



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES  
REPORT ON EXAMINATION  
OF THE  
ANTHEM LIFE AND DISABILITY INSURANCE COMPANY

CONDITION:

DECEMBER 31, 2013

DATE OF REPORT:

JUNE 24, 2015

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF

ANTHEM LIFE AND DISABILITY INSURANCE COMPANY

AS OF

DECEMBER 31, 2013

DATE OF REPORT:

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EXAMINER:

DIANNE BATISTONI, CFE

EXAMINER:

MANISH GAJIWALA

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

July 10, 2017

Honorable Maria T. Vullo  
Superintendent of Financial Services  
New York, New York 10004

Madam:

In accordance with instructions contained in Appointment Nos. 31092 and 31200, dated April 28, 2015, and May 28, 2014, respectively, and annexed hereto, an examination has been made into the condition and affairs of Anthem Life and Disability Insurance Company, hereinafter referred to as “the Company,” at its home office located at One Liberty Plaza, 165 Broadway, New York, NY 10006.

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, recommendation and comment contained in this report are summarized below:

- The Company violated Section 2112(b) of the New York Insurance Law by failing to file a certificate of appointment with the superintendent in order to appoint 17 insurance agents to represent the Company. (See item 7A of this report)
- The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent, within 30 days of the termination of the certificate of appointment, a statement of the facts relative to such termination for cause for six of its agents. (See item 7A of this report)
- The Company violated Section 215.13(a) of Department Regulation No. 34 by disseminating disability advertisements which had the capacity and tendency to mislead or deceive the public as to the true identity of the insurer. (See item 7A of this report)
- The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the fraud warning statement immediately above the space provided for the signature of the person executing the claim form. (See item 7C of this report)
- The Company violated Section 4232(b)(4) of New York Insurance Law by crediting interest amounts on death proceeds at rates which were not approved by the board of directors of the Company or a committee thereof. (See item 7C of this report)
- The examiner recommends that the Company only establish a retained asset account when (a) a policyholder or beneficiary affirmatively chooses that mode of receiving life insurance proceeds, (b) when the insurer explicitly informs the beneficiary in writing that it has a right to receive payment by a single check instead, and (c) when the insurer provides the beneficiary with clear and conspicuous disclosures, and that the full life insurance proceeds should be the default option if no election is made. (See item 8 of this report)
- In February 2015, Anthem, Inc. was the target of a sophisticated external cyberattack whereby unauthorized access to personal information of customers and employees occurred. Upon discovery of the cyberattack, Anthem Inc. took immediate action to remediate the security vulnerability and retained a cyber security firm to evaluate systems and identify solutions based on the evolving landscape. (See item 9 of this report)

## 2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the *NAIC Financial Condition Examiners Handbook, 2014 Edition* (the “Handbook”). The examination covers the five-year period from January 1, 2009, through December 31, 2013. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2013, but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted on a risk focused basis in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners (“NAIC”). The Handbook guidance provides for the establishment of an examination plan based on the examiner’s assessment of risk in the insurer’s operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that might threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes, and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management’s compliance with New York statutes and Department guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions.

This examination was led by the State of Indiana with participation from AZ, CA, IN, ME, MD, MO, NH, NJ, NM, NY, OH, TX, VA, WA, WV and WI. Since the lead and participating states are all accredited by the NAIC, all states deemed it appropriate to rely on each other’s work.

Information about the Company’s organizational structure, business approach and control environment were utilized to develop the examination approach. The Company’s risks and management activities were evaluated incorporating the NAIC’s nine branded risk categories. These categories are as follows:

- Pricing/Underwriting

- Reserving
- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2009 through 2013, by the accounting firm of Ernst & Young LLP. The Company received an unqualified opinion in all years. Certain audit workpapers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company shares an internal audit department and a separate risk, control and assurance department with Wellpoint, Inc. (“WLP”), the Company’s ultimate parent, which was given the task of assessing the internal control structure and compliance with the Sarbanes-Oxley Act of 2002 (“SOX”). The Company is not subject to SOX and was under the \$500 million premium threshold for the Model Audit Rule. Where applicable, SOX workpapers and reports of WLP were reviewed and portions were relied upon for this examination. This report on examination is confined to financial statements and comments on those matters which involve departure from laws, regulations or rules, or which require explanation or description.

### 3. DESCRIPTION OF COMPANY

#### A. History

The Company was incorporated under the laws of the State of New York on October 13, 2006, was licensed and commenced business on January 1, 2009. Initial resources of \$16,000,000, consisting of common capital stock of \$2,000,000 and paid in and contributed surplus of \$14,000,000, were provided through the sale of 1,000 shares of common stock (with a par value of \$2000 per share) for \$16,000 per share.

#### B. Holding Company

The Company is a wholly owned subsidiary of Wellpoint Acquisition, LLC (“WPA”) who is a wholly owned subsidiary of WLP, a publicly traded company and one of the largest health benefit companies in the United States, serving approximately 35.8 million members.

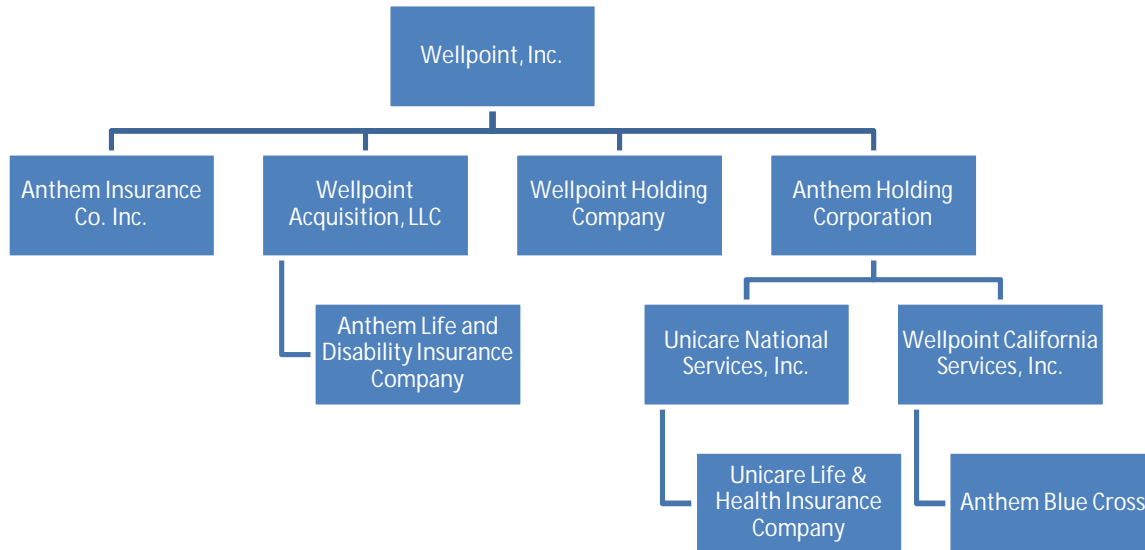
WLP is an independent licensee of the Blue Cross and Blue Shield Association (“BCBSA”), an association of independent health benefit plans. WLP serves its members as the Blue Cross licensee for the State of California and as the Blue Cross and Blue Shield (“BCBS”) licensee for the following states: CA, CT, GA, IN, KY, ME, MO (excluding 30 counties in the Kansas City area), NV, NH, NY (as BCBS in 10 New York City metropolitan and surrounding counties and as Blue Cross or BCBS in selected upstate counties only), OH, VA (excluding the Northern Virginia suburbs of Washington, D.C.), and WI. In a majority of these service areas, WLP does business as Anthem Blue Cross, Anthem Blue Cross and Blue Shield, Blue Cross and Blue Shield of Georgia, and Empire Blue Cross Blue Shield (“Empire”), or Empire Blue Cross (in its NY service areas).

WLP was formed in 2004 by the merger of WellPoint Health Networks, Inc. and Anthem, Inc. The parent company originally assumed the WellPoint, Inc. name at the time of the merger, but subsequently changed its corporate name to Anthem, Inc. in December 2014.



### C. Organizational Chart

An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2013 follows:



### D. Service Agreements

The Company had one service agreement in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Providers of Services	Recipient of Services	Specific Service(s) Covered	Expense For Each Year of the Examination
Administrative Services Agreement File No. 35562	01/01/2008	Anthem Insurance Company, Inc.; Anthem Blue Cross; Unicare Life & Health Insurance Company; Wellpoint Holding Company; and WLP	The Company	Marketing; sales; claims; customer service; enrollment and billing; operations support; print mail; underwriting; medical and disability condition management; actuarial valuation; decision support; external affairs; finance; general administration and management; human resources; legal compliance; planning; IT support	2013 \$845,967 2012 \$361,775 2011 \$192,421 2010 \$ 93,846 2009 \$ 3,734

The Company participates in a federal income tax allocation agreement with its parent and affiliates.

E. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 9 and nor more than 25 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held in May of each year. As of December 31, 2013, the board of directors consisted of nine members. Meetings of the board are held annually.

The nine board members and their principal business affiliation, as of December 31, 2013, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Sean M. Doolan* Albany, NY	Attorney Hinman Straub, P.C.	2006
Ethel A. Graber Niskayuna, NY	Vice President and General Manager Wellpoint, Inc.	2008
Brian T. Griffin* Allenhurst, NJ	President & General Manager New York Business & Pharmacy	2013
William T. Lee* Roosevelt, NY	Retired Executive Vice President UNITE/HERE	2006
David A. Levene* Melville, NY	Retired Executive Vice President Metropolitan Life Insurance Company	2008
Jeffrey S. Spahr Newbury Park, CA	President and Chairperson of the Board Anthem Life & Disability Insurance Company	2013
Jay H. Wagner Carmel, IN	Secretary Anthem Life and Disability Insurance Company Managing Associate General Counsel WellPoint, Inc.	2008
Richard D. Watson Jersey City, NJ	Regional Vice President - Commercial Business, Finance WellPoint, Inc.	2008

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
Harold Wolchok* Staten Island, NY	Retired Professor Empire State College	2006

\* Not affiliated with the Company or any other company in the holding company system

In December 2014, Jeffrey S. Spahr and Richard Watson were removed as directors and were replaced by Michael A. Wozny, as Chairperson, and Randall Pernicone, respectively.

The examiner's review of the minutes of the meetings of the board of directors and its committee indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2013:

<u>Name</u>	<u>Title</u>
Jeffrey S. Spahr	President
Eric K. Noble	Treasurer
Jay H. Wagner	Secretary
Chrystal L. Veazey-Watson	Assistant Secretary

As of December 31, 2013, the designated consumer services officer per Section 216.4(c) of Department Regulation No. 64 is Michael Wozny, Staff Vice President Life & Disability.

In December 2014, Michael Wozny replaced Jeffrey Spahr as President and Serena H. Richard replaced Chrystal L. Veazey-Watson as Assistant Secretary.

#### 4. TERRITORY AND PLAN OF OPERATIONS

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 the State of New York. In 2013, all life premiums and accident and health premiums were received from New York. Policies are written on a non-participating basis.

##### A. Statutory and Special Deposits

As of December 31, 2013, the Company had \$4,511,440 on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders, claimants and creditors of the Company.

##### B. Direct Operations

The Company is a subsidiary of WPA, whose ultimate parent is WLP. The Company offers group life and disability products in New York. The Company has partnered with Empire to market Life and Disability products alongside health care products sold by Empire within its service area. The Company provides a strategic role of offering life and accident and health products through its Blue Cross Blue Shield affiliated health insurance plans.

The Company's agency operations are conducted on a general agency basis.

##### C. Reinsurance

As of December 31, 2013, the Company had reinsurance treaties in effect with two companies, both of which were authorized or accredited. The Company's life, accident and health business is reinsured on a coinsurance and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is \$300,000. The total face amount of life insurance ceded as of December 31, 2013, was \$53,330,896, which represents 2.8% of the total face amount of life insurance in force.

## 5. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth during the period under review:

	December 31, <u>2009</u>	December 31, <u>2013</u>	<u>Increase</u>
Admitted assets	<u>\$18,581,775</u>	<u>\$22,434,523</u>	<u>\$3,852,748</u>
Liabilities	\$ <u>237,668</u>	\$ <u>2,809,979</u>	<u>\$2,572,311</u>
Common capital stock	2,000,000	2,000,000	0
Gross paid in and contributed surplus	16,000,000	16,000,000	0
Unassigned funds (surplus)	<u>344,107</u>	<u>1,624,544</u>	<u>1,280,437</u>
Total capital and surplus	<u>\$18,344,107</u>	<u>\$19,624,544</u>	<u>\$1,280,437</u>
Total liabilities, capital and surplus	<u>\$18,851,775</u>	<u>\$22,435,523</u>	<u>\$3,583,748</u>

The Company's invested assets as of December 31, 2013 were mainly comprised of bonds (56%) and cash and short-term investments (44%).

The Company's entire bond portfolio, as of December 31, 2013, was comprised of investment grade obligations.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

<u>Year</u>	<u>Group Life</u>	
	<u>Issued &amp; Increases</u>	<u>In Force</u>
2013	\$489,252	\$1,925,555
2012	\$462,468	\$1,936,488
2011	\$795,937	\$1,540,136
2010	\$742,921	\$ 866,675
2009	\$132,477	\$ 132,452

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

	<u>Group</u>				
	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Outstanding, end of previous year	0	1,445	19,413	26,469	23,874
Issued during the year	1,445	17,947	9,239	4,395	5,946
Other net changes during the year	<u>0</u>	<u>21</u>	<u>(2,183)</u>	<u>(6,990)</u>	<u>(435)</u>
Outstanding, end of current year	<u>1,445</u>	<u>19,413</u>	<u>26,469</u>	<u>23,874</u>	<u>29,385</u>

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	2009	2010	2011	2012	2013
Ordinary:					
Life insurance	\$ 0	\$(77,384)	\$ 0	\$ 0	\$ 0
Group:					
Life	\$157,727	\$171,632	\$(246,423)	\$ 683,257	\$(99,765)
Accident and health:					
Group	<u>\$ 71,680</u>	<u>\$ 49,200</u>	<u>\$ 150,305</u>	<u>\$ 446,293</u>	<u>\$234,798</u>
Total	<u>\$229,407</u>	<u>\$143,448</u>	<u>\$(96,118)</u>	<u>\$1,129,550</u>	<u>\$135,033</u>

The ordinary life insurance net loss reported in 2010 represents group life commission on premiums which were incorrectly reported on page 6 in column 3 (Ordinary Life Insurance) in filed 2010 annual statement. This amount should have been reported on page 6 in column 7 (Group Life Insurance), line 21. The revised net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) that should have been reported for the year 2010 reads as follows:

	<u>2010</u>
Group:	
Life	\$101,331
Accident and health:	
Group	\$ <u>49,200</u>
Total	<u>\$150,531</u>

The group life line of business has also grown year-over-year due to increases in membership with steady increases in premium revenue, benefit expenses and general insurance expenses. General insurance expenses increased in 2013, as compared to 2012. There was a lower death benefit experience for 2012, as compared to 2011, due to smaller average life benefit amounts and slightly fewer claims.

The accident and health line of business has shown steady increases in premium revenue, benefit expenses and general insurance expenses during the examination period. Disability and accident and health benefits were higher for 2013, as compared to 2012, due to a greater number of short term disability and long term disability claims, as the Company continued to grow. Claims with a larger benefit amount, such as an \$110,000 accidental death and dismemberment claim was paid in December 2013, which also contributed to the increase.

The following ratios, applicable to the accident and health business of the Company, have been extracted from Schedule H for each of the indicated years:

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Premiums earned	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>
Incurred losses	28.2%	35.2%	57.1%	44.6%	48.3%
Expenses	<u>13.0</u>	<u>34.6</u>	<u>11.7</u>	<u>15.4</u>	<u>33.6</u>
	<u>41.2%</u>	<u>69.8%</u>	<u>68.8%</u>	<u>60.0%</u>	<u>81.9%</u>
Underwriting results	<u>58.8%</u>	<u>30.2%</u>	<u>31.2%</u>	<u>40.0%</u>	<u>18.1%</u>

Incurred losses and general insurance expenses have grown over time due to the growth of the Company. There was a lower death benefit experienced in 2012, as compared to 2011, due to smaller average life benefit amounts and slightly fewer claims. General insurance expenses increased in 2013, as compared to 2012.



## 6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2013, as contained in the Company's 2013 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2013 filed annual statement.

### A. Independent Accountants

The firm of Ernst & Young LLP was retained by the Company to audit the Company's statutory basis statements of financial position as of December 31<sup>st</sup> of each year in the examination period, and the related statutory-basis statements of operations, changes in capital and surplus, and cash flows for the years then ended.

Ernst & Young LLP concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

### B. Net Admitted Assets

Bonds	\$12,517,114
Cash, cash equivalents and short-term investments	9,667,053
Investment income due and accrued	75,833
Uncollected premiums and agents' balances in the course of collection	57,009
Amounts recoverable from reinsurers	9,544
Net deferred tax asset	51,029
Receivables from parent, subsidiaries and affiliates	<u>56,941</u>
Total admitted assets	<u>\$22,434,523</u>

C. Liabilities, Surplus and Other Funds

Aggregate reserve for life contracts	\$ 632,711
Aggregate reserve for accident and health contracts	422,814
Liability for deposit-type contracts	533,559
Contract claims – Life	534,448
Contact claims – Accident and health	100,869
Premiums and annuity considerations for life and accident and health contracts received in advance	11,450
Commissions to agents due or accrued-life and annuity contracts	67,669
General expenses due or accrued	28,269
Taxes, licenses and fees due or accrued, excluding federal income taxes	2,505
Current federal and foreign income taxes	49,541
Amounts withheld or retained by company as agent or trustee	201
Remittances and items not allocated	63,519
Asset valuation reserve	28,465
Payable to parent, subsidiaries and affiliates	332,590
Escheat liability	1,323
Miscellaneous liabilities	<u>46</u>
 Total liabilities	 \$ <u>2,809,979</u>
 Common capital stock	 2,000,000
Gross paid in and contributed surplus	16,000,000
Unassigned funds (surplus)	<u>1,624,544</u>
Total capital and surplus	\$ <u>19,624,544</u>
 Total liabilities, capital and surplus	 \$ <u>22,434,523</u>

D. Condensed Summary of Operations

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Premiums and considerations	\$106,674	\$1,132,984	\$3,473,084	\$4,267,546	\$4,896,609
Investment income	233,480	169,063	161,499	155,492	280,027
Commissions and reserve adjustments on reinsurance ceded	<u>0</u>	<u>(6,755)</u>	<u>0</u>	<u>54,063</u>	<u>39,863</u>
Total income	<u>\$340,154</u>	<u>\$1,295,292</u>	<u>\$3,634,583</u>	<u>\$4,477,101</u>	<u>\$5,216,499</u>
Benefit payments	\$ 41,228	\$ 753,498	\$3,019,565	\$2,037,786	\$2,706,957
Increase in reserves	11,803	139,481	156,422	131,088	616,731
Commissions	9,392	97,411	257,815	373,864	425,265
General expenses and taxes	<u>6,473</u>	<u>142,571</u>	<u>287,825</u>	<u>501,162</u>	<u>1,187,739</u>
Total deductions	<u>\$ 68,896</u>	<u>\$1,132,961</u>	<u>\$3,721,627</u>	<u>\$3,043,900</u>	<u>\$4,936,692</u>
Net gain (loss)	\$271,258	\$ 162,331	\$ (87,044)	\$1,433,201	\$ 279,807
Federal and foreign income taxes incurred	<u>41,851</u>	<u>18,883</u>	<u>9,074</u>	<u>303,652</u>	<u>144,774</u>
Net income	<u>\$229,407</u>	<u>\$ 143,448</u>	<u>\$ (96,118)</u>	<u>\$1,129,549</u>	<u>\$ 135,033</u>

The increase in general insurance expenses of \$561.4 thousand was primarily due to the Company's growth in 2013. The Company's membership and premiums continued to rise resulting in an increase in general insurance expenses needed to continue its ongoing operations. Of the increase noted above, salaries and wages increased \$335.6 thousand. Additionally, Federal income taxes increased \$125.2 thousand when comparing 2013 to 2012.

The fluctuation in federal and foreign income taxes during the examination period was caused primarily by (1) fluctuations in net income before tax, (2) tax-exempt interest, and (3) changes in tax status. The entity was taxed as a life insurance company in 2010 and 2011. It was taxed as a non-life company in 2009, 2012, and 2013. During the life insurance taxation years, it was ineligible to be included in the ultimate parent's consolidated federal income tax return and filed separate 2010 and 2011 returns. The tax losses and AMT credits from those years were utilized upon joining the parent's consolidated federal income tax return in 2012.

E. Capital and Surplus Account

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Capital and surplus, December 31, prior year	\$ <u>16,116,445</u>	\$ <u>18,344,107</u>	\$ <u>18,488,902</u>	\$ <u>18,443,088</u>	\$ <u>19,537,516</u>
Net income	\$ 229,407	\$ 143,448	\$ (96,118)	\$ 1,129,549	\$135,033
Change in net deferred income tax	339	5,689	122,643	(80,998)	46,722
Change in non-admitted assets and related items	1,999,325	(4,598)	(72,289)	23,687	(79,904)
Change in asset valuation reserve	(1,409)	257	(51)	104	(14,823)
Cumulative effect of changes in accounting principles	0	0	0	22,086	0
Net change in capital and surplus for the year	\$ <u>2,227,662</u>	\$ <u>144,795</u>	\$ <u>(45,815)</u>	\$ <u>1,094,428</u>	\$ <u>87,028</u>
Capital and surplus, December 31, current year	\$ <u>18,344,107</u>	\$ <u>18,488,902</u>	\$ <u>18,443,088</u>	\$ <u>19,537,516</u>	\$ <u>19,624,544</u>

## 7. 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.

Section 2112(b) of New York Insurance Law states:

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

In the review of producer licensing, the examiner matched the Company's list of agents to the Department's database. The review revealed that 17 of the 923 agents were not appointed by the Company.

The Company violated Section 2112(b) of the New York Insurance Law by failing to file a certificate of appointment with the superintendent in order to appoint 17 insurance agents to represent the Company.

Section 2112(d) of New York Insurance Law states, in part:

“Every insurer . . . doing business in this state shall, upon termination of the certificate of appointment . . . of any insurance agent licensed in this state, or upon termination for cause for activities . . . of the certificate of appointment, of employment, of a contract or other insurance business relationship with any insurance producer, file with the superintendent within thirty days a statement, in such form as the superintendent may prescribe, of the facts relative to such termination for cause . . .”

The examiner's review of terminated agents revealed that the Company terminated six agents without filing with the superintendent a statement of the facts relative to such termination for cause.

The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent, within 30 days of the termination of the certificate of appointment, a statement of the facts relative to such termination for cause for six of its agents.

Section 215.13(a) of Department Regulation No. 34 states:

“The name of the actual insurer and the form number or numbers advertised shall be identified and made clear in all of its advertisements. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.”

The examiner reviewed a sample of 8 disability advertisements out of a population of 159 advertisements. Seven of the eight disability advertisements reviewed either did not identify the Company as the insurer of the product(s) advertised or emphasized the trade name “Empire Blue Cross” rather than the providing insurer’s legal name. Therefore, the advertisements had the capacity and tendency to mislead the public as to the true identity of the insurer.

The Company violated Section 215.13(a) of Department Regulation No. 34 by disseminating disability advertisements which had the capacity and tendency to mislead or deceive the public as to the true identity of the insurer.

#### B. Underwriting and Policy Forms

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

Based upon the sample reviewed, no significant findings were noted.

#### 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.

Section 86.4 of Department Regulation No. 95 states, in part:

“(a) . . . all claim forms for insurance . . . provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:

"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." . . .

(d) Location of warning statements and type size. The warning statements required by subdivisions (a), (b) and (e) 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. On claim forms which require execution by a person other than the claimant, or in addition to the claimant, the warning statements required by subdivisions (a), (b) and (e) of this section shall be placed at the top of the first page of the claim form or in the page containing instructions, either in print, by stamp or by attachment and shall be in type size which will produce a warning statement of conspicuous size.”

During the review of claims, the Company indicated that it uses a multi-page claim form and one of the pages provides all the state required fraud warning statements. The claimants generally return only the portion of the claim form that includes claimant statement write-in type information, not including the fraud warning statements page. The examiner noted that the claim form contains a non-New York fraud warning statement which is located beneath the space provided for the signature of the person executing the claim form.

The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the fraud warning statement immediately above the space provided for the signature of the person executing the claim form.

Section 4232(b)(4) of New York Insurance Law states, in part:

“Any such additional amounts shall be credited on a basis equitable to all policyholders of a given class and shall be based on written criteria approved by the board of directors of the company or a committee thereof.”



The Company credited interest amounts on death proceeds at the rate of 1% from October 1, 2009, to March 3, 2013, and at 0.9% from March 4, 2013, to the end of the on-site examination. The interest rates used by the Company were not approved by the board of directors of the Company or a committee thereof.

The Company violated Section 4232(b)(4) of New York Insurance Law for crediting interest amounts on death proceeds at rates which were not approved by the board of directors of the Company or a committee thereof.

## 8. RETAINED ASSET ACCOUNT

Department Circular Letter No. 4 (2012) dated March 25, 2012, advises, in part,

“ . . . that an insurer should: use an RAA only when a policyholder or beneficiary affirmatively chooses to receive life insurance proceeds in that fashion; explicitly state on any form selecting the mode for delivering proceeds that payment of the full life insurance proceeds by a single check is an option; and provide clear and conspicuous disclosures to a beneficiary . . . If no election is made, the insurer should send to the beneficiary a single check for the full life insurance proceeds. . . .”

The examiner’s review of a sample of 7 out of a population of 62 retained asset accounts and noted that the Company issued retained asset accounts, referred to as Access Advantage Account, without the policyholder or beneficiary’s affirmatively choosing to receive life insurance proceeds in that fashion.

The examiner recommends that the Company only establish a retained asset account when (a) a policyholder or beneficiary affirmatively chooses that mode of receiving life insurance proceeds, (b) when the insurer explicitly informs the beneficiary in writing that it has a right to receive payment by a single check instead, and (c) when the insurer provides the beneficiary with clear and conspicuous disclosures, and that the full life insurance proceeds should be the default option if no election is made.

## 9. SUBSEQUENT EVENT

In February 2015, Anthem, Inc., the Company's ultimate parent, reported that they were the target of a sophisticated external cyberattack. The attackers gained unauthorized access to certain information technology systems and obtained personal information related to many individuals and employees, such as names, birthdays, healthcare identification/social security numbers, street addresses, email addresses, phone numbers and employment information, including income data.

Upon discovery of the cyberattack, Anthem Inc. took immediate action to remediate the security vulnerability and retained a cyber security firm to evaluate systems and identify solutions based on the evolving landscape. Anthem Inc. has supported federal law enforcement efforts to identify the responsible parties. Based on the firm's evaluation, it appears that the Company's member data was not compromised. The Company has also provided credit monitoring and identity protection services to those who have been affected by this cyberattack and has continued to implement security enhancements since this incident. Anthem, Inc. has incurred expenses subsequent to the cyberattack to investigate and remediate this matter and expects to continue to incur expenses of this nature in the foreseeable future and may be subject to fines or other obligations, which may have an adverse effect on results of operations.

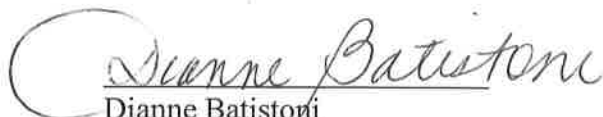
## 10. SUMMARY AND CONCLUSIONS

Following are the violations, recommendation and comments contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	In December 2014, the ultimate parent of the Company, WellPoint, Inc. changed its corporate name to Anthem, Inc.	5
B	The Company violated Section 2112(b) of the New York Insurance Law by failing to file a certificate of appointment with the superintendent in order to appoint 17 insurance agents to represent the Company.	19
C	The Company violated Section 2112(d) of the New York Insurance Law by failing to file with the superintendent, within 30 days of the termination of the certificate of appointment, a statement of the facts relative to such termination for cause for six of its agents.	20
D	The Company violated Section 215.13(a) of Department Regulation No. 34 by disseminating disability advertisements which had the capacity and tendency to mislead or deceive the public as to the true identity of the insurer.	20
E	The Company violated Section 86.4(d) of Department Regulation No. 95 by failing to place the fraud warning statement immediately above the space provided for the signature of the person executing the claim form.	21
F	The Company violated Section 4232(b)(4) of New York Insurance Law by crediting interest amounts on death proceeds at rates which were not approved by the board of directors of the Company or a committee thereof.	22
G	The examiner recommends that the Company only establish a retained asset account when (a) a policyholder or beneficiary affirmatively chooses that mode of receiving life insurance proceeds, (b) when the insurer explicitly informs the beneficiary in writing that it has a right to receive payment by a single check instead, and (c) when the insurer provides the beneficiary with clear and conspicuous disclosures, and that the full life insurance proceeds should be the default option if no election is made.	23


<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
H	In February 2015, Anthem, Inc. was the target of a sophisticated external cyberattack whereby unauthorized access to personal information of customers and employees occurred. Upon discovery of the cyberattack, Anthem Inc. took immediate action to remediate the security vulnerability and retained a cyber security firm to evaluate systems and identify solutions based on the evolving landscape.	24

Respectfully submitted,

  
Dianne Batistoni  
Examiner in Charge

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

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

  
Dianne Batistoni

Subscribed and sworn to before me

this 9<sup>th</sup> day of MARCH, 2018



**CHARLES T LOVEJOY**  
**NOTARY PUBLIC, STATE OF NEW YORK**  
**Registration No. 01LO4798952**  
**Qualified in New York County**  
**Commission Expires January 26, 2022**

Respectfully submitted,

\_\_\_\_\_/s/  
Manish Gajiwala  
Senior Insurance Examiner

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

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

\_\_\_\_\_/s/  
Manish Gajiwala

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

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, 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:

**DIANE BATISTONI**  
**(EISNERAMPER LLP)**

as a proper person to examine the affairs of the  
**ANTHEM LIFE & DISABILITY INSURANCE COMPANY**  
and to make a report to me in writing of the condition of said  
**COMPANY**

with such other information as she 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 28th day of April, 2015

**BENJAMIN M. LAWSKY**  
Superintendent of Financial Services

By:

  
MICHAEL MAFFEI

ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU





APPOINTMENT NO. 31200

NEW YORK STATE

**DEPARTMENT OF FINANCIAL SERVICES**

I, BENJAMIN M. LAWSKY, 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:

**MANISH GAJIWALA**

as a proper person to examine the affairs of the

**ANTHEM LIFE & DISABILITY INSURANCE COMPANY**

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

**COMPANY**

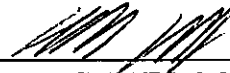
with such other information as he shall deem requisite.

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

this 28th day of May, 2014

BENJAMIN M. LAWSKY  
Superintendent of Financial Services

By:



MICHAEL MAFFEI  
ASSISTANT DEPUTY SUPERINTENDENT  
AND CHIEF OF THE LIFE BUREAU

