

# **OHIO DEPARTMENT OF INSURANCE**

**A  
TARGETED  
MARKET CONDUCT EXAMINATION  
OF  
THE MEDICAL ASSURANCE COMPANY, INC.  
NAIC #33391**

**As of**

**August 3, 2003**





Bob Taft, Governor

Ann Womer Benjamin, Director

2100 Stella Court, Columbus, OH 43215-1067  
(614) 644-2658 www.ohioinsurance.gov

Honorable Ann Womer Benjamin  
Director  
Ohio Department of Insurance  
2100 Stella Court  
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a target market conduct examination was conducted on the Ohio business of:

The Medical Assurance Company Inc.  
NAIC Company Code 33391

The examination was conducted at the Company's Ohio Regional Office located at:

5975 Castle Creek Parkway, Suite 300, Indianapolis, Indiana 46250

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in cursive script that reads 'David R. Beck'.

David R. Beck

Chief, Market Conduct Division

Date: 12-2-2004



Accredited by the National Association of Insurance Commissioners (NAIC)

Consumer Hotline: 1-800-686-1526

Fraud Hotline: 1-800-686-1527

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## **SCOPE OF EXAMINATION**

The examination of The Medical Assurance Company Inc. (the Company) commenced on November 4, 2003, at the Company's regional office in Indianapolis, Indiana. The initial examination of the Company was restricted to the underwriting and marketing of medical malpractice insurance from July 1, 2002, through June 30, 2003. The scope was limited to medical health providers and did not include emergency facilities or hospitals. The Company's 2003-2004 Underwriting Guidelines were also reviewed.

This examination was conducted under the authority provided by section 3901.11 of the Ohio Revised Code (ORC). This examination was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and Ohio's applicable statutes, rules, and regulations.

## **METHODOLOGY**

The examination was conducted through a review of the Company's underwriting of new business files, in-force files, non-renewal files, and cancellation files. A review was also conducted of the Company's corresponding policy and procedure manuals, rate filings, and system manuals. This information was supplemented, as necessary, with written inquiries to the Company requesting clarification and/or additional information.

The initial examination phase included: staff interviews, an overview of practices and procedures, clarifying the data requests, and understanding the Company's terminology and systems. Only files with Ohio insureds, policyholders and provider entities were reviewed. Tests were designed and applied to the files to determine the Company's level of compliance with Ohio insurance laws. These tests are described, and the results are noted in this report. The results of each test applied to a sample are reported separately. Each test is expressed as a "yes/no" question. A "yes" response indicates compliance, and a "no" response indicates failure

to comply. In instances where errors were noted, the Examiners submitted a request for information to the Company concerning the apparent error.

### **SAMPLING**

The Examiners requested, and the Company supplied, reports of policy data (new business, applications, renewals, non-renewals, in-force and cancellations) in file formats specified by the Examiners. Except as otherwise noted, all tests were conducted on a sample of files randomly selected from a given report. These samples were selected using a standard business database application that provides a true random sample since it supplies a random starting point from which to pull the sample. In some cases, the populations were relatively small. In those instances, the entire population was reviewed.

### **COMPANY HISTORY**

The Company was incorporated as a mutual insurer under the laws of Alabama on October 1, 1976 and began operations on April 16, 1977. Operations were conducted under the title Mutual Assurance Society of Alabama from inception until January 20, 1987 when the name changed to Mutual Assurance, Inc. Effective June 15, 1999, the current title was adopted. In September of 1991, Mutual Assurance converted to a public stock company under a de-mutualization plan approved by the Alabama Insurance Department. On August 31, 1995, Mutual Assurance became a wholly owned subsidiary of Mutual Assurance Inc. Company (“MAIC”) Holdings. Effective June 2, 1997, MAIC Holdings changed its name to Medical Assurance, Inc. On June 27, 2001, ProAssurance Corporation acquired all of the outstanding stock of Medical Assurance, Inc.

### **COMPANY OPERATIONS**

The Company is licensed in 43 states and the District of Columbia. The Company’s statutory home office and main administrative office is located in Birmingham, Alabama.

## **MANAGEMENT**

President: Aubrey Derrill Crowe

Treasurer: James Joseph Morello

Secretary: Kathryn Anne Neville

Vice Presidents: James Joseph Morello, Jeffrey Lynn Bowby, Frank Berry O'Neil, Robert David Francis, Howard Harley Friedman, Darryl Keith Thomas.

Directors or Trustees: Victor Thomas Adamo, Paul Richard Butrus, Aubrey Derrill Crowe, Howard Harley Friedman.

## **CERTIFICATE OF AUTHORITY**

The Company operates under the Certificate of Authority issued in accordance with the laws of Ohio. In the course of the examination, the Examiners found the Company to be within the scope of its Certificate of Authority for Ohio.

## **UNDERWRITING**

### **Methodology**

- The Examiners reviewed all Company Underwriting policies and procedures concerning providers. Healthcare facilities were not included in the examination.
- The Company supplied the following data files pertaining to Ohio:
  1. A list of all new business written during the examination period,
  2. A list of all policies cancelled during the examination period,
  3. A list of policies non-renewed during the examination period,
  4. A list of applications submitted during the examination period, and
  5. A list of policies active/in-force as of the last day of the exam period.

## **Underwriting Considerations**

- A policy may have one or multiple insureds.
- Each list is reviewed as an entire population.
- There were many files that the territory information was not included with the original data run or the territory was listed as “custom”, therefore samples of “custom” and “blank” were reviewed to confirm correct rates were applied.
- Each list is divided into the unique territories provided by the Company. The Company had four territories in the state of Ohio for the first part of the examination period of May 1, 2002. Territory “4” included the counties of Belmont, Columbiana, Jefferson, Mahoning, Monroe, Portage, and Trumbull. Territory “3” consisted of Cuyahoga, Ashtabula, Geauga, Lake, and Lorain counties. Territory “2” included Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Jackson, Lawrence, Miami, Montgomery, Pike, Preble, Ross, Scioto, Vinton, and Warren counties. Territory “1” included the remaining 55 counties in Ohio.
- On May 1, 2003 the Company filed a territory plan change to six territories in the state of Ohio. Territory “6” was comprised of Medina, Stark, and Summit counties. Territory “5” consisted of Cuyahoga and Lorain counties. Territory “4” included Belmont, Columbiana, Jefferson, Monroe, and Washington counties. Territory “3” included Ashtabula, Geauga, Lake, Mahoning, Portage, and Trumbull counties. Territory “2” included Adams, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Jackson, Lawrence, Miami, Montgomery, Pike, Preble, Ross, Scioto, Vinton, and Warren counties. Territory “1” includes the remaining 51 counties in Ohio. Because of the low volume of unique policies in some territories for cancellations, non-renewals, in-force, and new business, it was necessary to review the entire population for each territory instead of pulling samples.

## APPLICATIONS

**Standard:** Company rules pertaining to underwriting requirements regarding applications are in compliance with applicable statutes, rules, and regulations. ORC 3937.03 requires, in part, that every insurer file every form of a policy, endorsement, rider, manual of classifications, rules, and rates, every rating plan, and every modification of any of them, which the insurer proposes to use.

**Test:** Did the Company adhere to their underwriting guidelines in applying the rates and rules filed with the Department?

**Findings:**

	Population	Yes	No
Territory 1	602	50	0
Territory 2	370	50	0
Territory 3	136	50	0
Territory 4	48	48	0
Territory 5	455	50	0
Territory 6	261	50	0
Blank	122	50	0
Custom	0	0	0

## NEW BUSINESS

**Standard:** Company rules pertaining to rating, credits/debits, scheduled modifications, documentation for modifications, and rating for modification for multiple locations are in compliance with applicable statutes, rules, and regulations. ORC 3937.03 requires, in part, that every insurer file every form of a policy, endorsement, rider, manual of classifications, rules,

rates, every rating plan, and every modification of any of them, which the insurer proposes to use.

**Test:** Did the Company correctly calculate the premiums in accordance with the rates, credits/debits, and scheduled modifications on file with the Department?

**Findings:**

	Population	Yes	No
Territory 1	571	50	0
Territory 2	287	50	0
Territory 3	297	50	0
Territory 4	78	50	0
Territory 5	12	12	0
Territory 6	21	21	0
Custom	18	18	0
Blank	22	22	0

### CANCELLATIONS

**Standard:** Cancellations comply with policy provisions, statutes, rules, and regulations. Specifically, ORC 3937.25(c) states, in part, that no less than 30 days notice must be given when a policy is being cancelled for a reason other than non-payment of premium if that policy has been in effect for more than ninety days. If a policy is cancelled for non-payment of premium, the notice requirement is ten days.

**Test:** Did the Company comply with the cancellation requirements of ORC 3937.25(c)?

**Findings:**

	Population	Yes	No
Territory 1	437	50	0
Territory 2	217	50	0
Territory 3	134	50	0
Territory 4	97	50	0
Territory 5	2	2	0
Territory 6	0	0	0
Custom	165	50	0
Blank	19	19	0

**NON-RENEWALS**

**Standard:** Company rules pertaining to non-renewal notices are in compliance with an Ohio Department of Insurance (“Department”) memorandum, applicable statutes, rules and regulations, including ORC 3937.26.

**Test:** Did the Company provide a 60-day notice when non-renewing a policy?

**Findings:**

	Population	Yes	No
Territory 1	19	19	0
Territory 2	19	19	0
Territory 3	23	23	0
Territory 4	8	8	0
Territory 5	0	0	0
Territory 6	0	0	0
Custom	414	0	0

Blank	0	0	0
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**Note:** On August 16, 2002, the Department asked Medical Malpractice insurers to provide additional notice when a policy is not going to be renewed. This memorandum was issued as a result of deteriorating market conditions. In response, the Company agreed to provide a 60 day notice to its insureds prior to non-renewal.

### IN-FORCE BUSINESS

**Standard:** Were Company rules pertaining to the underwriting requirements of in-force policies in compliance with applicable statutes, rules, and regulations?

**Test:** Did the Company adhere to the requirements of their underwriting guidelines and the rates and rules filed with the Department?

**Findings:**

	Population	Yes	No
Territory 1	1754	50	0
Territory 2	967	50	0
Territory 3	482	50	0
Territory 4	270	50	0
Territory 5	102	50	0
Territory 6	34	34	0
Custom	948	50	0
Blank	31	31	0

## **EXAMINERS OBSERVATIONS AND RECOMMENDATIONS**

### **Nursing Home Exposure**

As part of this examination, the examiners reviewed Nursing Home Exposures for physicians and surgeons. As a general guideline, the Company writes and renews private practice physicians who continue to follow their established patients when their patients move to a nursing home or other long-term healthcare facility. The Company is primarily a physician insurer, so they generally will not write healthcare facilities or doctors with healthcare facility exposure. For instance, a doctor serving as a Medical Director for a long-term care facility will not be eligible for coverage in the Company's physicians and surgeons programs.

### **Statistical Agents**

The Company does not report statistical data to insurance departments (other than annual/quarterly financial statements and special data calls).

#### Recommendation:

The Examiners recommend the Company submit its statistical data annually to the Department or to a statistical agent as required by ORC 3937.12.

### **Additional Information**

A mandatory request for additional information, beyond the specified examination period, was sent to the Company. This data request pertained to underwriting guidelines, non-renewals, cancellations and quotes given and accepted for the months of October 2003 through February 2004. The requested information was provided by the Company and reviewed by the examiners. The Examiner's concluded that the Company was following its underwriting guidelines.

Some non-renewal notices were being sent to Ohio insured's with Indiana specific language contained in the text. These notices contain references to the Indiana Residual Malpractice Insurance Authority, which is unique to Indiana, and this is confusing to Ohio insureds.

Recommendation:

The Examiners recommend the Company implement procedures that ensure that Ohio specific notices and letters are generated.

During the Examination, the Company could not locate a number of files for review.

Recommendation:

The Examiners recommend that the Company develop procedures that will make file retrieval and storage efficient and accurate.

**CONCLUSION**

This concludes the report of Examination by the Market Conduct Division of the Medical Assurance Company. The Examiners, Rodney Beetch, Stan Garlington, Roger Hinkle, Robert Kelley, Angela Dingus, and Cheryl Davis would like to acknowledge the assistance and cooperation provided by the management and the employees of the Company.

  
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Rodney E Beetch  
Examiner in Charge

  
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Date