



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
MARKET CONDUCT REPORT ON EXAMINATION  
OF THE  
AETNA LIFE INSURANCE COMPANY

CONDITION:

JUNE 30, 2016

DATE OF REPORT:

APRIL 21, 2017

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

RORY CUMMINGS

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Linda A. Lacewell  
Superintendent

September 19, 2019

The Honorable Linda A. Lacewell  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment No. 31538, dated October 13, 2016, and annexed hereto, an examination has been made into the condition and affairs of Aetna Life Insurance Company, hereinafter referred to as “the Company,” at its home office located at 151 Farmington Avenue, Hartford, CT 06156.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

## 1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

- The Company violated Section 2122(a)(2) of the New York Insurance Law by including the administrator, Lincoln Financial Group, on the claim form with no mention of the Company as the primary issuer of the policies. (See item 4C of this report.)
- The Company violated Section 3111(c) of the New York Insurance Law by failing to provide notices of non-payment of premium due or notices of cancellation for nonpayment of premium to third party designees. (See item 4C of this report.)
- The Company violated Insurance Regulation No. 34-A, 11 NYCRR Section 219.4(p) by failing to include on its advertisements the name of the city, town or village in which the Company has its home office in the United States. (See item 4A of this report.)
- The Company violated Insurance Regulation No. 95, 11 NYCRR Section 86.4(d) by not placing the fraud warning statement immediately above the space provided for signature of the person executing the claim. (See item 4C of this report.)

## 2. SCOPE OF EXAMINATION

This examination covers the period from January 1, 2010, through June 30, 2016. As necessary, the examiner reviewed matters occurring after June 30, 2016, but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a review of market conduct activities and utilized the National Association of Insurance Commissioners' *Market Regulations Handbook* or such other examination procedures, as deemed appropriate, in such review.

This report on examination is confined to comments on matters which involve departure from laws, regulations or rules, or which require explanation or description.

### 3. DESCRIPTION OF COMPANY

#### A. History

On December 31, 1850, the Company, a subsidiary of the Aetna Fire Insurance Company (“Aetna Fire”) commenced business as the Annuity Fund. Aetna Fire obtained a charter amendment in May 1853 that recognized the incorporation of the Annuity Fund as Aetna Life Insurance Company (“ALIC”). The Company was incorporated as a stock life insurance company under the laws of the State of Connecticut on June 14, 1853. The Company was admitted to New York State on March 13, 1865.

#### B. Territory and Plan of Operation

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in all states, the District of Columbia, the U.S. territories of Northern Mariana Islands, Guam, Puerto Rico and the U.S. Virgin Islands, and the country of Canada. In 2015, 10.5% of life premiums, 11.9% of annuity considerations, and 12.3% of accident and health premiums were received from New York. Policies are written on a participating and non-participating basis.

The following tables show the percentage of direct premiums received, by state, and by major lines of business for the year 2015:

<u>Life Insurance Premiums</u>		<u>Annuity Considerations</u>	
New York	10.5%	Maryland	34.8%
All Others	<u>89.5</u>	Michigan	12.3
		New York	11.9
		All Others	<u>41.0</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>
<u>Accident and Health Insurance Premiums</u>		<u>Deposit Type Funds</u>	
Texas	13.7%	Connecticut	49.8%
New York	12.3	Maryland	10.3
All Others	<u>74.0</u>	All Others	<u>39.9</u>
Total	<u>100.0%</u>	Total	<u>100.0%</u>

The Company's principal lines of business in New York are its health care and group insurance. Health care products consist of medical, dental, and vision benefit plans. The Company's medical plans include point of service, preferred provider organization, and indemnity benefit plans. Group insurance includes group life, long-term care insurance, group short-term and long-term, and New York statutory disability. In addition, the Company markets group annuity, individual life, and Medicare supplement insurance. The Company no longer solicits or accepts group annuity, individual life, or long-term care insurance in New York. The Company distributes its group products through its sales representatives, independent brokers, and consultants who assist in producing and servicing of the business. Sales representatives also sell group products to employers on a direct basis. The Company distributes its Medicare supplement product through independent agents and third-party vendors.

#### 4. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

##### A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

1. Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) states, in part:

*“The words *free, no cost, without cost, no additional cost, at no extra cost, without additional cost*, or words of similar import, may not be used with respect to any benefit or service being made available with the policy. . . .”*

The examiner reviewed a sample of 21 life insurance advertising files. In 1 out of the 21 advertisements reviewed (4.8%), the words “no extra cost” were used.

The Company violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by using the words “no extra cost” on its advertisement.

2. Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) states, in part:

*“In all advertisements made by an insurer, or on its behalf, the name of the insurer shall be clearly identified, together with the name of the city, town or village in which it has its home office in the United States. . . .”*

In all 21 life insurance advertisements reviewed, the advertisements excluded the name of the city, town or village in which the Company has its home office in the United States.

The Company violated Section 219.4(p) of 11 NYCRR (Insurance Regulation 34-A) by failing to include on its advertisements the name of the city, town or village in which the Company has its home office in the United States.

3. Section 2112(b) of the New York Insurance Law states, in part:

“To appoint a producer, the appointing insurer shall file . . . a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted.”

The examiner reviewed a sample of 15 group life underwriting files. In 1 out of the 15 files reviewed (6.7%), the Company failed to file a certificate of appointment within 15 days from the date the agent submitted the first insurance application.

The Company violated Section 2112(b) of the New York Insurance Law by failing to file a notice of appointment with the Department within 15 days from the date the agency contract was executed or the first insurance application was submitted.

4. Section 4216(e) of the New York Insurance Law states, in part:

"Each domestic insurer and each foreign or alien insurer doing business in this state shall file with the superintendent its schedule of rates of commissions, compensation and other fees or allowances to agents and brokers pertaining to the solicitation or sale of group life insurance and of fees or allowances . . . to any individuals, firms or corporations pertaining to the service or administration of group life insurance, whether transacted within or without this state. An insurer may revise such schedules from time to time, and shall file such revised schedules with the superintendent. No insurer shall pay to an agent, agents, broker or brokers or any combination of licensees . . . any commission, compensation or other fees or allowances in excess of that determined on the basis of the schedules of such insurer as then on file with the superintendent . . ."

The examiner reviewed a sample of 15 group life underwriting files. In 2 out of the 15 files reviewed (13%), the Company paid two agents at a rate that exceeded the rate in the commission schedule on file with the Department.

The Company violated Section 4216(e) of the New York Insurance Law by paying a commission to an agent which was more than the rate in its commission schedule on file with the Department.

## B. Underwriting and Policy Forms

The examiner reviewed a sample of new underwriting files, both issued and declined, and the applicable policy forms.

Section 3201(b)(1) of the New York Insurance Law states, in part:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law. A group life, group accident, group health, group accident and health or blanket accident and health insurance certificate evidencing insurance coverage on a resident of this state shall be deemed to have been delivered in this state, regardless of the place of actual delivery . . .”

The examiner reviewed a sample of 15 group life underwriting files for policies issued during the examination period. In 3 out of 15 instances (20%), the policy forms issued were not approved by the Department. Also, the examiner found that one application form used to issue a group life policy was not approved by the Department. Furthermore, in 13 out of 15 underwriting files reviewed (86.7%) where the Complaint and Appeals rider was issued with the policy, the Company did not add the policy form number to the rider.

The examiner reviewed a sample of 20 individual life (conversion) underwriting files for policies issued during the examination period. In 7 out of 20 instances (35%), the policy forms issued were not approved by the Department. Additionally, in all 20 instances, the applications used in the underwriting of the individual life conversion policies were not approved.

The examiner reviewed a sample of 14 group disability underwriting files for policies issued during the examination period. The examiner found that in 3 out of 14 policies issued (21.4%), the policy forms were not approved by the Department. Additionally, in 4 out of 14 instances (28.6%), the applications used in the underwriting of group disability policies were not approved. In 1 out of 14 instances (7.1%), the Company used an Elimination and Inclusion rider policy form which was not approved by the Department.

The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy and application forms which were not filed and approved by the Department.

The examiner recommends that the Company add the policy form number to the Complaint and Appeals rider.

### C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

1. Section 216.4(b) of 11 NYCRR 216 (Insurance Regulation 64) states:

“An appropriate reply shall be made within 15 business days on all other pertinent communications.”

The examiner reviewed a sample of 41 life insurance complaints processed by the Company and a sample of 10 life insurance complaints processed by Lincoln National Life Insurance Company (“Lincoln National”) on behalf of the Company. In 1 out of the 41 complaints processed (2.4%), the Company failed to respond to the policyholder’s complaint within 15 business days. In 3 out of the 10 complaints processed (30%), Lincoln National failed to respond to the policyholders’ complaints within 15 business days.

The Company violated Section 216.4(b) of 11 NYCRR 216 (Insurance Regulation 64) by failing to provide an appropriate reply to policyholders’ complaints within 15 business days.

2. Section 403(d) of the New York Insurance Law states, in part:

“All applications for commercial insurance, individual, group or blanket accident and health insurance and all claim forms . . . shall contain a notice in a form approved by the superintendent that clearly states in substance the following:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’”

- a. The examiner reviewed samples of 50 group life insurance claims and 35 group denied claims. In 17 out of 50 group life insurance claims (34%) and 5 out of 35 denied claims (14.3%), the claim forms used did not contain the fraud warning statement.

- b. The examiner reviewed a sample of 20 matured policies. In 3 out of 20 cases (15%), the claim forms used did not contain the fraud warning statement.

The Company violated Section 403(d) of the New York Insurance Law by not including the fraud warning statement on the claim forms used to adjudicate group life claims, group denied claims, and matured policies.

3. Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) states, in part:

“. . . The warning statements required by subdivisions (a) . . . of this section shall be placed immediately above the space provided for the signature of the person executing the application or claim form and shall be printed in type which will produce a warning statement of conspicuous size. . . .”

a. The examiner reviewed samples of 50 group life claims and 35 group denied claims. In 18 out of 50 life claims (36%) and 23 out of 35 denied claims (65.7%) reviewed, the claim forms did not have the required fraud warning statement placed immediately above the space providing the signature of the person executing the claim.

b. The examiner reviewed a sample of 51 individual life claims administered by Computer Sciences Corporation (“CSC”) on behalf of the Company. The 51 individual life claims included 40 paid claims and 11 other than paid claims. In all 51 claims reviewed (100%), the claim forms did not have the required fraud warning statement placed immediately above the space provided for the signature of the person executing the claim.

The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by not placing the fraud warning statement immediately above the space provided for the signature of the person executing the claim.

The examiner reviewed a sample of 20 matured policies. The Company’s maturity notification procedures require three maturity notices to be sent to the policyholder at intervals of 60, 30 and 15 days before the maturity date of the policy. In 8 out of 20 policies reviewed (40%), the first and second notifications were sent to the policyholder after the maturity date of the policy and the third notices were not sent.

The examiner recommends that the Company follow its maturity notification procedures.

4. Section 2122(a)(2) of the New York Insurance Law states:

“No insurance producer or other person, shall, by any advertisement or public announcement in this state, call attention to any unauthorized insurer or insurers.”

The examiner reviewed a sample of 12 individual life claims administered by Lincoln Financial Group on behalf of the Company. In all 12 claims (100%), the claim form sent to the claimants included the name of Lincoln Financial Group with no mention of the Company as the primary issuing Company of record.

The Company violated Section 2122(a)(2) of the New York Insurance Law by including the administrator, Lincoln Financial Group, on the claim form with no mention of the Company as the primary issuer of the policies.

The examiner recommends that the claim form should identify Lincoln Financial Group as administrator for the Company.

5. Section 216.5(a) of 11 NYCRR 216 (Insurance Regulation 64) states, in part:

“Every insurer shall establish procedures to commence an investigation of any claim filed by a claimant, or by a claimant’s authorized representative, within 15 business days of receipt of notice of claim. An insurer shall furnish to every claimant, or claimant’s representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant, within 15 business days of receiving notice of the claim. . . .”

The examiner reviewed a sample of 50 individual life insurance claims administered by Lincoln Financial Group on behalf of the Company. In 6 out 50 claims (12%), the Company did not acknowledge the claim within 15 business days.

The Company violated Section 216.5(a) of 11 NYCRR 216 (Insurance Regulation 64) by not acknowledging the claim within 15 business days.

6. Section 3111(c) of the New York Insurance Law states, in part:

“Every insurer, corporation organized under article forty-three of this chapter or organization certified pursuant to article forty-four of the public health law that has in force a health insurance policy or medicare supplemental insurance policy as defined in section three thousand two hundred eighteen of this chapter . . . shall permit senior citizen insureds to designate a third party to whom the insurer shall transmit notices of nonpayment of premiums due or notice of cancellation for nonpayment of premiums, as determined by the insurer. . . . The transmission to the third party designee of any such notice of cancellation shall be in addition to a copy of such document transmitted to the senior citizen insured . . . .”

The examiner reviewed a sample of 15 cancelled Medicare supplemental policies with third party designations. In all 15 instances (100%), the Company failed to provide notices of cancellation for non-payment of premium to the third party designee.

The Company violated Section 3111(c) of the New York Insurance Law by failing to provide notices of cancellation for non-payment of premium to the third party designee.

7. Section 243.2 of 11 NYCRR 243 (Insurance Regulation 152) states, in part:

“... (b) Except as otherwise required by law or regulation, an insurer shall maintain:  
 (1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer.  
 ... A policy record shall include: ...  
 (iii) The contract or policy forms issued including the declaration pages, endorsements, riders, and termination notices of the contract or policy. Binders shall be retained if a contract or policy was not issued; ...  
 (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review. ...”  
 (d) An insurer shall require, by contract or other means, that a person authorized to act on its behalf in connection with the doing of an insurance business, including a managing general agent, an administrator, or other person or entity, shall comply with the provisions of this Part in maintaining records that the insurer would otherwise be required to maintain. Notwithstanding the above, the insurer shall be responsible if the person or entity fails to maintain the records in the required manner. ...”

The examiner reviewed a sample of 14 group disability underwriting files issued during the examination period. In 2 out of 14 files reviewed (14%), the Company failed to provide the application on one underwriting file or the policy proposal on the other file.

The examiner reviewed a sample of 15 group disability cancelled files. In 2 out of 15 files reviewed (13%), the company failed to provide the cancellation notice on one file and the cancellation notice, application, policy proposal, and policy contract on the other file.

The examiner reviewed a sample of 21 Medicare supplement underwriting files. In 3 out of 21 files reviewed (14%), the company failed to retain a copy of the replacement notices. Also, in 1 out of 21 underwriting files reviewed (5%), the company failed to retain a copy of the annual notification sent to senior citizens informing them of the availability of third-party designee procedures.

The examiner reviewed a sample of 11 Medicare supplement underwriting files that were terminated for reasons other than non-payment of premium. In 4 out of 11 files (36%), the Company failed to retain copies of the cancelled checks.

The Company violated Section 243.2(b)(8) of 11 NYCRR 243 (Insurance Regulation 152) by failing to maintain the required records in group disability underwriting, group disability cancellation, and Medicare supplement underwriting files.

#### D. Data Files

On August 29, 2016, prior to the start of the on-site examination, the examiner requested policy level data files for all life, annuity, and accident and health policies that were issued; the number of in force or terminated policies; and paid and denied claims related data. In addition, the examiner requested the related reconciliations to validate the totals in the data files to the amounts reported in the Company's filed annual statements for the examination period.

On October 10, 2016, when the examination team arrived on site, the Company explained that providing policy level data based on the annual statements would be, because of the volume of data, time-consuming. The Company informed the examination team that they were compiling data based on the Company's New York state pages. The Company explained that this alternative method was used for a recent examination conducted by the Department's health bureau.

After reviewing the policy level data provided based on the Company's New York state pages, the examiner informed the Company that the data files provided could not be reconciled; specifically, the annuity benefits, the policies issued during the years, and the in-force data. The Company acknowledged that there were errors in the numbers reported on the New York state pages. The Company also explained that there are no formal procedures in place to document the creation and adjustments of the Company's state pages and, as a result, certain processes were not documented or reviewed. The Company further noted that the internal review for the state page reporting did not include sufficient review of work papers or crosschecks to the general ledger reports to validate the amounts reported. The Company indicated that the legal entity financial statements reported in the annual statement were accurate.

The Company stated that it is currently implementing procedures in conjunction with the preparation of the 2016 New York state pages. Subsequently, these procedures and detailed work papers used in the reconciliation of the 2016 state pages were provided to the examiner.

The examiner recommends that the Company follow the procedures implemented in conjunction with the preparation of the 2016 New York state pages and ensure that policy level data is reconciled to the various schedules or lines reported in the Company's filed New York state pages.

## 5. SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 219.4(e) of 11 NYCRR 219 (Insurance Regulation 34-A) by using the words “no extra cost” on its advertisement.	6
B	The Company violated Section 219.4(p) of 11 NYCRR 219 (Insurance Regulation 34-A) by failing to include on its advertisements the name of the city, town or village in which the Company has its home office in the United States.	6
C	The Company violated Section 2112(b) of the New York Insurance Law by failing to file a notice of appointment with the Department within 15 days from the date the agency contract was executed or the first insurance application was submitted.	7
D	The Company violated Section 4216(e) of the New York Insurance Law by paying commission to an agent which was in excess of the rate in its commission schedules on file with the Department.	7
E	The Company violated Section 3201(b)(1) of the New York Insurance Law by using policy and application forms which were not filed and approved by the Department.	8
F	The examiner recommends that the Company add the policy form number to the Complaint and Appeals rider.	8
G	The Company violated Section 216.4(b) of 11 NYCRR 216 (Insurance Regulation 64) by failing to provide an appropriate reply to policyholder complaints within 15 business days.	9
H	The Company violated Section 403(d) of the New York Insurance Law by not including the fraud warning statement on the claim forms used to adjudicate group life and group denied claims.	10
I	The Company violated Section 86.4(d) of 11 NYCRR 86 (Insurance Regulation 95) by not placing the fraud warning statement immediately above the space provided for signature of the person executing the claim.	10

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
J	The examiner recommends that the Company follow its maturity notification procedures.	10
K	The Company violated Section 2122(a)(2) of the New York Insurance Law by including the administrator, Lincoln Financial Group, on the claim form with no mention of the Company as the primary issuer of the policies.	11
L	The examiner recommends that the claim form should identify Lincoln Financial Group as administrator for the Company.	11
M	The Company violated Section 216.5(a) of 11 NYCRR 216 (Insurance Regulation 64) by not acknowledging the claim within 15 business days.	11
N	The Company violated Section 3111(c) of the New York Insurance Law by failing to provide notices of cancellation for non-payment of premium to the third-party designee.	12
O	The Company violated Section 243.2(b)(8) of 11 NYCRR (Insurance Regulation 152) by failing to maintain the required records in group disability underwriting, group disability cancellation and Medicare supplement underwriting files.	13
P	The examiner recommends that the Company follow the procedures implemented in conjunction with the preparation of the 2016 New York state pages and ensure that policy level data is reconciled to the various schedules or lines as reported in the Company's filed New York state pages.	14

Respectfully submitted,

\_\_\_\_\_/s/  
Rory Cummings  
Associate Insurance Examiner

STATE OF NEW YORK     )  
                                  )SS:  
COUNTY OF NEW YORK    )

Rory Cummings, being duly sworn, deposes and says that the foregoing report, subscribed by him,  
is true to the best of his knowledge and belief.

\_\_\_\_\_/s/  
Rory Cummings

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, MARIA T. VULLO, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**RORY CUMMINGS**

as a proper person to examine the affairs of the

**AETNA LIFE INSURANCE COMPANY**

and to make a report to me in writing of the condition of said

**COMPANY**

with such other information as he shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name  
and affixed the official Seal of the Department  
at the City of New York

this 13th day of October, 2016

MARIA T. VULLO  
Superintendent of Financial Services

By:



MARK MCLEOD  
DEPUTY CHIEF - LIFE BUREAU

