correspondence will also include a summary of the applicant's rights.

The Company will create within Bankers Front Office (BFO) a system requirement for a “Reject Letter” on all cases which will either need to be satisfied in the event of an adverse action or deleted in the event of positive action. In the interim, the underwriting associates will add the requirement on the case at Triage. The Company will use reporting to track which cases had adverse decisions and have the requirement satisfied. On an adverse decision, the underwriter will satisfy the reject letter requirement and send a task to the underwriting associate to send the letter. The underwriting associate will need to complete the task and make a case note confirming that the letter was sent. An IT request will have the letters backend imaged in Carmel.

8. The examiners state the Company shall “[s]trengthen and maintain procedures to ensure that when a replacement is involved, the existing insurer is notified within 5 business days of receipt of the completed application, as required by 14 VAC 5-30-51 A 2.” As there were only two (2) violations, the Company respectfully submits that it review and maintain procedures to ensure that when a replacement is involved, the existing insurer is notified within five (5) business days of receipt of the completed application, as required by 14 VAC 5-30-51 A 2.

9. The Company will “[e]stablish and maintain procedures to only accept replacement forms where the section of the form that requires a statement signed by the agent that represents that the agent only used company approved marketing materials has been properly completed, as required by

14 VAC 5-30-51 C 1 a and 14 VAC 5-30-51 C 1 b.” Proposed corrective action includes the following:

The Company will add documentation to the replacement guidelines on the Sharepoint site, which dictates that any Life app that is a replacement needs to have the L-14697A form on file and signed by the agent. If the application is a replacement and is submitted without the form, it will be pended. The Company will also discuss the possibility of issuing the policy “out for signature” for the L-14697A form. Also, the Company would like to inform the BOI of its updated process, implemented in March 2012, which consists of Monitoring the Daily Life and Annuity Replacement Audit Reports and Replacement Controls and Processes (copies attached).

10. The examiners state the Company shall “[e]stablish and maintain a system of supervision and control to detect transactions that are replacements of existing policies or contracts by the existing insurer, but that have not been reported by the applicant or the agent, as required by 14 VAC 5-30-60 A 5 and 14 VAC 5-30-60 B 4.” As there were only two (2) violations, the Company respectfully submits that it “strengthen and maintain,” not “establish,” its system.

11. The examiners state the Company shall “[s]trengthen and maintain procedures to ensure that, prior to the issuance of an individual long term care insurance policy involving a replacement, applicants are furnished a replacement notice, as required by 14 VAC 5-200-110 C.” As there was only one (1) violation, the Company respectfully submits that the more appropriate corrective action is for it review its established procedures to ensure that, prior to the issuance of an individual long term care insurance policy involving a replacement, applicants are furnished a replacement notice, as required by 14 VAC 5-200-100 C.

12. The examiners state the Company shall “[s]trengthen its procedures for filing all Long-Term Care Insurance Personal Worksheets for approval with the Commission, as required by 14 VAC 5-200-175 C 2.” The Company respectfully submits that it has already complied with this requirement. HHC personal worksheet (Form 15773) was filed and approved as of June 21, 2012 under SERFF filing BNLA-128370276.

13. The Company will “[e]stablish and maintain procedures to ensure that the summary document Notice of Protection Provided by the Virginia Life, Accident and Sickness Insurance Guaranty Association is delivered to the policy or contract owner at the time of the policy or contract, as required by § 38.2-1715 B of the Code.”

14. and 15. The examiners state the Company shall “[r]evise its procedures to ensure that reinstatements are handled in strict accordance with terms of the reinstatement provision of the insurance policy. In order to comply with reinstatement provisions of its accident and sickness insurance policies, revise its procedures to ensure that a reinstatement application and conditional receipt is sent to a policyholder or the policyholder’s designee whenever Bankers Life elects to accept premiums that the policyholder or the policyholder's designee has submitted for reinstatement of the policy.” As there was only one (1) violation, the Company respectfully submits that it revise the specific document at issue, as opposed to “procedures.”

16. The Company will “[i]mmediately remove all misleading statements regarding reinstatements from its written communications with long-term care and home health care policyholders.”

17. The examiners state the Company shall “[r]eview all policies cancelled during the years 2008, 2009, 2010, 2011 and the current year [2012] to determine those insureds, or those persons designated by the insured, who were not provided the notice required by 14 VAC 5-200-65 A 3. For all instances of non compliance, provide coverage until the notice required by this section was provided and make reimbursement on all valid claims for services incurred prior to the date coverage was terminated in accordance with 14 VAC 5-200-65 A 3. Send a letter to the most current address of the insured or the insured's designee stating that ‘As a result of a Target Market Conduct Examination by the Virginia State Corporation Commission's Bureau of Insurance, it was revealed that Bankers Life failed to comply with 14 VAC 5-200-65 A 3, which requires that no individual long-term care policy shall lapse or be terminated for nonpayment of premium unless the insurer, at least 30 days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated by the insured at the address provided by the insured for purposes of receiving notice of lapse or termination. Please re-submit any claims that were previously denied.’”

The Company respectfully submits that it review and sample policies cancelled during the years 2008, 2009, 2010, 2011 and the current year [2012] to determine the occurrence rate of similar instances to the four (4) found. The Company will share results with the BOI to determine whether its proposed action is necessary and reasonable. This proposed course of action is more appropriate under the circumstances, considering the relatively small number of instances and the time and labor intensive nature of the research and data gathering the examiners are suggesting.

18. The Company will “[r]evis[e] the Notice of Lapse Letter sent to the insured to comply with the requirements of 14 VAC 5-200-65 A 3.”

19. The examiners state the Company shall “[e]stablish procedures for the maintenance of a complete record of all written complaints, as required by § 38.2-511 of the Code.” As there was only one (1) violation, the Company respectfully submits that the more appropriate corrective action is for it to review its established procedures to ensure it maintains a complete record of all written complaints, as required by § 38.2-511 of the Code.

20. The examiners state the Company shall “[s]trengthen its procedures for the payment of interest due on accident and sickness claim proceeds, as required by § 38.2-3407.1 B 7 of the Code.” The Company respectfully submits that no corrective action is necessary. There was only one (1) instance of non-compliance regarding a Long Term Care claim. Therefore, there is no need to strengthen its procedures.

21. The examiners state the Company shall “[r]eview and strengthen its established procedures to ensure that claims are paid within 15 working days.” The Company respectfully submits that the more appropriate corrective action is for it to strengthen its established procedures with respect to Long Term Care claims only to ensure they are paid within 15 working days after proof of loss is received. Review Sheet CL01 was withdrawn and Review Sheets CL02 and CL03 involve annuities. Therefore, there are only five (5) violations in Long Term Care and two (2) in Annuity. The

corrective action should focus on, and be limited to, Long Term Care. The following has already been implemented or, if not, a target date has been provided:

When the claims corresponding to CL04, CL05, CL06, CL07 and CL10 were received, the LTC Claims re-servicing queue was in a state of backlog. The inventory became current as of February 2012. Incoming claim inventory is managed on a daily basis with ongoing metrics currently noted at ten (10) business day turnaround time.

Effective April 1, 2012, LTC updated the claim workflow process to ensure items placed in Correspondence queues (CORR) are managed on a daily basis.

Effective June 1, 2012, modifications were made to initial claim workflow process to allow proof of loss requests/follow-ups to be managed by the same associate, which has resulted in improved timeliness of requirements gathering.

Targeted for completion in Q2 of 2013 is to enhance the AWD workflow system to recognize state specific prompt pay guidelines and to enhance Metrics and Reporting for state specific inventory management.

22. The examiners state the Company shall “[r]eview its established procedures to ensure that it acknowledges the receipt of notification of a claim within 10 working days, as required by 14 VAC 5-400-50 A.” The Company respectfully submits that the more appropriate corrective action is for it to review its established procedures with respect to Long Term Care only to ensure that it acknowledges the receipt of notification of a claim within ten (10) working days upon receipt of notification of the claim, as required by 14 VAC 5-400-50 A. Again, based upon the examiners’ findings, the corrective action should focus on, and be limited to, Long Term Care. The following corrective action is proposed:

It is LTC’s business practice to send out acknowledgement letters on all initial claims that are received but not touched within ten (10) business days of such receipt. CL04 and CL11 were worked on within ten (10) days of receipt, and thus did not have acknowledgement letters issued. It is LTC’s understanding that these two (2) cases were not “completed” within the 10-day window and through human error, a follow up communication was not sent. To ensure all LTC claims received are acknowledged timely, systems will be enhanced to provide an automated acknowledgement letter to claimants for claims received per Virginia law. This is targeted for completion in Q1 of 2013.

23. The examiners state the Company shall “[r]eview its established procedures to ensure that it acknowledges the receipt of notification of a long term care claim within 10 working days upon receipt of notification of the claim, as required by 14 VAC 5-400-50 D.” The Company respectfully submits that the only violation upon which this finding is based, Review Sheet CL01, was withdrawn. Therefore, there are no violations and no corrective action is needed.

24. The examiners state the Company shall “[r]eview its established procedures to ensure that claimants are advised of the acceptance or denial of a claim within 15 working days of receipt of proof of loss, as required by 14 VAC 5-400-60 A.” The Company first respectfully submits that this

suggested corrective action is duplicative of #21 above and, therefore, unnecessary. Both are based on the same regulation. Second, the Company respectfully submits that, if necessary at all, the more appropriate corrective action is for it to review its established procedures with respect to Long Term Care only to ensure that claimants are advised of the acceptance or denial of a claim within fifteen (15) working days of receipt of proof of loss, as required by 14 VAC 5-400-60 A. Again, based upon the examiners' findings, the corrective action should focus on, and be limited to, Long Term Care, which proposes to enhance the AWD workflow system to recognize state specific prompt pay guidelines and to enhance Metrics and Reporting for state specific inventory management by Q2 of 2013.

25. The examiners state the Company shall "[r]eview its established procedures to ensure that notification of pending claims is sent every 45 days, as required by 14 VAC 5-400-60 B." The Company respectfully submits that the more appropriate corrective action is for it to review its established procedures to ensure that notification of pending Long Term Care claims only is sent every 45 days, as required by 14 VAC 5-400-60 B. Again, based upon the examiners' findings, the corrective action should focus on, and be limited to, Long Term Care. The following background information is provided and corrective action is proposed:

On initial claims, it is business practice to call the insured and send an acknowledgement letter within ten (10) business days of claim receipt. This letter outlines the additional information that is needed to complete the claim. After five (5) business days, a second call is made to the provider of services and the policyholder. After another five (5) business days, a third call is made to the policyholder and/or to the insured, followed with a letter to the policyholder explaining again why the file is "pended." After another five (5) business days (20 total), the claim is sent to be processed with whatever information is currently available. Thus, our business practice does comply with the regulation and is in line with customer outreach focus.

Targeted for completion in Q2 of 2013 is to enhance the AWD workflow system to recognize the state specific requirement to follow up every 45 days on pending claims and to enhance Metrics and Reporting for state specific inventory management.

26. The examiners state the Company shall "[r]eview its established procedures to ensure that the claimant is provided a reasonable explanation of the basis for the denial of a claim in the written denial, as required by 14 VAC 5-400-70 B." The Company respectfully submits that no corrective action is necessary. There was only one (1) instance of non-compliance regarding a Medicare Supplement claim. Therefore, there is no need to review established procedures.

We would like to thank the Department for its professional and courteous handling of this exam. If you have any questions or concerns, please do not hesitate to contact me by telephone at 317-817-6778 or by email at nick.mann@CNOinc.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Nikolas P. Mann", with a long, sweeping flourish extending to the right.

Nikolas P. Mann
Counsel, Regulatory Affairs

COPY

COMMONWEALTH OF VIRGINIA

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE



P.O. BOX 1157
RICHMOND, VIRGINIA 23218
TELEPHONE: (804) 371-9741
TDD/VOICE: (804) 371-9206
www.scc.virginia.gov/boi

October 12, 2012

**CERTIFIED MAIL 7011 0110 0001 6085 2106
RETURN RECEIPT REQUESTED**

Nikolas P. Mann
Counsel, Regulatory Affairs
Bankers Life and Casualty Insurance Company
11825 North Pennsylvania Street
Carmel, Indiana 46032

RE: Bankers Life and Casualty Insurance Company's Response to the Draft Examination Report

Dear Mr. Mann:

The examiners have received and reviewed Bankers Life and Casualty Insurance Company's (Bankers Life) response to the Draft Report dated August 24, 2012. This response will only address those areas of the response where Bankers Life disagreed with the findings and corrective actions of the Report or where, upon further review, the examiners decided to modify our findings.

The "back and forth positions between examiners and the company" are an integral part of the Life and Health Market Regulation Division's Market Conduct Reports and will not be deleted. The purpose of this format is to provide a record of the positions taken by each party during the course of the examination for future reference. This record is required in order for the examiners to determine if any possible future act of non-compliance is knowing or willful and whether any of the terms of the settlement order issued by the Commission, particularly in regards to corrective actions, are disregarded by the Company. Bankers Life should also be aware that its response to the draft Report, along with any additional written responses it provides in response to the Report's findings, will be included in the final Report. The Company was informed of this practice in the Coordinator's Handbook and in the exposure letter that accompanied the draft Report.

The Report is silent on the subject of "systemic compliance issues." The examiners cannot remove reference to violations and indicate substantial compliance simply based on the limited number of findings.

III. Advertising/Marketing Communications

The language referenced on Pages 8-9 will remain in the Report.

There are 15 violations. Bankers Life is not counting the 2 violations concerning the failure to maintain its advertising file (14 VAC 5-40-60 B and 14 VAC 5-90-170 A). Review Sheet AD04 documents 1 violation of 14 VAC 5-200-160 A and Bankers Life agreed with the examiners' observation concerning its failure to file this long-term care advertisement.

If Bankers Life wishes to "...incorporate by reference its responses offered during the exam..." the examiners will add them as exhibits to Bankers Life's response. In order to provide the proper context, the examiners' responses would also have to be included in these exhibits. The examiners would caution Bankers Life that these Review Sheet exhibits would become part of the final Report, which is a public document.

Life Insurance and Annuity Marketing Communications

Bankers Life's response failed to provide the examiners with a plausible scenario demonstrating that its life insurance policies or annuity contracts sold in Virginia during the examination time frame tripled the returns on a certificate of deposit with no risk to principal. The Report appears correct as written.

The language referenced on Page 10 will remain in the Report.

The statement in bold that the "...safety of your principal is guaranteed" immediately followed by the statement that "insurance companies are required by state regulation to maintain adequate reserves" creates the impression that the insurer, its financial condition or status or the merits, desirability, or advisability of its policy forms or plans of insurance is recommended by a governmental agency. The Report appears correct as written.

IV. Policy and Other Forms

Accident and Sickness Insurance

The statement referenced on Page 13 is germane to a discussion of the state of Bankers Life's policy form filing practices during the examination time frame and will remain in the Report.

V. Agents

Appointed Agent Review and Commissions

The failure to properly appoint 2 agents resulted in the 3 violations of §§ 38.2-1812 A and 38.2-1833 A 1 discussed in Review Sheets AG05, AG06 and AG07.

VI. Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act/Insurance Replacement and Suitability

Adverse Underwriting Decisions (AUD)

The language referenced on Pages 22-23 will remain in the Report.

Insurance Replacement – Life Insurance and Annuities

Bankers Life was afforded ample opportunity to respond to Review Sheets UN39 and UN40, prior to the exit conference on June 19, 2012, and any time after that. The examiners have not been provided with Bankers Life's "...position taken in response to those Review Sheets." The purpose of the written response to the draft Report was to provide the Company with yet another opportunity to respond to the examiners' findings.

VII. Premium Notices/Reinstatement/Policy Loans and Loan Interest

Reinstatements – Accident & Sickness Insurance

The language referenced on pages 31-34 will remain in the Report.

The requested correction is not necessary.

VIII. Cancellations/Nonrenewals

The violation associated with Review Sheet CN06 will be removed.

X. Claims Practices

Unfair Claim Settlement Practices

The violations of 14 VAC 5-400-50 D, 14 VAC 5-400-60 A and 14 VAC 5-400-60 B associated with Review Sheet CL01 were removed in error when the interest violation was removed on May 14, 2012. The examiners would note that in its November 11, 2011 response to Review Sheet CL01, Bankers Life stated "Violations noted on 14 VAC 5-400-50 D, 14 VAC 5-400-60 A and 14 VAC 5-400-60 B." The Report appears correct as written.

The violation of 14 VAC 5-400-60 A associated with Review Sheet CL02 will be removed from the Report.

The violation of 14 VAC 5-400-70 B discussed in Review Sheet CL13 will not be removed from the Report. Bankers Life did not provide a "...reasonable explanation to the insured and provider that expenses were paid 100% by Medicare and no benefits were due from the Company." Medicare paid nothing for the \$37 charge for CPT Code 85025 and the Medicare EOB stated that, "these are non-covered services".

XI. Corrective Action Plan

1. As stated in the Report, an insurer in Virginia is required to maintain at its home or principal office a complete file containing a specimen copy of every printed, published, or prepared advertisement of its individual policies disseminated in this Commonwealth, with a notation indicating the manner and extent of distribution. To support compliance with the Corrective Action Plan, the examiners will require, within 120 days of the Report being finalized, more detail and support documentation regarding Banker's revisions to its record keeping and control process for advertising and sales materials.
2. No change to the corrective action is necessary. To promote compliance and prevent future instances, the Company will be required to document that it has established procedures.
3. No change to the corrective action is necessary. To promote compliance and prevent future instances, the Company will be required to document that it has established procedures.
4. No change to the corrective action is necessary. The Company will be required to document that it has established procedures to maintain compliance.
5. As stated previously, Bankers Life failed to properly appoint 2 agents.
8. No change to the corrective action is necessary. To promote compliance and prevent future instances, the Company will be required to document that it has strengthened its procedures.
10. The Report will be changed to reflect that the Company shall "strengthen and maintain" procedures. In addition, the Company will need to document the procedures it had previously established and any enhancements made, upon the Report being finalized.
11. No change to the corrective action is necessary. To promote compliance and prevent future instances, the Company will be required to document that it has strengthened its procedures.
12. No change to the corrective action is necessary. Although the current worksheet has been filed for approval, to promote compliance and prevent future instances, the Company will be required to document that it has strengthened its procedures.
14. and 15. The Report's findings revealed that Banker Life's established procedures for handling reinstatements were in conflict with the reinstatement provision of its long-term care, home health care, nursing home and short-term care policies. Revising the "specific document at issue," while required, fails to

adequately address the issue at hand in its entirety. Bankers Life will be required to revise its written procedures. No change to the corrective action is necessary.

17. The course of action proposed by Bankers Life is not considered by the examiners to be more appropriate. The review revealed 7 violations, not 4. This corrective action has been applied to all long-term care insurance carriers operating in Virginia found to be in violation of this section during the course of a market conduct examination. No change to the corrective action is necessary.
19. The complaint cited was not included in the written complaint population and was found in one of the accident and sickness cancellation files. The corrective action appropriately requires Bankers Life to establish procedures for maintenance of a complete record of all complaints and will not be changed.
20. No change to the corrective action is necessary. To promote compliance and prevent future instances, the Company will be required to document that it has strengthened its procedures.
21. The exceptions mentioned in the Time Payment Study violations involved an annuity claim in addition to long-term care claims. The Corrective Action will remain as written.
22. The violations discussed involved an annuity claim in addition to long-term care claims. The Corrective Action will remain and be revised to indicate that the procedures shall be strengthened.
23. As discussed previously, the violations were erroneously removed. To promote compliance and prevent future instances, the Company will be required to document that it has strengthened its procedures.
24. The violations discussed involved an annuity claim in addition to long-term care claims. The Corrective Action will remain and be revised to indicate that the procedures shall be strengthened.
25. The Corrective Action will be revised to refer to long-term care claims and indicate that the procedures shall be strengthened.
26. The violation cited clearly demonstrates that Bankers Life needs to review its established procedures to ensure that its EOBs provide a reasonable explanation for the basis of a denial to claimants. The Corrective Action will remain and be revised to indicate that the procedures shall be strengthened.

A copy of the entire Report with revised pages is attached and the revised pages contain the only substantive revisions we plan to make before the Report becomes final.

On the basis of our review of the entire file, it appears that Bankers Life violated the Unfair Trade Practices Act, specifically subsection 1 of § 38.2-502 and §§ 38.2-503 and 38.2-511 of the Code.

It also appears that Bankers Life has violated subsection 4 of § 38.2-606, subsection 6 of § 38.2-606, subsection 7 of § 38.2-606 and subsection 8 of § 38.2-606 of the Code, in addition to §§ 38.2-610 A 1, 38.2-610 A 2, 38.2-1715 B, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.1 B and 38.2-3407.4 A of the Code and 14 VAC 5-30-51 A 2, 14 VAC 5-30-51 C 1 a, 14 VAC 5-30-51 C 1 b, 14 VAC 5-30-60 A 5 and 14 VAC 5-30-60 B 4 of Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-40-40 A 1, 14 VAC 5-40-50 C, 14 VAC 5-40-60 B of Rules Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-90-55 A, 14 VAC 5-90-90 A and 14 VAC 5-90-170 A of Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-170-180 B 3 of Rules Governing Minimum Standards for Medicare Supplement Policies, 14 VAC 5-200-65 A 3, 14 VAC 5-200-110 C, 14 VAC 5-200-160 A and 14 VAC 5-200-175 C 2 of Rules Governing Long-Term Care Insurance and 14 VAC 5-400-50 A, 14 VAC 5-400-50 D, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 B of Rules Governing Unfair Claim Settlement Practices.

Violations of the above sections of the Code can subject Bankers Life to monetary penalties of up to \$5,000 for each violation and suspension or revocation of its license to transact business in the Commonwealth of Virginia.

In light of the foregoing, this office will be in further communication with you shortly regarding the appropriate disposition of this matter,

Very truly yours,

Carly B. Daniel, AIE, AIRC
Principal Insurance Market Examiner
Market Conduct Section 1
Life and Health Market Regulation Division
Telephone (804) 371-9492

Renee Wake
Business Analyst
Bankers Life and Casualty Insurance Company
11825 North Pennsylvania Street
Carmel, Indiana 46032

STATE CORP COMMISSION
BUREAU OF INSURANCE
13 FEB 27 AM 9:46

Althelia P. Battle, FLMI, HIA, AIE, MHP, AIRC, ACS
Deputy Commissioner
Bureau of Insurance
Post Office Box 1157
Richmond, VA 23218

530081

RE: Alleged Violations of the Unfair Trade Practices Act, specifically subsection 1 of § 38.2-502 and §§ 38.2-503 and 38.2-511 of the Code, as well as subsection 4 of § 38.2-606, subsection 6 of § 38.2-606, subsection 7 of § 38.2-606 and subsection 8 of § 38.2-606 of the Code, in addition to §§ 38.2-610 A 1, 38.2-610 A 2, 38.2-1715 B, 38.2-1812 A, 38.2-1833 A 1, 38.2-3407.1 B and 38.2-3407.4 A of the Code and 14 VAC 5-30-51 A 2, 14 VAC 5-30-51 C 1 a, 14 VAC 5-30-51 C 1 b, 14 VAC 5-30-60 A 5 and 14 VAC 5-30-60 B 4 of Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-40-40 A 1, 14 VAC 5-40-50 C, 14 VAC 5-40-60 B of Rules Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-90-55 A, 14 VAC 5-90-90 A and 14 VAC 5-90-170 A of Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-170-180 B 3 of Rules Governing Minimum Standards for Medicare Supplement Policies, 14 VAC 5-200-65 A 3, 14 VAC 5-200-110 C, 14 VAC 5-200-160 A and 14 VAC 5-200-175 C 2 of Rules Governing Long-Term Care Insurance and 14 VAC 5-400-50 A, 14 VAC 5-400-50 D, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, 14 VAC 5-400-70 B of Rules Governing Unfair Claim Settlement Practices.

Dear Ms. Battle:

This will acknowledge receipt of your letter dated October 24, 2012, concerning the above-captioned matter.

Bankers Life wishes to make a settlement offer for the alleged violations cited above. Enclosed with this letter is a check (certified, cashier's or company) in the amount of \$27,000 payable to the Treasurer of Virginia. The Company further understands that as part of the Commission's Order accepting the offer of settlement, it is entitled to a hearing in this matter and waives its right to such a hearing and agrees to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of March 31, 2011.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Yours very truly,

William D. Fuchs, Jr.

Company Representative

2/25/13

Date

Enclosure (check)

COPY

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

130320078

AT RICHMOND, MARCH 12, 2013

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

2013 MAR 12 A 11: 56

v.

CASE NO. INS-2012-00253

BANKERS LIFE AND CASUALTY
INSURANCE COMPANY,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that Bankers Life and Casualty Insurance Company ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances violated subsection 1 of § 38.2-502 of the Code of Virginia ("Code") by misrepresenting the benefits, advantages, conditions or terms of insurance policies; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated § 38.2-511 of the Code by failing to maintain a complete complaint register; violated subsections 4, 6, 7 and 8 of § 38.2-606 of the Code by utilizing a disclosure authorization form that failed to: (i) specify the nature of the information authorized to be disclosed, (ii) specify the purpose for which the information is collected, (iii) specify the length of time the authorization remains valid, and (iv) advise the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form; violated §§ 38.2-610 A 1 and 38.2-610 A 2 of the Code by failing to give to applicants for

insurance written notice of an adverse underwriting decision in the form approved by the Commission; violated § 38.2-1715 B of the Code by advertising association coverage in insurance sales and failing to notify policy owners; violated §§ 38.2-1812 A and 38.2-1833 A 1 of the Code by failing to comply with agent licensing requirements; violated § 38.2-3407.1 B of the Code by failing to pay interest at the legal rate of interest from the date of 15 working days from the Defendant's receipt of proof of loss to the date that the claim was paid; violated § 38.2-3407.4 A of the Code by failing to comply with explanation of benefits practices; violated 14 VAC 5-30-51 A 2, 14 VAC 5-30-51 C 1 (a), 14 VAC 5-30-51 C 1 (b), 14 VAC 5-30-60 A 5 and 14 VAC 5-30-60 B 4 of the Commission's Rules Governing Life Insurance and Annuity Replacements, 14 VAC 5-30-10 *et seq.*; violated 14 VAC 5-40-40 A (1), 14 VAC 5-40-50 C, and 14 VAC 5-40-60 B of the Commission's Rules Governing Life Insurance and Annuity Marketing Practices, 14 VAC 5-40-10, *et seq.*; violated 14 VAC 5-90-55 A, 14 VAC 5-90-90 A, and 14 VAC 5-90-170 A of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10, *et seq.*; violated 14 VAC 5-170-180 B (3) of the Commission's Rules Governing Minimum Standards for Medicare Supplement Policies, 14 VAC 5-170-10, *et seq.*; violated 14 VAC 5-200-65 A (3), 14 VAC 5-200-110 C, 14 VAC 5-200-160 A, and 14 VAC 5-200-175 C (2) of the Commission's Rules Governing Long-Term Care Insurance, 14 VAC 5-200-10, *et seq.*; and violated 14 VAC 5-400-50 A, 14 VAC 5-400-50 D, 14 VAC 5-400-60 A, 14 VAC 5-400-60 B, and 14 VAC 5-400-70 B of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10, *et seq.*

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a

defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Twenty-seven Thousand Dollars (\$27,000), waived its right to a hearing, and agreed to comply with the corrective action plan contained in the Target Market Conduct Examination Report as of March 31, 2011.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

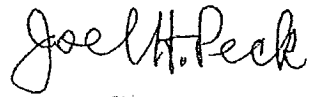
(1) The offer of Bankers Life and Casualty Insurance Company in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Renee Wake, Bankers Life and Casualty Insurance Company, 11825 North Pennsylvania Street, Carmel, Indiana 46032; Nikolas P. Mann, Counsel, Regulatory Affairs, CNO Financial Group, Inc., 11825 North Pennsylvania Street, Carmel, Indiana 46032, and a copy shall be delivered to

the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy
Commissioner Althelia P. Battle.

A True Copy
Teste:



Clerk of the
State Corporation Commission

COPY