

REPORT ON  
THE TARGETED MARKET CONDUCT EXAMINATION

OF

**United HealthCare of New England, Inc.**  
**United HealthCare Insurance Company**

*as of*

*March 31, 2002*

State of Rhode Island  
Department of Business Regulation  
Insurance Division

**United HealthCare of New England and United Health Care Insurance Company  
Market Conduct Examination**

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Providence, Rhode Island

April 18, 2002

Honorable Marilyn Shannon McConaghy  
Insurance Commissioner  
State of Rhode Island

Dear Commissioner:

In accordance with your instructions and pursuant to the statutes of the State of Rhode Island, a Market Conduct Examination was conducted of:

**United HealthCare of New England, Inc.**

**Warwick, Rhode Island**

**and**

**United HealthCare Insurance Company, Inc.**

**Hartford, Connecticut**

hereinafter referred to as "UHNE" and "UHIC" respectively, and together as "United." UHNE and UHIC are subsidiaries of United HealthCare Group ("UHG") of Minneapolis, MN.

The examination was conducted by Lautzenheiser & Associates ("L&A," the "examiners," or the "examination staff") of Hartford, CT. It involved interviews and examination of records at the offices of UHNE in Warwick, RI, and at the offices of UHG in Hartford, CT and Minneapolis, MN. In addition, records were provided to the examination staff for off-site review.

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**Introduction**

L&A has been retained by the Director of the Rhode Island Department of Business Regulation (“DBR”) to conduct focused market conduct examinations of small employer health insurance carriers active in the Rhode Island market, under R.I. Gen. Laws §§ 27-50-1 *et seq.* (the “Act”) and the accompanying Regulation 82, in order to support the requirement for a periodic market evaluation under R.I. Gen. Laws § 27-50-9.

The market conduct examinations are a part of the process of developing an independent actuarial study and report. As provided in R.I. Gen. Laws § 27-50-9, “(t)he report shall analyze the effectiveness of the chapter in promoting rate stability, product availability, and coverage affordability. The report may contain recommendations for actions to improve the overall effectiveness, efficiency, and fairness of the small group health insurance marketplace. The report shall address whether carriers and producers are fairly actively marketing or issuing health benefit plans to small employers in fulfillment of the purposes of the chapter. The report may contain recommendations for market conduct or other regulatory standards or action.”

As part of this process, L&A was retained to conduct a focused market conduct examination of UHNE and UHIC related to market conduct under R.I. Gen. Laws §§ 27-50-1 *et seq.*

In the course of this examination L&A reviewed United’s small employer health insurance rating, underwriting, and marketing practices, and compared these practices to the statutory and regulatory requirements. While individual case rating and underwriting activity were reviewed, a complete examination of the underlying data was not undertaken. The purpose of R.I. Gen. Laws §§ 27-50-1 *et seq.*, as expressed in R.I. Gen. Laws § 27-50-2(a), was considered. How United’s actions and results supported the

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achievement of that purpose was analyzed. Finally, a series of recommendations for United to consider in order to come into full compliance with the Act and the accompanying regulation were provided. These recommendations have been discussed with United. In many cases, United has undertaken corrective action based on the recommendations. It is appropriate for United to identify that corrective action in their responses to this report.

This report on the market conduct examination of UHNE and UHIC is provided to the DBR and to United for the following purposes:

- Review by United personnel to determine and document necessary corrective actions and to issue an official response to the findings to be included in the final report.
  
- Review by the Director and by DBR staff, to give them an opportunity to identify additional investigation required, and to evaluate the need for any additional regulatory standards or actions.

The conclusions contained in this report are based on the information that was made available by United, and on the understanding the examination staff developed based on reviewing documents provided by United, company reports, manuals, and spreadsheet files, and on the conversations the examiners had with United personnel. Proposal and renewal calculations and case files were reviewed to test and verify this information. The examination staff has discussed this report extensively with DBR staff and with United.

Material developed during the course of this market conduct examination may be included in a future separate report describing the small employer health insurance marketplace, as required under R.I. Gen. Laws § 27-50-9.

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The Market Conduct Examination Report is, in general, a report by exception. Information relating to practices, procedures, and/or files subject to review during the examination has generally been omitted from the report if errors and/or improprieties were not observed.

It should be noted that United's personnel were extremely cooperative in providing information. This report could not have been as complete without their assistance.

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**Summary**

- L&A has conducted a market conduct examination of UHNE and UHIC, beginning in January 2002, and continuing through mid-March 2002. The market conduct examination involved multiple interviews and extensive data collection at United sites in Warwick, RI, Hartford, CT and Minneapolis, MN.
- United insured approximately 1,500 small employer groups in Rhode Island as of mid-2001, covering 5,700 subscribers and 10,000 total members. The vast majority of these groups are covered under open access HMO-based products written on the paper of UHNE. United has experienced a decline in membership over the last two years.
- The management structure of United for Rhode Island small employer business is complex. Various elements of small employer business compliance are performed in the three separate sites visited, and are not under common management. This may have contributed to difficulty in compliance with the Act.
- United's forms have been filed and approved as necessary, and contain the proper language, with some minor exceptions. Where the examination staff identified exceptions, United has taken action to bring forms into compliance.
- United's actuarial rate development methodology and rating structure follow the requirements of the Act. Rates are developed using reasonable actuarial methods and assumptions. Rates are calculated using four-tier family composition factors, as required by the Act. United's actuary and chief underwriter were able to provide adequate documentation to enable the examination staff to reproduce rates charged to customers. United has

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informed the examination staff that they intend to improve documentation of their rate manual by April 30, 2002.

- United's marketing and underwriting efforts in the small employer market comply with the small group law in the following ways:
  - Minimum participation and employer contribution requirements are within the allowable limits set forth in R.I. Gen. Laws § 27-50-7(d)(9), and are enforced equally for all groups, through a process involving gathering and maintaining adequate documentation.
  - Medical underwriting is performed by competent staff in a reasonable and equitable fashion. Health status adjustments are limited within a +/- 10% corridor, as required by R.I. Gen. Laws § 27-50-5(a)(2). However, as noted below, the application of health status factors is not, in most cases, based on the results of the medical underwriting.
  - Proposals are delivered well within the time standard of 10 working days required by Regulation 82(10)(B)(3)(a).
  - United's renewal rating methodology ensures compliance with the requirement that all rates be within the 4-1 rate compression required by R.I. Gen. Laws § 27-50-5(a)(5).
- United's marketing and underwriting approach incorporates several elements which act together to defeat the Act by segmenting the market by size. The following actions, all of which do not comply with the Act, contributed to reducing United's exposure to groups with fewer than six employees, contrary to the Act's purposes of promoting broad availability of coverage:



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- Effective November 1, 2001, United ceased proposing on one-subscriber groups. Groups that are small employers under the Act, with two or more eligible employees, but with other employees waiving insurance because of other creditable coverage, were not offered insurance by United if they had only one subscriber, contrary to the requirement of Regulation 82(10)(B)(5) not to use size directly or indirectly to affect eligibility for coverage.
- United has permitted intermediaries to add administrative fees of \$15 per employee per month to the bills for small employer groups represented by those intermediaries. According to Regulation 82(5)(B)(4)(b), the maximum fee that can be charged is \$5 per employee per month, and any such fees must be applied to all groups in a uniform manner. These fees were charged only to the groups that United wrote through intermediaries.
- United's compensation scale is graded, with a smaller percentage applying to the smallest small employer groups.
- Under United's current practice, brokers are not permitted to offer coverage to groups with fewer than three enrolled subscribers, in accordance with their Broker Underwriting Guidelines. United's proposed new practice will allow brokers to offer insurance to groups with two eligible employees, but United does not intend to pay compensation on groups of two employees.
- United intends to discontinue offering health benefit plans through intermediaries. This may correct some problems with compliance on

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the part of the intermediaries, but may also further reduce opportunities for groups of fewer than six employees to purchase insurance from United, since groups smaller than six employees have most often been sold through intermediaries.

- United has systematically increased rates for new business and renewal small employer groups with fewer than six employees by using maximum health status adjustments on a discretionary basis unrelated to actual health status or claims experience. In this way, United continued their practice from before the effective date of the Act of charging premium rates 20% higher for groups of fewer than six employees than for groups with six or more employees. United's method did not allow these groups the benefit of the removal of size as a rating factor. Group size is not a permitted rating variable under R.I. Gen. Laws § 27-50-5(a).
- United's toll-free telephone number does not provide adequate information about the availability of small employer plans and how to apply for them. In particular, when one of the examiners called the number, he was told that United did not offer health benefit plans to small employers with fewer than six employees except through the intermediaries. When the examiner called one of the intermediaries and asked about small employer insurance, he was advised that Blue Cross insurance was preferable because it was much cheaper.
- United had not offered the statutory Basic, Standard, and Economy plans to prospects as part of every proposal, or to renewal groups as part of every renewal package, before February 2002. This practice did not comply with R.I. Gen. Laws § 27-50-7(b) which requires that a company actively offer the

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statutory plans on the same basis as its other health plans. United has indicated that as of February 2002, they include premium rates and a tri-fold marketing brochure for the Basic, Standard and Economy plans in all new business proposals. For renewals, as of February 2002, United includes rates for all plans, except the statutory plans, and includes a tri-fold brochure describing the statutory plans. United is prepared to provide premium rates for the statutory plans, if a renewing small employer requests them. The practices implemented February 2002 comply with R.I. Gen. Laws § 27-50-7(b), except for the practice of providing premium rates for the statutory plans only when specifically asked for them. While the Basic Plan has only been required since January 1, 2001, the Standard and Economy Plans have been required to be offered since 1993.

- The following additional compliance issues were found with regard to renewal underwriting and rating:
  - R.I. Gen. Laws § 27-50-5(a)(6) and Regulation 82(5)(B)(3)(b) requires a “second calculation” to moderate rate increases associated with the implementation of the Act. United’s method for applying this calculation is incorrect.
  - United’s medical underwriting standards and application of health status adjustment factors vary between new and renewing groups.
  - United does not provide required notification to small employer groups that grow to more than 50 employees that they will lose their small employer status if they do not renew their current benefit form.

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- If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer, United is required to provide notification to the employer of the protections small employer status provides, and that they are eligible to purchase small employer benefits from any small employer carrier. United does not currently provide such notification.
- Up through December 2000 renewals, United employed a factor in their renewal rating formula which varied by the number of years a group had been in force.
- A large proportion of United's small groups renew on October 1. At their October 2000 renewal, United gave those groups a nominal renewal date of September 30, 2000, in order to defer compliance with the Act. Those groups were not treated by United as subject to the terms of the Act until October 1, 2001. Among other practices not permitted under the Act, groups in this category continued to pay a 20% higher than standard premium if they had fewer than six employees, and were subject to health status rate increase factors as high as 45%.
- United has made timely filings of Actuarial Certifications as required by R.I. Gen. Laws § 27-50-5(h)(2), and information about small employer health benefit plans issued and in force as required by Regulation 82(10)(G). The 2000 Actuarial Certification was limited in scope to rate matters and did not discuss non-compliant underwriting practices. The 2001 Actuarial Certification incorporates issues related to the entire Act, and identifies and discusses the non-compliant underwriting practices discussed here. The report of issued and in force business

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required by Regulation 82(10)(G) contains some internal inconsistencies, which make it difficult to interpret.

It is the assessment of the examination staff, based on interviews, evaluation of data, and assessment of practices, that United complied with many of the formal provisions of the act. However, United's marketing, rating and underwriting practices have resulted in rate levels that discriminated against the smallest (fewer than six employees) small employer cases, with the effect of inducing those groups to go elsewhere for health insurance coverage. Those relatively smaller small employer groups that stayed with United paid more for their insurance than they would have if United had rated them in a manner that complied fully with the Act.

**Examination Methodology**

The examination involved written data requests, interviews with United personnel, and examination of such forms, records and analyses that the examiners found necessary. The examination began with a meeting at UHNE's offices in Warwick, RI on January 3, 2002, and continued from that point into mid-March 2002. United personnel assigned to the examination were helpful, candid, accommodating and well-informed as to United's practices, and provided timely responses to examination staff's requests for information. United maintains reasonable access to useful management information, which enabled the examination to be more thorough than it would have been otherwise.

In order to gather the information necessary for this examination, the examiners had several follow up meetings with UHNE personnel in Warwick, RI to receive documents, ask additional questions, discuss emerging issues, and to be given a demonstration of new business and renewal rating. Two day-long interviews were conducted in Hartford, CT

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with the actuary, Olga Jacobs, who provided documentation and explanation as to the Actuarial Certifications for the last two years, the development of base rates and rating factors, and the process for rate development. Ms. Jacobs also provided several summaries of renewal underwriting and experience data in electronic form. A telephone interview was held with underwriting personnel in Minneapolis, MN regarding underwriting practice. A follow-up visit was also made to Minneapolis where personnel in the medical underwriting, financial underwriting and participation audit areas were interviewed. Excel spreadsheet summaries of inforce business, renewal activity and new business activity were analyzed. The underlying records behind those summary spreadsheet files were not examined, although the summary data were reviewed for reasonableness and consistency. Specific proposal and renewal files were reviewed in order to verify the extent to which they matched the underwriting practices and procedures that had been described. In all cases, rates charged to these groups could be reproduced.

It should be recognized that one of the purposes of this market conduct examination was to identify areas where United may have failed to comply, and to help United come into compliance. Therefore, less attention was paid to the areas in which United complied fully with the requirements of the Act.

Where compliance issues were found, meetings were scheduled to discuss those issues, to help resolve misunderstandings, and to give United a chance to make changes necessary to come into compliance on a going forward basis.

This report contains a number of recommendations to United for actions designed to address areas in which United is not in compliance with the Act and the associated Regulation. United has already begun action to implement a number of these recommendations. United's response to this report is expected to describe these actions.

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**Carrier overview**

UHNE and UHIC offer insurance to small employers in Rhode Island. UHNE's headquarters are in Warwick, RI. UHIC is a Connecticut domiciled company, with offices in Hartford, CT. Both companies are subsidiaries of UHG, which has their primary offices in Minneapolis, MN, and is one of the leading health care insurers in the nation. UHNE's products are HMO-based open access products, while UHIC's products are Preferred Provider Organization ("PPO") and indemnity insurance. Enrollment in UHIC products is limited to relatively few contracts. UHIC products are primarily used to provide out of area coverage for employees not in the UHNE network area.

At United's option, UHIC and UHNE are treated as separate companies for the purposes of complying with the Act, as is permitted by RI Gen. Laws § 27-50-4(b)(2). As UHIC is a separate company from UHNE, it is not necessary for UHIC products to be offered to all UHNE customers to comply with the requirement of RI Gen. Laws § 27-50-7(b)(1) to offer all health benefit plans to small employers.

Regulation 82(10)(G) requires an annual filing by small employer carriers indicating various statistical data relating to health plans issued, renewed, and terminated in a given calendar year. The examination staff reviewed the submissions made by United for each of the years 1998, 1999, 2000, and 2001 (the filing for 2001 was made February 20, 2002). Since United indicated that they have elected to treat UHNE and UHIC as separate carriers, this election requires United to file a report under Regulation 82(10)(G) for each of UHNE and UHIC. It appears that the Regulation 82(10)(G) reports provided are for UHNE business only.

According to UHNE reports of small employer group health insurance plans sold and inforce, filed as required by Regulation 82(10)(G), UHNE issued 208 new small

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employer health insurance plans in 2001, and renewed 1,301 small employer plans in 2001. According to the most recent report, UHNE renewed about 67% of the groups that came up for renewal in 2001.

According to information provided by Ms. Jacobs, UHIC insured approximately five small employer groups, with about 20 subscribers and 48 members, as of November 30, 2001.

There was substantial inconsistency within the Regulation 82(10)(G) reports filed in each of the last four years, and in comparing one report to another. For example, in the most recent report, United reported 1,509 plans issued or renewed during 2001, but 2,184 in force at the end of the year. Also, United reported 3,852 plans issued or renewed during 2000, but only 1,954 either renewed or not renewed in 2001.

*Recommendation 1: It is recommended that United review and correct reports filed by UHNE in accordance with Regulation 82(10)(G).*

*Recommendation 2: It is recommended that United make the required filings for UHIC in order to comply with Regulation 82(10)(G).*

Apart from stop-loss reinsurance held within affiliated companies, both UHNE and UHIC retain all risk for the small employer insurance written.

United is one of the two major small employer health insurance carriers in Rhode Island, Blue Cross/Blue Shield of Rhode Island and their affiliate being the other carrier. Based on Rhode Island Department of Labor and Training statistics, United insures about 6.4% of the small employer market, measured by number of groups. Based on information gathered in the course of market conduct examinations, United insures about 10% of the groups insured by small employer carriers.



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**Management Structure for Small Employer Business**

United's organization for managing Rhode Island small employer business is complex. Sales, sales support, marketing strategy, new business rating, renewal rate production, benefit design, and account management is controlled at UHNE offices in Warwick, RI, under the direction of Don Croisetiére, Director of Sales. Compliance is managed in Warwick, RI under the direction of Melanie Johnston, Director of Compliance.

Medical underwriting and renewal underwriting is provided through UHG's offices in Minneapolis, under the direction of Carol Zambrano and Judy Rebishke, respectively. Renewal underwriting is managed directly by Socrates Bray, who reports to Ms. Rebishke.

Actuarial rate development is managed in UHG's offices in Hartford, CT, under the direction of Olga Jacobs, FSA, MAAA, Actuary, who prepares the Actuarial Certification required under R.I. Gen. Laws § 27-50-5(h)(2). In preparing the certification, Ms. Jacobs relies on data summaries and case examples prepared by Mr. Bray in Minneapolis, MN.

Rating recommendations applying to the small employer market in Rhode Island are developed by Ms. Jacobs. These recommendations are reviewed and analyzed among Ms. Jacobs, Ms. Rebishke, Mr. Croisetiére, and Mr. Bray, with the final implementation of rates done by Mr. Bray in Minneapolis.

Mr. Croisetiére is assisted by Vanessa Avila, Operations Coordinator. Mr. Croisetiére manages the sales staff, and sets overall direction for United's small employer business in Rhode Island. Ms. Avila oversees new business and renewal production activity. While all of the United personnel were very cooperative with the examiners, Ms. Jacobs and Ms. Avila expended additional effort and were particularly helpful and responsive.

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This dispersion of authority and accountability may have contributed to compliance issues, in that no one person has had accountability to ensure that the entire process complies with R.I. Gen. Laws §§ 27-50-1 *et seq.*

*Recommendation 3: It is recommended that United review and modify their responsibility structure for compliance with the Act, to ensure that United complies with all provisions of the Act.*

**Carrier Concerns and Compliance Difficulties with the Act**

- Rate compression

United is generally concerned about the number of changes they have implemented for small employers in Rhode Island. United's implementation of the 4-1 rating compression required by R.I. Gen. Laws § 27-50-5(a)(5) was done in a manner that resulted in affecting relatively few groups. For a sample of underwriting renewals reviewed, only 10% of groups were affected. However, the introduction of the 2-1 rating compression effective July 13, 2002, under current law, will have much greater impact. United expressed concern about possible further disruption in the market place. Based on the renewal sample reviewed, an estimated 34% of groups may be affected by the 2-1 compression.

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- Selection

United expressed concern about potential adverse selection and/or competitive disadvantage associated with any failure of competing carriers to comply with the Act. Small group reform can only be successful if all carriers comply equally with the law.

United also expressed concern about issues related to rating multiple option plans, and the adverse selection associated with such plans. In order to offer multiple option plans, United would prefer to use rates that reflect the adverse selection anticipated in a multiple option environment.

- Second calculation

United indicated that they do not retain census information on a regular basis, making it difficult to evaluate what part of a change in age/gender factor is related to changes in demographics, and what part is related to changes in the factor tables themselves. Instead, United takes a snapshot of their census at time of rating and calculates the age/gender factor, saving only the age/gender factor and the conversion factor used to reflect the family composition of the group.

- Disclosure

United expressed concern about the disclosure requirements under R.I. Gen. Laws § 27-50-5(g)(4), which require them to provide information, including benefits and premiums, about all benefit plans, including the statutory plans, for which a small employer is qualified. United's current rating software enables United to display only eight premium variations, all of which they are currently using for plans other than the statutory plans. They are migrating on a national company-wide basis to rating software that can display

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only four variations. This creates problems for them in displaying their current number of plans, even before considering the need to include the statutory plans.

- Statutory plans

While United did not offer the statutory plans prior to February 2002, United believes that it can address the needs of consumers who prefer low cost plans by offering their own plans. As of July 1, 2001, United began offering their own low cost plans to the small employer market. United now has 88 small employers enrolled in these options. Effective February 2002, United complies with the requirements for including rates for the statutory plans with new business proposals and provides a tri-fold marketing brochure describing the statutory plans with all new business proposals and renewals.

### **Marketing to Small Employers**

UHNE and UHIC business is marketed in Rhode Island through brokers and through intermediaries. United has four regional sales representatives who serve the brokerage market, and handle primarily groups of six or more eligible employees, although they are also authorized to handle groups of three to five employees.

United does not offer insurance through associations in Rhode Island. United does not offer individual health insurance in Rhode Island, either through UHNE or UHIC, except for health insurance conversions.

United has offered insurance in the small employer market through three intermediaries: Interlink Business Services, Inc. ("IBS"), The Good Neighbor Alliance Corporation ("GNA"), and New England Benefits Companies, Inc. ("NEBCO"). These

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intermediaries administer insurance on groups of five or fewer employees. The intermediaries bill the customers, and remit premiums to United on an aggregate basis. United provides the intermediaries with an administration manual. United does not compensate the intermediaries. Instead, the intermediaries add a \$15 per employee per month administrative fee to United's rates. The intermediaries produce new business proposals directly by using United's proprietary, password-protected internet-based software. UHNE produces renewal proposals, which are then re-printed by the intermediary. In either case, the intermediary adds in the \$15 fee, so the customer sees one rate including the \$15 fee.

RI Gen. Laws § 27-50-3(ee) defines premium as including any fees paid by the employer for health insurance. RI Gen. Laws § 27-50-12(i)(2) provides that a third-party administrator who provides administrative, marketing, or other services related to the offering of health benefit plans is subject to the fair marketing requirements of RI Gen. Laws § 27-50-12 as if it were a small employer carrier.

To the extent that any intermediary were to offer a statutory plan for sale, United would be required to pay reasonable compensation by R.I. Gen. Laws § 27-50-12(d). United's practices of requiring smaller groups to pay an additional fee and paying reduced or no compensation on the smallest groups violate Regulation 82(10)(B)(5), which requires small employer carriers not to directly or indirectly use group size as a criterion for small employer health plan eligibility.

The practice of charging a \$15 administrative fee is prohibited by Regulation 82(5)(B)(4)(b), which limits any fee to \$5 per employee per month. This subdivision of the Regulation also requires that such a fee be applied uniformly to all groups. United has not applied or allowed such a fee to be applied to non-intermediary groups.

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United has notified the intermediaries that, effective April 1, 2002, they were not to charge an administrative fee in excess of \$5 per employee per month. This complies with the requirement that administrative fees not exceed \$5 per employee per month, but not the requirement that any fees be charged uniformly to all groups, since non-intermediary groups do not pay these fees. Additionally, United has indicated that they intend to terminate their relationships with intermediaries and assume responsibility for the administrative functions that are currently performed by the intermediaries.

The examination staff reviewed the October 1, 2001 renewal summary prepared by Mr. Bray. This included 977 groups, while the October 1, 2000 renewal summary (dated September 30, 2000) included only 92 groups. It appears from this comparison that the remaining almost 900 groups renewed in October 1, 2001 were intermediary groups that had been renewed as part of a large group or groups in 2000, on a basis that did not comply with the Act.

*Recommendation 4: It is recommended that United discontinue the practice of allowing intermediaries to add administrative fees to rates for small employer groups.*

*Recommendation 5: It is recommended that United discontinue segmenting the marketing of small employer business based on size of group, and change the current practice of allowing intermediaries to write only groups of two through five subscribers and brokers to write only groups of three or more subscribers.*

As of December 31, 2001, United terminated their relationship with one of their intermediaries. Existing accounts were moved to another intermediary. United described its reasons for this move as a desire to consolidate their intermediary arrangements, and difficulties in obtaining timely payment.

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For those groups written directly by United, and not through the intermediaries, United's commission schedule pays 2% of the first \$15,000 of annual premium, and 5% of the next \$75,000 of annual premium. \$15,000 of annual premium corresponds, roughly to a four or five life group, on average. This commission scale is an uncommon one in the group health insurance business, where commissions traditionally grade down by size of group. United pays no commissions for groups with two or fewer enrolled subscribers. This practice is likely to steer the smallest groups to other competitors. Varying compensation percentage by health status-related factors, industry, occupation or geographic area is prohibited by R.I. Gen. Laws § 27-50-12(d). While varying compensation percentage by size of group is not expressly prohibited, this practice is not consistent with the fair marketing standards of R.I. Gen. Laws § 27-50-12, does not comply with the requirement not to indirectly use group size to affect eligibility for coverage contained in Regulation 82(10)(B)(5), and does not comply with the requirement of R.I. Gen. Laws § 27-50-7(b)(1) to actively market to small employers.

***Recommendation 6: It is recommended that United revise their commission schedule to pay comparable commissions on the first \$15,000 of premium to the commissions they pay on the next \$75,000 and that their commission schedule be applicable to all small employer business, regardless of source of business or size of group.***

United's Small Group Broker Business Underwriting Guidelines (effective November 1, 2001) define eligibility for small employer coverage in terms of *enrolled* subscribers, instead of *eligible* employees, in conflict with the small employer definition based on eligible employees and part time employees contained in R.I. Gen. Laws § 27-50-7(a). As of November 1, 2001, United has ceased to offer new business proposals to one-subscriber groups in Rhode Island. It is allowable for a small employer carrier not to offer insurance to groups with only one eligible employee. However, United has also taken the position that they do not offer insurance to groups with only one *enrolling* employee, even if the group has other employees who waive coverage because of having

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other creditable coverage. United's practice violates R.I. Gen. Laws § 27-50-7(b) and R.I. Gen. Laws § 27-50-12(a) which require that a small employer carrier actively market to all eligible small employers.

United has indicated that they have modified this approach, and that they will now offer insurance to eligible small employer groups with other creditable coverage.

***Recommendation 7: It is recommended that United review their eligibility guidelines to ensure that small employer status is determined based on eligible employees, not on enrolled subscribers.***

Regulation 82(10)(C) requires that a small employer carrier maintain a toll-free telephone number to provide information on the availability of small employer health benefit plans, including how to apply for coverage and information to assist the caller to locate an authorized producer. United maintains such a number (888-735-5842). This number operates Monday through Friday, 8:30 am to 5:00 pm. A caller outside this timeframe is advised to call back during normal business hours. An examiner called this number and, after several transfers, was directed to a voice mail message for a direct sales representative.

On March 8, 2002, United indicated that the toll-free phone process has been revised. An examiner therefore called this number again, on March 15, 2002, and asked for information on small employer insurance for a three-employee group. The caller was informed that United does not sell directly to employers with fewer than six employees, and was directed to call either IBS at 800-487-4427 or NEBCO at 800-242-1991. Both of these intermediaries provided the following identical information:

- The intermediary offers health benefits with either Blue Cross or United;



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- In order to obtain insurance through an intermediary, an employer would have to join the Chamber of Commerce; and
- The intermediaries were not familiar with and do not offer the statutory plans.

In addition, one of the intermediaries advised the examiner that Blue Cross would be preferable coverage, as United is much more expensive. This is consistent with other observations by the examiners about United's practice of charging higher rates to the smallest groups. United has informed the examiners that it has reinforced instructions for the intermediaries regarding the need to offer the statutory plans.

*Recommendation 8: It is recommended that United review their toll-free phone line operation to ensure that small employers can obtain adequate information about health benefit plans that are available and how to apply for them.*

*Recommendation 9: It is recommended that United ensure that small employers can obtain insurance from United, either directly or through the intermediaries, without being required to join the Chamber of Commerce.*

*Recommendation 10: It is recommended that United advise the intermediaries of the requirement to offer the statutory plans.*

Other than as noted above, United markets their business equally to all eligible small employer groups in Rhode Island, and offers access to their commercial UHNE products equally. No evidence was found of any other practices that would limit the ability of small employers, or employees or dependents of small employers, to obtain health insurance.

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**Changes in Operations since effective date of R.I. Gen. Laws §§ 27-50-1 *et seq.***

United has experienced several changes to their block of business since the effective date of the Act, including:

- Reduction in membership from approximately 11,700 subscribers under small employer plans as of December 31, 1999 to 7,200 subscribers as of December 31, 2000 to 5,700 subscribers as of June 30, 2001, (approximately a 50% reduction in membership) based on data provided by United's actuary, Ms. Jacobs. This decline cannot all be attributed to the impact of the Act, however, because United instituted substantial rate increases for small employer business during 2000. Also, it could not be determined from the data available how much of the decrease in business volume may have pre-dated the effective date of the Act.
- With Harvard Pilgrim and Tufts withdrawing from the market, United had the opportunity to add a number of groups. Taking this into account, the fact that United has lost groups on a net basis over the period of the law is evidence of a greater decline in market share than would be apparent based on the number of groups alone.
- Small employer business had previously been table rated. That is, each employee's premium rate was determined separately from United's table of rates, based on that employee's age and gender and family composition. A small employer group's premium was the sum of the premiums for all of its employees. United changed the rating of this business to four-tier family composition, composite census rating on the effective date of the Act. United's primary competitor, Blue Cross/Blue Shield of Rhode Island, did not adopt four-tier family composition rates until approximately April 1, 2001. United believes that

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this put them at a competitive disadvantage from the effective date of the Act until April 1, 2001. United believes that the combination of the rate conversion to four-tier composite rates, the advent of the 4-1 rate compression, and the delay in offering four-tier composite rating on the part of their competitor caused them to lose market share.

- Lack of flexibility in rating due to removal of group size as a rating variable and the limitation of health status rating to +/- 10%.

United has experienced other changes in their small employer business since the effective date of the Act which may or may not be related to the effects of the Act.

- Migration to larger average size groups within the small employer market. In a summary of new business proposals reviewed by examination staff, the average size group on which proposals were made was about five enrolled employees during the three-month period ending February 2001. The average size groups on which proposals were made during the three-month period ending January 2002, was about 15 enrolled employees. This increase in average size may be due in part to United's decision to stop proposing on groups with one subscriber. However, it appears that the number of relatively larger small employer groups has increased as well. This apparent migration to larger group size appears to be the result of various rating, underwriting, and marketing activities by United that do not comply with the Act and discourage the smallest of small employers from applying for or renewing a United health insurance plan.
- Based on information available in reports referred to as "datasets," it appears that United's profitability in the small employer market in Rhode Island has improved, from a small loss position in 1999 to a significant level of pre-tax income as a percent of premium in 2000 and a higher percent of premium in the first half of

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2001. United has indicated that these numbers may not be completely accurate because of limitations in the way net income is determined in the dataset reports.

### **Rating Methodology for Small Employer Business**

Base rates are developed quarterly, based on an analysis of United's company experience, the experience of the small group pool in Rhode Island, corporate goals, and competitive factors. Expenses are allocated equally to all small employer groups across both UHIC and UHNE on a percentage basis, except that premium taxes are incurred only on UHIC business and are reflected only in UHIC rates. Base rates are updated monthly based on United's cost and utilization trend factors.

Premium rate relationships among the various plans offered to small employer groups in Rhode Island are based on analysis of benefit differences, as modeled in corporate benefit analysis software (ACE), using actuarial methods and assumptions regarding cost and utilization of health care services. The rate relativities are not based on a model that takes into account differences in the groups expected to buy one plan vs. another.

Age and gender rating is done using separate factors for males and females that begin with a factor for all ages under age 30, and varying by five year age brackets up to age 65. Separate age and gender factors are available for over age-65 active employees in groups where Medicare is primary and groups where Medicare is secondary. There is a single child factor, regardless of the age of the employee or the child. The adult factors are applied to employees and spouses. The child factor is applied to each child, with a maximum of three per family. These factors are then weighted by the members in a group, to develop an average per member per month ("PMPM") age/gender factor. A PMPM rate is developed by multiplying the age/gender factor times the base rate times

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the base rate relationship factor times the health status risk factor for the group. The factors and methodology for applying them complies with R.I. Gen. Laws § 27-50-5(a)(1-4).

A conversion factor is developed based on the ratio of total members to the average weighted members based on United's four-tier family composition factors. This is applied to the PMPM rate to obtain the single employee rate, and the family composition factors are applied to obtain the single, employee plus spouse, employee plus children, and full family rates for the group. United has used four-tier family composition rating for new groups and renewals since the effective date of R.I. Gen. Laws § 27-50-5, October 1, 2000, with some minor exceptions as noted in the Actuarial Certification for 2001.

R.I. Gen. Laws § 27-50-5(a)(5) requires that for each health benefit plan, the highest rate charged by a small employer carrier for each family composition type not exceed four times the lowest premium rate for that family composition type. That requirement is referred to as the "4-1 compression" requirement. United applies the 4-1 rate compression based on limiting the combination of the age/gender factor and health status factor within a range that results in an absolute limit of 4 to 1. United has used a minimum and a maximum age/gender factor in order to accomplish this.

In lieu of a rate manual, United maintains a rate card. The rate card shows the base rates and base rate relationships, and the rating factors used in developing a rate: i.e., trend adjustment factors, age and gender tables, and health status risk factors.

This information was provided and explained by Ms. Jacobs. The examiners discussed with her the elements necessary in a rate manual that would satisfy the requirements of Regulation 82(5). Regulation 82(5)(A)(4) requires that a rate be calculable from the rate manual. The rate manual therefore needs to contain:

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- Formula for calculating a group rate (including a worksheet and examples of calculations);
- Demographic factor tables, including age and gender, family composition type, health status factors, and 4-1 compression adjustment factors, separately for health benefit plans and for riders, if different;
- Plan-related factors, including base rates, cost and utilization trend adjustment factors, base rate relativity factors, rider base rate and relativity factors;
- Additional fees, if any;
- Discretionary elements to the rates, if any, including a description of the criteria that determine how they will be charged; and
- Methodology, formula and factors for implementing the second calculation required by R.I. Gen. Laws § 27-50-5(a)(6) and Regulation 82(5)(B)(4)(b).

In addition the rate manual should contain documentation of rate development material, including:

- Documentation of rating practices and renewal underwriting practices, as required by Regulation 82(5)(A)(3);
- Documentation of the method for allocating administrative expenses to health benefit plans as required by Regulation 82(5)(B)(5);

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- Information and documentation that the rating methods and practices are based upon commonly accepted actuarial assumptions and are in accordance with sound actuarial principles as required by R.I. Gen. Laws § 27-50-5(h)(1).

Ms. Jacobs stated that she intends to make the recommended additional improvements to United's rate manual by May 1, 2002.

***Recommendation 11: It is recommended that United update and complete their rating manual and underwriting manual to comply with R.I. Gen. Laws § 27-50-5(h) and Regulation 82(5).***

The general rating methodology as described by Ms. Jacobs complies with the requirements of R.I. Gen. Laws § 27-50-5 and Regulation 82(5). As is described in Section 7 of this report, however, United did not comply with the Act in their application of the rating methodology on a case-by-case basis.

Ms. Jacobs's 2000 Actuarial Certification reports and supporting data for UHIC and UHNE, dated March 9, 2001, were reviewed by the examiners. These reports are required by R.I. Gen. Laws § 27-50-5(h)(2). These reports were filed on a timely basis, and the supporting data is complete and demonstrates the analysis done by the actuary. The reports were limited in scope to matters of compliance regarding rating and rate development, although R.I. Gen. Laws § 27-50-5(h)(2) requires that the actuary certify compliance with the entire chapter, R.I. Gen. Laws §§ 27-50-1 *et seq.* The reports also did not address as exceptions the underwriting methods employed by United that do not comply with the Act. In particular, the Actuarial Certification did not address United's continued use of a rating factor dependent upon how long the contract had been in force (durational rating factor), which was used through the December 2000 renewals, or the use of health status rating tiers on a durational basis, which amounts to rating by size of

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group. Neither duration nor size is a permissible rating factor under R.I. Gen. Laws § 27-50-5(a).

Actuarial Certification reports for 2001 were also reviewed. These reports were prepared by Ms. Jacobs on March 14, 2002. The 2001 certifications addressed compliance with the entire Act. The certifications accomplished this by incorporating letters from Mr. Croisetiere describing UHNE's and UHIC's compliance experience with the non-rate sections of the Act. Ms. Jacobs's certification letters addressed in detail the rating and underwriting deficiencies the examiners had observed, and described proposed remedies. The examination staff is satisfied that the 2001 certification documents meet the requirements of R.I. Gen. Laws § 27-50-5(h)(2).

In the 2001 Actuarial Certification, Ms. Jacobs refers to system limitations that prevent UHIC and UHNE from performing the second rate calculation as described in Regulation 82(5)(B)(3)(b). The examination staff believes that, in the absence of system changes to comply with the second calculation, a spreadsheet calculation would be adequate to identify affected groups, and to determine the appropriate second calculation rates for those groups. Since a major part of United's approach to renewal rating involves spreadsheet calculations for all groups, extending that process to incorporate the second calculation appears feasible.

A carrier is required to make reasonable disclosure, as required in R.I. Gen. Laws § 27-50-5(g), in any proposal or renewal of the following:

- a. Carrier's right to change premiums and factors that affect changes in premium rates.
- b. Provisions related to renewability.
- c. Provisions related to pre-existing conditions.



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- d. Descriptive information, including benefits and premiums for all benefit plans for which the small employer is qualified.

United does not have a pre-existing conditions limitation requirement. Therefore no disclosure related to that provision is required. The examination staff reviewed a complete renewal package provided by the carrier. The renewal package did not contain the required disclosures with respect to renewability and the carriers right to change premiums, and did not contain a description of the statutory plans. The examiners reviewed United's new business proposal package. Similarly, the proposal package did not contain the required disclosures with respect to renewability and the carriers right to change premiums, and did not contain a description of the statutory plans. United has indicated that the benefit information about the statutory plans is included in new business proposal and renewal packages, beginning in February 2002. The examiners reviewed several rate sheets for renewal plans. United apparently provides rate information only for "similar" plans to the plan a group already has, instead of providing premiums for all benefit plans.

*Recommendation 12: It is recommended that United review the contents of its renewal and proposal material to ensure that it complies with the disclosure requirements in R.I. Gen. Laws § 27-50-5(g).*

### **Underwriting Methodology for Small Employer Business**

#### New Business Proposals

Initial proposal rating is done in Warwick, RI using United's rating software. United applies the 4-1 rate compression on a group by group basis as described in the prior section of this report, using a manual adjustment to system generated age/gender factors.

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Beginning November 1, 2001, United declined to quote what they perceived to be one-life groups, based on the number of employees who actually would be applying for coverage. R.I. Gen. Laws § 27-50-7(a) instead defines a small employer group based on the number of eligible employees and part-time employees. United's practice does not comply with R.I. Gen. Laws § 27-50-7(b)(2), which requires that insurance be issued to any small employer who is eligible for and applies for coverage. The examiners reviewed and analyzed proposal records kept by the Medical Underwriting staff in Minneapolis, MN. United can decline to quote groups with only one eligible employee up until October 1, 2002. After that date, one employee groups will be included in the definition of small employers as shown in R.I. Gen. Laws § 27-50-3(II). Until October 1, 2002, groups with two or more eligible employees or part-time employees must be offered insurance, even if all but one employee decline coverage because of having other creditable coverage. United has indicated that they have taken steps to bring underwriting practice into compliance, but actual instructions, guidelines or implementation were not provided to the examiners for review.

***Recommendation 13: It is recommended that United offer insurance equally to all small employers, including those with only one enrolled subscriber.***

Upon acceptance of an initial proposal, United collects appropriate application data, including W-2 tax data and medical questionnaires. This data is forwarded to the medical underwriting unit in Minneapolis, MN. This unit verifies the accuracy and completeness of the employer application, checks the most recent carrier's bill, the health history and the completed waivers for completeness, and follows up for additional information as needed. United verifies minimum participation of 75% for those not waiving for creditable coverage, and employer contribution of at least 50% of the single rate. United's minimum participation and minimum employer contribution rules and United's application of those rules comply with R.I. Gen. Laws § 27-50-7(d)(9).

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A starting health status tier is then developed for the group. This starting tier is assigned based on the number of applicants for coverage. For groups with two applicants, the starting tier is 11, corresponding to a starting health status rating factor of 110%. For groups with three to five applicants, the starting tier is 6, corresponding to a starting health status rating factor of 100%. For groups with six or more applicants, the starting tier is 1, corresponding to a starting health status rating factor of 90%. This process of assigning health status by number of applicants does not comply with R.I. Gen. Laws § 27-50-5(a), under which the number of applicants is not a permitted rating factor. United has indicated that they intend to change this process for effective dates beginning April 1, 2002, and will under that new method use a starting factor of 90% for all groups.

*Recommendation 14: It is recommended that United discontinue the new business underwriting practice of assigning health rating tier factors based on size of group.*

The medical underwriting unit then uses the medical questionnaires, as supplemented by follow-up questions as needed, to develop estimated ongoing costs. The ongoing costs are accumulated for a group, and compared to the projected premium for the group. United uses a formula approach to assign a health status rating factor or medical rating tier based on the estimated ongoing costs determined for a group. The medical underwriting unit communicates the medical rating tier to the sales unit in Warwick, which produces the final rates. The methodology described to establish health status tiers based on medical underwriting is reasonable.

United does not use a pre-existing conditions limitation, nor do they require an affiliation period before providing coverage.

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United provided a copy of their "Rhode Island Underwriting Manual." It is a one-page summary of underwriting practice. It does not adequately describe group eligibility, employee eligibility, dependent eligibility and small employer eligibility. It does not describe the renewal rating process and its discretionary elements. It also does not conform to specific information provided verbally by United underwriters. Documentation of the information noted above is required by R.I. Gen. Laws § 27-50-5(h)(1).

*Recommendation 11: It is recommended that United update and complete their rating manual and underwriting manual to comply with R.I. Gen. Laws § 27-50-5(h) and Regulation 82(5).*

Renewals

Six months prior to renewal, the participation audit unit in Minneapolis, MN collects data to ensure that minimum participation is being met and that only eligible employees and dependents are covered. Groups that fail minimum participation requirements or refuse to provide documentation of eligibility are not renewed, as is permitted by R.I. Gen. Laws § 27-50-6(a)(3) and (4).

Census data is extracted from the Cosmos system in Warwick, RI, and a preliminary age/gender calculation is made for a renewing group. This information is transmitted to Minneapolis, MN to the financial underwriting unit, which validates that all groups that are up for renewal are represented.

The medical underwriting unit evaluates a renewing group based on United's own claims experience with that group, subject to company standards, and transmits the dollars of ongoing claims to the financial underwriting unit.

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The financial underwriting unit translates the ongoing dollars into a percentage of premium, and then into a health status rating adjustment factor. The financial underwriting unit uses a formula approach to determine the health status rating adjustment factor from the ongoing claims percentage. There is some discretion involved in this approach, including whether the rates for the month, in total, meet corporate revenue needs. It is permitted to have discretionary factors for rating, but the criteria for applying them must be contained in the rate manual. Discretionary factors applied to individual groups purely to meet corporate revenue goals violate the requirement that similar groups be rated alike.

The financial underwriting area then estimates the rate increase for the group, based on the age/gender factor from the preliminary calculation done in Warwick, RI, and an assumption of an average health status rating factor. A rate increase is determined by comparing the premium for the group to the current premium. The health status rating factor is then adjusted to attempt to manage the rate increase within an acceptable level.

In order to attempt to comply with the requirements of the second calculation required in R.I. Gen. Laws § 27-50-5(a)(6) and Regulation 82(5)(B)(3)(b), an upper limit rate increase is set, based on cost and utilization trend plus 10%. The health status tier is reduced by as many steps as needed to reduce the rate increase below that upper limit. If reduction to the lowest health status rating tier (i.e., 90%) leaves a rate increase greater than cost and utilization trend plus 10%, however, that rate increase still applies.

For groups that have rate decreases, the tier is increased until the rates increase is approximately equal to the cost and utilization trend assumption. If an increase to the maximum under 4-1 compression results in a rate decrease or a small increase, that decrease or small increase still applies. This entire procedure is not in compliance with R.I. Gen. Laws § 27-50-5(a)(6) and Regulation 82(5)(B)(3)(b) for the following reasons:

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- The attempted second calculation does not take into account changes in the demographics of the group. Changes in demographics should be allowed to flow through the rate process. Changes due to the effects of the Act on rating (e.g., rate compression, limitation on health status rating adjustment, changes in allowable rating variables, four-tier family composition rates), as well as changes in carrier rate structure, are limited by the Act to 10% over the trend in cost and utilization. In order to properly take demographics into account, United would need to determine what the age/gender factor would be for a group based on current census, and on the age/gender factor table in effect at the time the previous rate was calculated. United has indicated that they do not retain census information on a regular basis, making it difficult to evaluate what part of a change in age/gender factor is related to changes in demographics, and what part is related to changes in the factor tables themselves.
  
- Starting renewal groups at a 100% health status, while new groups are started at varying rates based on size is a failure to treat similar groups alike, and is a form of rating by duration. This is not a permitted practice under R.I. Gen. Laws § 27-50-5(a), which describes the allowable rating variables. Now that United has indicated that they intend to use 90% as a starting rating factor for new business proposals, they will need to conform their rating practice for renewals, as well, for the same reason.
  
- Increasing rates that should otherwise have decreased is not a permitted practice. Since most of the affected groups were very small groups and because R.I. Gen. Laws § 27-50-5(a) does not permit size as a rating variable, these minimum increases constituted a form of size rating that violates the requirement of R.I. Gen. Laws § 27-50-5(d) that identical groups be rated the same.

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*Recommendation 15: It is recommended that United discontinue the renewal underwriting practice of increasing small employer group rates to minimize or eliminate rate decreases.*

*Recommendation 16: It is recommended that United implement a second calculation as required by R.I. Gen. Laws § 27-50-5(a)(6) and as defined in Regulation 82(5)(B)(3)(b). This will require maintenance of adequate census data to evaluate changes in the age, gender and family composition of a group.*

For those groups where the results of medical underwriting indicated health status rating adjustments, and which have not already been raised to the maximum health status tier by the process described above, tier adjustments based on medical underwriting are implemented. Of the adjustments that reflected actual medical underwriting in the sample the examiners reviewed, most were for one or two tiers, sometimes to the maximum tier and sometimes not.

*Recommendation 17: It is recommended that United review their medical underwriting rules to ensure that there is reasonable equity among new and renewing groups in the application of health status loads based on medical underwriting.*

Financial underwriting then transmits the health status tier to Warwick, RI, where up-to-date census is used to re-rate the case, including the health status rating tier factor. For broker business, the rate increase is transmitted to the broker for delivery to the client. For intermediary business, the rate increase information is transmitted to the intermediary, who adds the \$15 per employee per month fee and transmits the combined rate to the customer, in violation of Regulation 82(5)(B)(4)(b) and R.I. Gen. Laws § 27-50-5(d).

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Summaries of renewal underwriting activity in the following six months were reviewed: January, April, June, July and October 2001, and April 2002. Because many October 2000 renewals had been processed early, on September 30, 2000, all of these groups were being renewed for the first time under the Act, except for the April 2002 renewals. The total sample included 1,524 records. The greatest share of these (977) is represented by October 2001 renewals.

Approximately 10% of groups had age/gender factors affected by the 4-1 rate compression required by R.I. Gen. Laws § 27-50-5(a)(5), with an equal number going up or down. Ninety-six percent of the groups had a "health status" rating factor adjustment based on rate increase or decrease considerations, with 88% an increase and 8% a decrease. Eighty percent of groups had health status rating factors at the maximum tier, or 110%. Fewer than 1% of groups received health status tier adjustments based on medical underwriting, although 5% of the groups had ongoing claims experience that should have resulted in health status rate adjustments under United's stated underwriting rules.

A model was constructed of the anticipated effect of the 2-1 rate compression that will be required by R.I. Gen. Laws § 27-50-5(a)(5) beginning July 13, 2002, under current law. Based on this sample population, it appears that many more groups will be affected by the 2-1 compression than were affected by the 4-1 compression. Based on the sample, about 34% of United's groups would be affected by the 2-1 compression.

In general, the groups most likely to have a maximum health status rating tier, and the groups most likely to be affected by rate compression, are the smallest groups. Smaller groups are rated toward the maximum tier to make up for the loss of rating by size in the prior rating system. Smaller groups are more likely to be affected by rate compression because one older or younger worker moves the age/gender outside the compression



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range for a very small group, while a larger group is more likely to have an average age distribution.

United renewal activity processed in eight monthly summaries under the Act was analyzed in order to quantify the discretionary increases that were applied to groups (primarily the very small groups) to manage their rate renewals. Activity for the October 1, 2000 renewal summary, contained in an Excel file called *1000RI.xls*, was included in this analysis. The October 1, 2000 renewals were dated September 30, 2000 by United, and rated using United's old factors and methodology that do not comply with the rating requirements of the Act.

The October 2000 groups that were treated as September 30 renewals had the following deviations from rating provisions allowed by the Act:

- Use of health status rating adjustments as high as 45%;
- Health status rating tiers applied on a discretionary basis unrelated to health status;
- Durational rating factors.

Ninety-two groups were contained in the summary of the October 1, 2000 renewals. It should be noted that this sample does not include approximately 900 groups written through intermediaries. These intermediary-produced groups also nominally renewed on September 30, 2000 instead of the actual date of October 1, 2000, but as a single large group, on a basis that did not comply with the Act.

Groups renewed through December 2000 had a durational rating factor applied to their premium rates, such that groups at their first renewal received a 4% discount compared to groups in their second or later renewal. For November and December 2000 renewals, 22

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groups received premium rate discounts because they were at their first renewal. Duration is not a permissible rating variable.

R.I. Gen. Laws § 27-50-5(b) provides that premiums cannot be changed more often than annually for a small employer group, except for changes in the number of employees, the family composition, or the benefit plan for the group. Generally, United complies with this process, although two exceptions were found:

- The examination staff reviewed a policy issued effective December 1, 2001, and written on a 1998 policy form. The form provides that United can change the schedule of rates for premiums after a 30-day notice on the first anniversary of the effective date or on any monthly due date thereafter. No evidence was found that United has changed any small employer rates more often than annually under this provision since the effective date of the Act.
- United's intermediary business renews on the beginning of a quarter only, and not on the intervening months. United has had a practice of giving new business groups that are first effective on one of the "off" months of the quarter a short first year rate, and giving them their first renewal after either 10 or 11 months. United has indicated that they intend to modify this practice and give any future such groups a long first year rate period, of either 13 or 14 months.

***Recommendation 18: It is recommended that United take steps to ensure that no small employer premium rates are adjusted more often than annually, except for changes in the number of enrolled employees, the family composition of the employees, or changes in benefits.***

United has a practice of renewing groups into the new versions of their product forms. United believes they are in compliance with the guaranteed renewability requirements of

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R.I. Gen. Laws § 27-50-6(a) as long as the difference between the old and new benefit configuration is relatively minor. As an example of a minor difference, United mentioned a \$5 increase in copayment for office visits. DBR personnel have advised the examination staff that the DBR considers such a difference not to be minor, and that the DBR considers United's approach not to comply with R.I. Gen. Laws § 27-50-6(a).

***Recommendation 19: It is recommended that United offer their policyholders the right to renew on their existing benefit plans.***

The practice of renewing groups into new versions of forms has implications for the renewal of small employer groups that become larger than 50 eligible employees and part time employees. If such a group does not renew its existing plan, it loses the protections of being a small employer, according to Regulation 82(3)(E)(1). This Regulation subdivision also imposes on the carrier a responsibility to notify groups of their small employer rights, and that they will lose those protections if they do not renew their current plans. United does not have an adequate procedure in place to identify these groups and to comply with this notification requirement. Instead, United has in place a "60/40" rule for moving groups between small and large employer business units. The 60/40 rule basically moves a group which grows to more than 60 employees into United's Key Accounts (large group) rating area, while a group which declines in employees to fewer than 40 is transferred to the small employer area.

Similarly, groups that are not small employers, but subsequently qualify as small employers because of changes in the number of employees must be notified of their right to purchase small employer health insurance. Regulation 82(3)(E)(2)(b) imposes a notification requirement on the carrier for these groups. United does not have an adequate procedure in place to identify these groups and to comply with this notification requirement.

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*Recommendation 20: It is recommended that United put into place adequate data collection procedures to properly identify groups that are small employer groups, but that have grown to more than 50 eligible employees, and groups that were not small employer groups, but have changed to a size eligible to become a small employer group.*

*Recommendation 21: It is recommended that United develop notification procedures as required by Regulation 82(3)(E)(1) to advise groups that grow to more than 50 eligible employees of their rights as small employers, and that they will lose small employer status if they do not renew their current benefit plan.*

*Recommendation 22: It is recommended that United develop notification procedures as required by Regulation 82(3)(E)(2)(b) to advise groups that become newly eligible to become small employers of the advantages of becoming small employers and of the insurance available to them.*

A small employer subject to the Act is provided with a guarantee of renewability by R.I. Gen. Laws § 27-50-6(a). This guarantee of renewability includes a guarantee with respect to rating methodology, i.e. once a group is rated as a small employer, it would continue to be rated as a small employer as long as the small employer retains the same health plan, as provided by Regulation 82(3)(E)(1), regardless of its ultimate size.

*Recommendation 23: It is recommended that any small employer groups that may be moved by United from the Small Business unit to the Key Accounts unit for administrative reasons continue to be rated using the small employer rating methodology (including any and all small employer underwriting rules).*

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**Availability and Rating of Statutory plans**

UHNE has had certificates on file for the Standard and Economy plans since they were first required. UHNE has filed a certificate for the Basic plan in accordance with the requirement that Basic plans be filed and approved by January 1, 2002. These certificates comply with the benefit requirements of R.I. Gen. Laws § 27-50-10 and Regulation 82(13).

UHIC has filed certificates for all of the statutory plans. UHIC's Basic plan was filed in late 2001, and the Economy and Standard plans were filed in the beginning of 2002.

United did not have rates available for the Statutory plans on their rate card or in their rating system, until about the beginning of February 2002. United did not provide marketing material describing the Statutory plans until about the same time. The initial draft marketing material contained substantial variance from the benefits required by the law and regulation. United has modified the marketing material to be consistent with the law and regulation and with the filed certificates, which are in compliance.

United's new business proposal package contains rates and benefit descriptions for the UHNE plans they are marketing to small employer groups. The proposal package did not contain benefit descriptions or rates for Statutory plans until approximately February 18, 2002. United's renewal package is similar to the new business proposal package, in that it contains rates and benefit descriptions for the UHNE plans available, but not for Statutory plans. United has indicated that, since February 18, 2002, rates for the statutory plans are not included in United's renewal package, although the renewal package includes a marketing brochure that describes the statutory plans. Rates for the statutory plans are available on request.

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As mentioned earlier in this report examination staff called the offices of intermediaries IBS and NEBCO. In both cases representatives at the intermediaries were not aware of the statutory plans, even when prompted.

*Recommendation 24: It is recommended that United offer their statutory plans to small employers on the same basis as they offer any other actively marketed health plan.*

*Recommendation 25: It is recommended that United provide descriptive information about the statutory plans, including benefits and premiums, in connection with offering for sale any health benefit plan.*

*Recommendation 10: It is recommended that United advise the intermediaries of the requirement to offer the statutory plans.*

United informed the examiners that they have sold one Basic plan, but no Standard or Economy plans. The Basic plan sold is effective April 1, 2002.

One of the purposes of the small group law is to promote availability and affordability of health insurance to small employer groups by offering lower cost alternatives to traditional health insurance plans. Because United has not until recently marketed the Standard and Economy plans, it cannot be determined whether they would have helped promote availability and affordability of health insurance to small employer groups.

### **Contractual Compliance**

An employee otherwise eligible for coverage can waive coverage. A small employer carrier is required to obtain and retain information about coverage waivers, both to aid in

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determining whether a group meets participation requirements, and to determine if the people waiving coverage have other creditable coverage. United incorporates their form that allows an employee to waive coverage into the enrollment form. The structure of the form does not allow waiver for dependents, as required by Regulation 82(6)(B)(2). Also, the form does not allow the employer to certify an employee's refusal to sign. United is in the process of reviewing the form. As a practical matter, United indicated that in the few instances that an employee does not sign the waiver, the employer provides the required certification in a letter. United has not required dependents to waive insurance if they have creditable coverage. We did not find evidence that any employees or dependents were disadvantaged because of issues related to the waiver forms. United maintains waiver forms on microfiche for seven years, which exceeds the requirement for retention in the Act.

*Recommendation 26: It is recommended that United revise their waiver of coverage form to provide a place for the employee to waive coverage for dependents as well as for the employee. It is also recommended that the form be revised to provide a place for the employer to sign if the employee waives coverage but refuses to sign.*

R.I. Gen. Laws § 27-50-3(k) requires coverage for full-time students to age 25. Some of United's certificates of coverage provide coverage to full-time students only to age 23, for example, the Certificate of Coverage for the Basic plan (form: 2002-basic-hmo), and an HMO certificate (form: DE4RI). United has agreed to amend the certificates.

*Recommendation 27: It is recommended that United review their policy forms and amend those forms that do not have the required small employer definition of dependent, to include dependent full-time students to age 25.*

R.I. Gen. Laws § 27-50-3(n) defines the term "eligible employee" and includes, at the discretion of the employer but uniformly applied, employees who work between 17.5

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hours and 30 hours. United's Underwriting Manual indicates that the employer "can elect down to 25 hours," rather than the required 17.5 hours. Otherwise, United complies with this definition. The examination staff was advised by United personnel that the great majority of groups select eligibility based on a 30-hour work week. United indicated on March 8, 2002 that the Underwriting Manual has been corrected in order to comply with R.I. Gen. Laws § 27-50-3(n), although the revised Underwriting Manual has not been reviewed.

***Recommendation 28: It is recommended that United change their underwriting manual in order to properly define an eligible employee.***

United has in place a comprehensive pre-renewal audit process. The focus of this process is (i) to ensure that the small employer meets the carrier's participation requirement and (ii) to assign employee groups to the appropriate small employer or large employer business unit. The data collected does not appear adequate for the carrier to determine "small employer" status as defined in R.I. Gen. Laws § 27-50-7(a). In particular, the number of employees eligible to participate in the health plan, as defined in R.I. Gen. Laws § 27-50-3(n) may be different from the number of employees counted toward "small employer" status.

***Recommendation 29: It is recommended that United revise their data collection procedures to adequately identify small employer groups.***

**Achievement of the Purposes of the Act**

The purposes of the Act are described in section 27-50-2(a):



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- *To enhance the availability of health insurance coverage to small employers regardless of their health status or claims experience*

United makes health insurance available to all small employers. However, United has discouraged the smallest small employers (employers with fewer than six employees) from buying their health plans and discouraged brokers from marketing them by a variety of sales, marketing and underwriting practices.

*To prevent abusive rating practices*

United's deviations from rating practices required by the Act are not what the examiners would describe as abusive rating practices by historical standards. However, United's marketing, rating and underwriting practices create an environment in which the smallest of the small employer groups are disadvantaged, and thereby encouraged to go elsewhere.

- *To prevent segmentation of the health insurance market based upon health risk*

Use of health status as a rating factor has been reduced by R.I. Gen. Laws §§ 27-50-5(a)(2), and under current law will disappear at October 1, 2002. United has complied with this provision. United does not use pre-existing conditions limitations or require an affiliation period to obtain coverage. People with health problems are not being forced out of the market or steered to other carriers.

- *To spread health risk more broadly*

The law seeks to limit disparities in rates by age and gender. This has the unavoidable impact of increasing prices for younger, healthier groups to subsidize prices for older or less healthy groups. The combination of rate compression and health status factor limitation create a modified community rating environment, in concert with this objective. United's actions have been in compliance.

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- *To require disclosure of rating practices to purchasers*

The Act seeks to do this by requiring disclosure about rating and underwriting in connection with new business and renewal proposals [R.I. Gen. Laws § 27-50-5(g)]. United's renewal and new business proposal material have not included disclosure information with respect to renewability, the carrier's right to change premiums, and descriptive information and rates for all benefit plans.

- *To establish rules regarding renewability of coverage*

United complies with requirements of R.I. Gen. Laws § 27-50-6, by offering renewal to all customers on the same basis. The one shortcoming noted is that United is forcing customers to their most current plans at renewal, which is not a permitted practice.

- *To limit the use of pre-existing condition exclusions*

United does not use a pre-existing conditions limitation in their small employer policies.

- *To provide for the development of Economy, Standard and Basic health benefit plans to be offered to all employers*

United has developed appropriate policy language for these statutory plans. After considerable delay, United has developed rates for the statutory plans, and is now beginning to provide rates and marketing materials for these plans to new and renewing customers in the small employer market. However, prior to February 2002 no customer had any normal way to know about these plans from United, or to try to buy them. In this way, United has not made it possible to know if the statutory plans would have promoted health insurance purchase among groups otherwise not insured. United has informed the examiners that it has sold a Basic plan with an effective date of April 1, 2002.

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- *To improve the overall fairness and efficiency of the small group health insurance market.*

Fairness in the market is somewhat in the eye of the beholder, but the attributes of guaranteed renewability, protection from experience rating, equal underwriting and rating by size of group and for new business and renewal, and protection from large increases caused by the change in rating methodology are all important elements. United has supported the objectives of the law by observing guaranteed renewability, by limiting the use of health status as a rating variable, by having reasonable underwriting requirements and enforcing them equally, and by attempting to moderate rate changes caused by the law to protect policyholders. However, United's approach to rating groups of five or fewer employees, and their compensation structure for such groups, has the effect of steering those groups elsewhere. This is not consistent with the spirit of the fair marketing standards embodied in R.I. Gen. Laws § 27-50-12, and does not comply with Regulation 82(10)(B)(5), which requires that a carrier not directly or indirectly use size as a barrier to eligibility for small employer health benefit plans.

The marketing environment is expected to change as the companies currently active in the market alter their practices to conform to R.I. Gen. Laws §§ 27-50-1 *et seq.* and Regulation 82. There is concern, however, that rate compression may create opportunities for new players or new forms of health insurance to enter the market. If these entities are not equally subject to the Act and the accompanying Regulation, they may present unfair competition to small employer carriers in Rhode Island who are subject to the Act, and thereby may have a destabilizing effect on the market.

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**Conclusions**

It is the assessment of the examination staff, based on interviews, evaluation of data, and analysis of practices, that United complied with many of the formal provisions of the Act. However, United's practices have failed to comply with many other important provisions of the Act, particularly provisions related to rating. These practices have resulted in rate levels that discriminated against the smallest (fewer than six employees) small employer cases, with the effect of inducing those groups to go elsewhere for health insurance coverage. To the extent these very small cases may have higher average morbidity and higher average administrative expense than larger cases, United's profitability was improved by steering those groups to competitors. Those small groups that stayed with United paid more than they would have for insurance if United had rated them in a manner that complied fully with the Act.

Where the examination staff identified deficiencies in compliance, United has proposed changes in rating and marketing practices to correct the compliance problems that are discussed in this report.

The following primary areas of non-complying practices were identified, all of which are discussed in detail elsewhere in the report:

- Failure to offer the statutory plans
- Lack of compensation to intermediaries, and unequal compensation by size of group
- Permitting intermediaries to add \$15 PEPM fees to rates.
- Segmentation of the distribution system by size of group:
  - Brokers limited to three-or more employee groups
  - Limiting direct sales to six-or more employee groups
  - Intermediaries limited to two- to five-employee groups, and requiring Chamber of Commerce membership

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- Proposing to discontinue marketing through intermediaries
- Inequitable rating of groups of fewer than six employees
- Improper definition of eligible small employer group, resulting in not offering insurance to groups with only one enrolling employee.
- Undocumented discretionary renewal rating elements
- Incorrect second rate calculation
- Inequities between the rating of proposals and renewals
- Using duration as a rating factor through December 2000 renewals

In addition, United delayed the effect of the Act for a full year for a large number of their groups by giving them a nominal renewal date of September 30, 2000, the day before the effective date of the rating provisions of the Act.

Overall, the examiners were impressed with the documentation available within United that was provided in response to our requests. While many of the comments have focused on shortcomings, it should not be overlooked that United has made substantial compliance efforts and maintains a strong interest in complying with the Act.

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**Summary of Recommendations**

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| 1. It is recommended that United review and correct reports filed for UHNE in accordance with Regulation 82(10)(G).  | 16          |
| 2. It is recommended that United make the required filings for UHIC in order to comply with Regulation 82(10)(G).  | 16          |
| 3. It is recommended that United review and modify their responsibility structure for compliance with the Act, to ensure that United complies with all provisions of the Act.  | 18          |
| 4. It is recommended that United discontinue the practice of allowing intermediaries to add administrative fees to rates for small employer groups.  | 22          |
| 5. It is recommended that United discontinue segmenting the marketing of small employer business based on size of group, and change the current practice of allowing intermediaries to write only groups of two through five subscribers and brokers to write only groups of three or more subscribers.                | 22          |
| 6. It is recommended that United revise their commission schedule to pay comparable commissions on the first \$15,000 of premium to the commissions they pay on the next \$75,000, and to make their commission schedule applicable to all small employer business, regardless of source of business or size of group. | 23          |

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7. It is recommended that United review their eligibility guidelines to ensure that small employer status is determined based on eligible employees, not on enrolled subscribers.	24
8. It is recommended that United review their toll-free phone line operation to ensure that small employers can obtain adequate information about health benefit plans that are available and how to apply for them	25
9. It is recommended that United ensure that small employers can obtain insurance from United, either directly or through the intermediaries, without being required to join the Chamber of Commerce.	25
10. It is recommended that United advise the intermediaries of the requirement to offer the statutory plans.	25, 46
11. It is recommended that United update and complete their rating manual and underwriting manual to comply with R.I. Gen. Laws § 27-50-5(h) and Regulation 82(5).	31, 36
12. It is recommended that United review the contents of its renewal and proposal material to ensure that it complies with the disclosure requirements in R.I. Gen. Laws § 27-50-5(g).	33
13. It is recommended that United offer insurance equally to all small employers, including those with only one enrolled subscriber.	34
14. It is recommended that United discontinue the new business underwriting practice of assigning health rating tier factors based on size of group.	35

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15. It is recommended that United discontinue the renewal underwriting practice of increasing small employer group rates to minimize or eliminate rate decreases.	39
16. It is recommended that United implement a second calculation as required by R.I. Gen. Laws § 27-50-5(a)(6) and as defined in Regulation 82(5)(B)(3)(b). This will require maintenance of adequate census data to evaluate changes in the age, gender and family composition of a group.	39
17. It is recommended that United review their medical underwriting rules to ensure that there is reasonable equity among new and renewing groups in the application of health status loads based on medical underwriting.	39
18. It is recommended that United introduce procedures to ensure that no small employer premium rates are adjusted more often than annually, except for changes in the number of enrolled employees, the family composition of the employees, or changes in benefits.	42
19. It is recommended that United offer their policyholders the right to renew on their existing benefit plans.	43
20. It is recommended that United put into place adequate data collection procedures to properly identify groups that are small employer groups, but that have grown to more than 50 eligible employees, and groups that were not small employer groups, but have changed to a size eligible to become a small employer group.	44



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| 21. It is recommended that United develop notification procedures as required by Regulation 82(3)(E)(1) to advise groups that grow to more than 50 eligible employees of their rights as small employers, and that they will lose small employer status if they do not renew their current benefit plan. | 44          |
| 22. It is recommended that United develop notification procedures as required by Regulation 82(3)(E)(2)(b) to advise groups that become newly eligible to become small employers of the advantages of becoming small employers and of the insurance available to them.                                   | 44          |
| 23. It is recommended that any small employer groups that may be moved by United from the Small Business unit to the Key Accounts unit for administrative reasons continue to be rated using the small employer rating methodology (including any and all small employer underwriting rules).            | 44          |
| 24. It is recommended that United offer their statutory plans to small employers on the same basis as they offer any other actively marketed health plan.  | 46          |
| 25. It is recommended that United provide descriptive information, including benefits and premiums, about the statutory plans, including benefits and premiums, in connection with offering for sale any health benefit plan.  | 46          |

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| 26. It is recommended that United revise their waiver of coverage form to provide a place for the employee to waive coverage for dependents as well as for the employee. It is also recommended that the form be revised to provide a place for the employer to sign if the employee waives coverage but refuses to sign. | 47          |
| 27. It is recommended that United review their policy forms and amend those forms that do not have the required small employer definition of dependent, to include dependent full-time students to age 25.  | 47          |
| 28. It is recommended that United change their underwriting manual in order to properly define an eligible employee.  | 48          |
| 29. It is recommended that United revise their data collection procedures to adequately identify small employer groups.   | 48          |

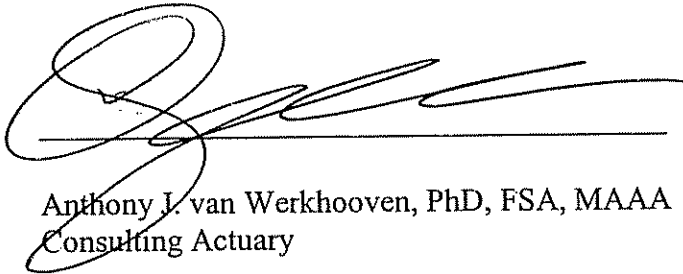
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