

# Report of Examination

**\*MODIFIED\***

(Market Conduct)

of

## The Mid-West National Life Insurance Company Of Tennessee

NAIC Company Code 66087

of

North Richland Hills, Texas

as of

December 31, 2007

By Representatives of the  
Oklahoma Insurance Commissioner



## **TABLE OF CONTENTS**

TABLE OF CONTENTS.....	i
SALUTATION .....	ii
FOREWORD .....	1
SCOPE OF EXAMINATION.....	1
COMPANY HISTORY .....	2
Premium Production .....	2
COMPANY OPERATIONS/MANAGEMENT.....	2
MGA, GA, TPA Oversight.....	2
Internal Audits .....	2
Anti-Fraud.....	3
Certificate of Authority.....	3
Disaster Recovery .....	3
Computer Systems .....	3
Board of Directors' Meeting Minutes.....	3
Privacy .....	4
CONSUMER COMPLAINTS.....	4
Complaint Time Studies .....	4
Complaint Handling.....	4
MARKETING AND SALES.....	4
Advertising.....	5
PRODUCER LICENSING .....	6
POLICY OWNER'S SERVICE .....	6
UNDERWRITING .....	6
CLAIM PRACTICES .....	7
Life Claim Studies .....	7
Life Claim Handling .....	7
Health Claim Time Studies.....	7
Health Claims Handling.....	8
SUMMARY .....	10
CONCLUSION.....	12
AFFIDAVIT .....	13

## **SALUTATION**

North Richland Hills, Texas  
March 25, 2009

Honorable Kim Holland  
Insurance Commissioner  
State of Oklahoma  
2401 NW 23<sup>rd</sup> Street, Suite 28  
Oklahoma City, Oklahoma 73107

Commissioner Holland:

Pursuant to your instructions and in compliance with the provisions of Title 36 of the Oklahoma Statutes, rules, regulations and procedures of the Oklahoma Insurance Department, and the procedures established by the National Association of Insurance Commissioners, an examination of the market conduct activities has been conducted of:

The Mid-West National Life Insurance Company  
Of Tennessee  
of  
North Richland Hills, Texas

The report thereon, as of December 31, 2007 is herein respectfully submitted.

## **FOREWORD**

This examination report reflects the Oklahoma insurance activities of The Mid-West National Life Insurance Company of Tennessee, hereinafter referred to as the "Company" or "Mid-West." The examination is, in general, a report by test, wherein each test applied during the examination is stated and the results are reported, whether favorable or unfavorable. The Commissioner of Insurance of the State of Oklahoma is hereinafter referred to as the "Commissioner" and the Insurance Department of the State of Oklahoma is hereinafter referred to as the "Department" or the "OID."

## **SCOPE OF EXAMINATION**

The examination of the Company was conducted pursuant, but not limited to, Sections 309.1 - 309.7, 1203 - 1220, 1250.1 - 1250.16, 1435.2 - 1435.38, 4030.1, 4112 and 6901 - 6951 of Title 36 of the Oklahoma Statutes and Oklahoma Administrative Code § 365:40-1-1 through 365:40-5-130. In reviewing material for this report, the examiner relied primarily on records and information maintained by the Company.

The purpose of this examination was to determine compliance by the Company with Oklahoma Insurance Laws and Regulations, and to determine if the Company's operations were consistent with the public interest. The examination included, but was not limited to, the following areas of the Company's operations:

- A. Company Operations/Management;
- B. Complaint Handling;
- C. Producer Licensing;
- D. Marketing and Sales;
- E. Underwriting;
- F. Policyholder Service and
- G. Claim Practices.

In cases where samples were selected and file sizes warrant, error ratios are projected to indicate a maximum high or low at a 95% level of confidence. Some files may contain multiple errors, which are indicated by category, but are counted only once in determining the error ratio.

This examination was done in conjunction with an examination of The MEGA Life and Health Insurance Company (MEGA) (the primary examinee) and its subsidiary, The Chesapeake Life Insurance Company (CLICO), both subsidiaries of HealthMarkets, Inc. (HMI). Areas of the examination that are duplicative of MEGA activities are indicated as such or omitted when insufficient in size or scope. Significant differences from MEGA operations may be pointed out.

The examination period was from January 1, 2005 through December 31, 2007. The examination fieldwork commenced on February 4, 2008 and concluded on June 19, 2008. This examination took place in the Company's North Richland Hills administrative office.

## **COMPANY HISTORY**

The Company was originally incorporated in Tennessee on March 1, 1965 and commenced writing business on May 21, 1965. Controlling interest of Mid-West was acquired by HMI's predecessor, UICI, in August of 1986. Total ownership was attained in April of 1998. The Company was re-domesticated to Texas during 2005. Effective June 14, 2000 HMI transferred its ownership interest in Mid-West to HealthMarkets LLC.

### **Premium Production**

Company premium production for Oklahoma compared to the total company for the examination period is shown below:

	2005		2006		2007	
	Health	Life & Annuity	Health	Life & Annuity	Health	Life & Annuity
Oklahoma	2,182,241	97,219	1,781,793	105,338	1,197,637	83,221
Total company	410,482,391	16,739,253	417,106,472	14,843,876	352,665,469	12,280,808

## **COMPANY OPERATIONS/MANAGEMENT**

### **MGA, GA, TPA Oversight**

The Company has not used any Managing General Agent, General Agent or Third Party Administrator to process Oklahoma business during the examination period other than Caremark, who provides management of the prescription benefit and EyeMed who provides service on the vision care program. A sampling of the vision care claims were reviewed as part of the MEGA examination.

### **Internal Audits**

The Company provided a list of internal audits performed on various areas of operation within the organization. Summaries of those reports indicated the findings and recommended

management action required to correct deficiencies. Follow-ups were scheduled to make sure corrections were accomplished. A team of ten trained claim auditors regularly select files for review under a written procedure known to examiners as well as the auditors. Detailed and summary reports are made available to claims management.

### **Anti-Fraud**

The Company's Anti-Fraud training procedures and materials were reviewed. The Company's Special Investigations Unit (SIU) works closely with the various states to monitor and report suspected fraud. Materials include information on identifying possible fraud on the part of providers, insureds, employees and agents. Investigative methods are documented in some detail.

### **Certificate of Authority**

A copy of the Company's current Certificate of Authority issued by the State of Oklahoma Insurance Commissioner was reviewed and found to be in conformity with the Company's operations.

### **Disaster Recovery**

The corporate Business Continuity Program (BCP) provides a detailed overview of the various procedures developed to assure a rapid and successful return to essential business activities when interrupted by any of several reasons. The BCP provides both corporate and detailed operational level plans necessary to resume operations. Testing and trials are done at regular intervals. Updates are at least annual. The Oklahoma City location has its own detailed plan.

### **Computer Systems**

The Corporate (North Richland Hills) and the Oklahoma City locations each have a similar role based access protocol which is reviewed and modified as required. System back-ups, an important part of the recovery plan, play an extensive part in data security as well.

### **Board of Directors' Meeting Minutes**

The Board of Directors' meeting minutes for the examination period were reviewed without adverse findings.

## **Privacy**

Copies of the Company's privacy practices and notices were reviewed without comment.

## **CONSUMER COMPLAINTS**

The Company was requested to provide a listing of all the Oklahoma complaint files for the period of January 1, 2005 through December 31, 2007. All thirty-two (32) files on the complaint register were selected for review. Twelve (12) of the complaints were outside the time frame of the examination period or belonged to another state. Of the remaining twenty (20) there was one (1) error for an error ratio of 5%.

### **Complaint Time Studies**

For these studies, inquiry response times are measured in terms of calendar days to comply with Section 1250.4 of Title 36 of the Oklahoma Statutes. Twenty (20) calendar days are allowed for a response to an inquiry from the Commissioner. Correspondence from a claimant requires a response within thirty (30) calendar days.

One (1) complaint, number CM0766526, took 133 days to respond due to an oversight on the part of the Company.

No other discrepancies were noted in this section of the examination.

### **Complaint Handling**

No discrepancies were noted in this section of the examination.

## **MARKETING AND SALES**

The Company provided copies of files on policies, brochures, applications and producer training material on policies offered for sale in Oklahoma during the examination period. A selection of the material was reviewed including the Company website as it related to consumer products.

## Advertising

Advertising items submitted by the Company were reviewed for compliance with Oklahoma regulations regarding advertising as well as unfair methods of competition and unfair or deceptive acts or practices.

Of the twenty (20) items submitted for review, errors were noted on twelve (12) for an error ratio of 60%. The errors are detailed below.

—Twelve (12) Point of Sale brochures state that the products offer “24 hour coverage on or off the job\*” in ten (10) point type with a six (6) point type footnote that stipulates (\*If not covered under a Worker’s Comp or similar plan).

Oklahoma regulation 365:10-3-4, states:

“All information required to be disclosed by this Part shall be set out conspicuously and in close conjunction with the statements to which such information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading”

Oklahoma regulation 365:10-3-5(a) states:

“The format and content of an advertisement of an accident, disability or sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive”.

Oklahoma regulation 365:10-3-6(C) states:

“An advertisement shall not contain descriptions of a policy limitation, exception or reduction, worded in a positive manner to imply that it is a benefit.... Words and phrases used in an advertisement to describe such policy limitations, exclusions and reductions shall fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered”.

The Company disagreed that this represented a violation. In deference to the examiners’ concerns, the Company agreed to change the brochures upon reprint to bring the footnote into the body of the text , as shown below:

*Coverage on or off the job  
Unless covered by Worker’s Compensation or similar plan.*

The examiners do not necessarily agree this change will satisfy the requirements of Oklahoma regulation 365:10-3-6(C).

No other discrepancies were noted in this section of the examination



## **PRODUCER LICENSING**

Producer licensing and appointment procedures were reviewed for compliance with Oklahoma Statutes and Administrative Code. Almost all producers appointed by Mid-West were also appointed by MEGA. The procedures and processes were the same in both companies. The same errors found regarding lack of proper notification of termination of appointment would therefore be found in Mid-West producer files. Corrections made to MEGA procedures and correspondence content would also be made with Mid-West.

## **POLICY OWNER'S SERVICE**

Policy owners' service files for MEGA were examined for timeliness and adequacy of action and response to service requests. The volume of Mid-West activity in this area did not warrant a separate review. The error ratios were not expected to exceed those found in the MEGA review. The same issues regarding lack of option details on non-forfeiture correspondence and inadequate and private information on the voucher part of surrender checks would be corrected with the changes made to MEGA procedures are applied to Mid-West activities.

## **UNDERWRITING**

Underwriting files are reviewed to determine if the Company's treatment of the public is in compliance with applicable statutes, rules and regulations. Underwriting manuals and procedures are reviewed for any indication of unfair discrimination. Forms and applications are checked to make sure they have been filed with the Department when required.

No review of individual files was done as there were only four (4) new policies issued in Oklahoma during the examination period.

## **CLAIM PRACTICES**

The claims practices were examined for efficiency of handling, accuracy of payment, compliance to Oklahoma Statutes and Regulations, and adherence to contract provisions.

A claim is taken to be a demand for payment by an insured or third party claimant under coverage against the insurer, which claim is:

Paid by the insurer as:

1. Full recompense
2. Partial recompense

Closed without payment by reason of no:

1. Relevant coverage
2. Liability

The Company has written multiple lines of business in Oklahoma. The table below shows, for the examination period, the population of claims by line of business and the number of files randomly selected for review for this examination. Error ratios will be shown by coverage type, combining paid and denied.

<b>Type</b>	<b>Population</b>	<b>Selection</b>
Health Claims Paid	7251	100
Health Claims Denied	4665	100
Dental Paid	30	0
Dental Denied	24	15
OKC Life Paid	9	9

### **Life Claim Studies**

No discrepancies were noted in this section of the examination.

### **Life Claim Handling**

No discrepancies were noted in this section of the examination.

### **Health Claim Time Studies**

No discrepancies were noted in this section of the examination.

## Health Claims Handling

Within the 200 paid and denied Health claims reviewed, eighteen (18) errors were found for an error ratio of 9%. The errors are listed below.

—Title 36 O.S. §1250.4 C requires an adequate response to communication from a claimant. Title 36 O.S. §1250.5 (1) requires disclosure of benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.

The following nine (9) claims had co-insurance deducted from proceeds, but the EOBs did not include any narrative or code explaining this to the claimant.

EX8602201	FZ3730801	HJ9346801
FE8040601	GN3502401	HE3645101
FI9188201	HF7426201	HG5944501

The two (2) claims listed below had EOBs that were coded “Refer to policy” (schedule or rider) with no further explanation.

HQ9365801	GH3970301
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Three (3) claims, listed below, had EOBs that had information missing or provided in such a way as to not allow the claimant to understand how benefits were determined.

FL7214501	HX9942201	IW0151401
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—One (1) claim, number GQ7615501, although shown on the paid claim listing, had been improperly denied. Upon inquiry, the claim was readjudicated and paid with interest during the examination.

—Two (2) claims were improperly denied in violation of Title 36 O.S. §6060.3a regarding routine annual obstetrical/gynecological examinations. The claims were processed for payment upon inquiry. The claims are listed below.

EN4169101	IC2239701
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—One (1) claim, number EZ8398101, was improperly denied in violation of Title 36 O.S. §6060.4 - Coverage for Child Immunization. The claim was processed for payment as were four (4) other similarly denied claims, outside the sampling, that were identified by the Company.

### Health Claims Mandated Benefits

See the section in the MEGA report regarding **Health Claims Mandated Benefits** for the company's response to the issues of denied or improperly paid claims involving mandated benefits.

### Dental Claims

—Only the denied dental claims were selected for review as the review of paid dental claims during the MEGA examination revealed no errors. The review of the fifteen (15) selected Mid-West denied dental claims revealed no errors.

No other discrepancies were noted in this section of the examination.

## SUMMARY

### Comments

### Page(s)

#### CONSUMER COMPLAINTS

From a sample of twenty (20) complaints there was one (1) delayed response to a consumer complaint in violation of Title 36 O.S. §1250.4. This is an error ratio of 5%.

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#### MARKETING AND SALES

##### **Advertising**

Of the twenty (20) items submitted for review, errors were noted on twelve (12) for an error ratio of 60%.

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A total of twelve (12) of the Company's Preferred Provider Organization (PPO) Policy Point of Sale brochures were in violation of Oklahoma regulation 365:10-3-4 Regarding prominent display of important information, and Oklahoma regulation 365:10-3-5(a) as referenced above and Oklahoma regulation 365:10-3-6(C) requiring that limitations be described in a negative fashion.

5

#### CLAIM PRACTICES

##### **Health Claim Handling**

Two hundred (200) Health Claims files were reviewed, eighteen (18) errors were found for an error ratio of 9%.

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Fourteen (14) claims lacked information regarding co-insurance in violation of Title 36 O.S. §1250.4 C that requires an adequate response to communication from a claimant and Title 36 O.S. §1250.5(1) that requires disclosure of benefits, coverages, or other provisions.

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One (1) claim not paid per contract language.

8

Two (2) claims not paid in accordance with mandated benefits required by Title 36 O.S. §6060.3a regarding routine annual obstetrical/gynecological examinations. 8

One (1) claim not paid in accordance with mandated benefits required by Title 36 O.S. §6060.4 - Coverage for Child Immunization. 8

## **CONCLUSION**

The market conduct examination report on The Mid-West National Life Insurance Company of Tennessee is respectfully submitted to the Honorable Kim Holland, Insurance Commissioner of the State of Oklahoma.

Participation and assistance by Boyd A. (Tony) Higgins FLMI, CLU, ALHC, CIE, independent market conduct examiner, is gratefully acknowledged.

This examiner wishes to express his appreciation for the courteous cooperation and assistance given by the officers and employees of the Company during the course of this examination.

Sincerely,



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Charles R. Pickett, MCM, CLU, ChFC, FLMI, CIE  
Examiner-In-Charge, State of Oklahoma  
Midwestern Zone III, NAIC

