



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
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In the Matter of

**JOHN HANCOCK LIFE & HEALTH INSURANCE
COMPANY,**

No. 2021-0226-S

Respondent.
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CONSENT ORDER

WHEREAS, the New York State Department of Financial Services (“Department”) conducted an investigation of John Hancock Life & Health Insurance Company (“Respondent”) regarding its premature termination of New York State Partnership for Long Term Care (“Partnership”) long term care insurance policies prior to New York insureds’ complete benefit exhaustion;

WHEREAS, the Department has concluded that Respondent prematurely terminated certain of its Partnership long term care insurance policies (the “Partnership policies”) prior to insureds exhausting benefits to which they were entitled, and miscalculated maximum lifetime benefits in cases when insureds used less than the maximum daily benefits under their policies;

WHEREAS, the Department and Respondent are willing to resolve the matters cited herein in lieu of proceeding by notice and hearing;

NOW, THEREFORE, this Consent Order contains the Department’s findings and the relief agreed to by the Department and Respondent.

BACKGROUND

1. Respondent is domiciled in Massachusetts and is licensed as a life insurance company in New York. Pursuant to Insurance Law §1113(a)(3), Respondent is authorized to write accident and health insurance in New York, including Partnership long term care insurance.

2. On May 17, 2019, the Department received a consumer complaint through the Partnership after Respondent was deficient in responding to and resolving the matter with the complainant and the Partnership regarding premature termination of the complainant's Partnership policy. Partnership long term care insurance is jointly regulated by the Department and the New York State Department of Health ("DOH"). The Department and DOH commenced an investigation regarding the complainant's allegations that Respondent prematurely terminated the complainant's Partnership policy. Upon resolving the complainant's issue to the Department's satisfaction and with the guidance and direction of the Department, Respondent initiated a review of all similarly situated insureds to determine whether any other Partnership policies had been prematurely terminated.

3. Respondent discovered that between February 2001 and July 2019 (the "Applicable Period"), Respondent prematurely terminated Partnership policies for 156 New York insureds prior to complete benefit exhaustion. Respondent's Partnership policies include provisions that make clear that when an insured uses less than the maximum daily benefit for any day of coverage, regardless of care setting, any unused portion of the maximum daily benefit extends the maximum lifetime benefit period of coverage for the insured. Respondent's investigation found that Respondent did not correctly convert residual amounts into additional benefit days, thereby miscalculating remaining benefit amounts due to insureds/policyholders. Respondent's miscalculation of the benefits due to 156 insureds resulted in 27,161 days of unpaid benefits. Upon completing its internal investigation, Respondent approached the Department and DOH in November 2019 with a plan to remediate the issue and make its Partnership policyholders whole.

4. Due to the nature of Partnership policies and the length of time that has passed before Respondent's discovery of the issue and the execution of this Consent Order, the investigation

revealed that there are approximately 21 living and 130 deceased insureds/policyholders due benefits under their Partnership policies.

FINDINGS

5. During the Applicable Period, Respondent did not comply with New York Insurance Law §§ 1117(b), 2601(a), 3201(b), and 3224-a(a). Specifically:

- Respondent's Partnership policy provisions were misleading and confusing, the benefit structure of the policies did not adequately provide the stated options for the use of long term care services, and the policies did not fully and clearly state the benefits and limitations of the policies in that Respondent prematurely terminated policies in violation of Insurance Law §§ 1117(b)(1), (3) and (4).
- Respondent engaged in unfair claim settlement practices by miscalculating New York insureds' remaining maximum benefits under the affected Partnership policies and its initial unresponsiveness to the complainant and the Partnership in violation of Insurance Law §§ 2601(a)(1), (2) and (3).
- Respondent delivered or issued for delivery in New York State an unfiled and unapproved policy form in violation of Insurance Law § 3201(b)(1) because it did not administer its Partnership policies in accordance with the language of the policy form that the Superintendent of Financial Services approved.
- Respondent failed to settle claims promptly, fairly and equitably in violation of Insurance Law § 3224-a(a) due to Respondent's premature termination of policies.

VIOLATIONS

6. By reason of the foregoing, Respondent did not comply with New York Insurance Law §§ 1117(b), 2601(a), 3201(b), and 3224-a(a) during the Applicable Period.

AGREEMENT

IT IS HEREBY UNDERSTOOD AND AGREED by Respondent, its successors, and assigns (on behalf of its agents, representatives, employees, parent company, affiliates, subsidiaries, and any office or division through which Respondent operates) that:

7. Respondent shall take the following corrective actions:
 - a. Respondent shall calculate and pay full monetary restitution to insureds and/or their estates/testamentary trusts/beneficiaries (collectively, "Recipients") for unpaid benefits to which the insured was entitled under the terms of their Partnership policy that Respondent prematurely terminated, according to the methodology agreed to by the Department.
 - b. Respondent shall pay twelve (12) percent interest to Recipients according to the methodology agreed to by the Department.
 - c. Respondent shall provide written notification to each Recipient of the availability of reimbursement for reasonable tax preparation/accountant fees as well as reasonable attorney's fees associated with re-opening any estate on behalf of the Recipient ("Professional "Fees") within one hundred twenty (120) days from the date of Respondent's execution of this Consent Order. If requested by the Recipient, Respondent shall reimburse appropriately documented reasonable Professional Fees to each Recipient incurred arising out of Respondent's premature termination of the insured's Partnership policy.
 - d. Respondent shall provide written notification to each Recipient of the availability of reimbursement for federal, state, or local taxes incurred as a result of paying the unpaid benefits to which the insured was entitled pursuant to section 7(a), to be paid to Recipient by Respondent.
 - e. In the event a Recipient disputes the amounts calculated by the Respondent as due and owing to the Recipient, Respondent shall provide the option of an alternative dispute resolution process (the "ADR Process") overseen by an independent individual or entity with experience in alternative dispute resolution (the "ADR Specialist") engaged by and at Respondent's expense to assist both parties with respect to resolving any disputes

between the Recipients and the Respondent in a fair and expedited manner and to avoid litigation and related expenses. The ADR Process shall involve both the Respondent and the Recipient submitting the dispute to the ADR Specialist, after each party is offered the opportunity in writing to present his, her, or its position. The ADR Process shall be voluntary, fair, and expeditious, and shall not limit any Recipient's legal rights, although the parties may voluntarily agree to be bound by the ADR Specialist's process and decision. If the parties are unable to agree to be bound by the ADR Specialist's process, neither Respondent nor Recipient shall be required to participate in the ADR Process. The ADR Specialist's authority shall be limited to (1) confirming the accuracy of Respondent's application of the methodology agreed to by the Department in calculating monetary restitution pursuant to subsection 7.a., (2) confirming the accuracy of Respondent's application of the methodology agreed to by the Department in calculating interest pursuant to subsection 7.b., (3) reviewing the reasonableness and documentation of Professional Fees pursuant to subsection 7.c., and (4) reviewing the accuracy of the amounts requested for the payment of taxes pursuant to subsection 7.d. Respondent shall provide written notification, via certified mail (return receipt requested), of the availability of the ADR Process to each Recipient within thirty (30) days of the identification of each Recipient. The Department will provide the relevant parties with ninety (90) days following each Recipient's receipt of notification of the availability of the ADR Process to seek resolution of disputes by use of the ADR Specialist. Within one hundred twenty (120) days of the issuance of each notice of the ADR Process to Recipients, Respondent shall notify the Department of Recipients who have agreed to be bound by the ADR Process and who are participating in any other method to resolve their disputes with Respondent, including through negotiations with Respondent or through an arbitration or litigation and the status of such. The Department may then determine whether further action or any other corrective actions are necessary. For each dispute that remains active in the ADR Process, Respondent shall continue to provide such ADR Process at Respondent's expense until the resolution of such matter.

- f. Respondent has undertaken a thorough review of all long term care policies and certificates, including non-Partnership policies, delivered or issued for delivery in New York that provide that unused maximum daily benefit amounts will extend the maximum

lifetime benefit period of the policy for nursing home and/or home care to ensure that all benefits have been paid in accordance with the terms of such policies or certificates.

8. Within one hundred twenty (120) days from the date of Respondent's execution of this Consent Order, Respondent shall provide to the Department the first written, monthly detailed summary of all corrective actions taken, including actions taken with regard to identifying unknown Recipients and all items set forth in paragraph 7(e) of this Consent Order, in full compliance with this Consent Order. Such summary shall include an itemized accounting of the restitution, interest, and Professional Fees paid to each Recipient. Written monthly detailed summaries of corrective actions taken in full compliance with this Consent Order shall continue to be provided to the Department until the Department determines that Respondent has completed all corrective actions.
9. Respondent shall also take all reasonably necessary steps to seek to ensure compliance with the New York Insurance Law and regulations promulgated thereunder with respect to its Partnership policies in the future.

MONETARY PENALTY

10. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of Two Million and Five Hundred Thousand Dollars (\$2,500,000). Respondent agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state, or local tax, directly or indirectly, for any portion of the civil monetary penalty paid pursuant to this Consent Order.
11. The above referenced payment shall be payable to the New York State Department of Financial Services in accordance with the Department's instructions.

BREACH OF THE CONSENT ORDER

12. In the event that the Department believes Respondent to be materially in breach of this Consent Order ("Breach"), the Department will provide written notice of such Breach to

Respondent, and Respondent must, within ten (10) business days from the date of receipt of said notice, or on a later date if so determined in the sole discretion of the Department, appear before the Department and have an opportunity to rebut the Department's contention that a Breach has occurred and, to the extent pertinent, to demonstrate that any such Breach is not material or has been cured.

13. Respondent understands and agrees that Respondent's failure to appear before the Department to make the required demonstration within the specified period as set forth herein is presumptive evidence of Respondent's Breach. Upon a finding of Breach, the Department has all the remedies available to it under New York or other applicable laws and may use any and all evidence available to the Department for all ensuing examinations, hearings, notices, orders, and other remedies that may be available under New York or other applicable laws.

OTHER PROVISIONS

14. If Respondent defaults on any of its obligations under this Consent Order, the Department may terminate this Consent Order, at its sole discretion, upon ten (10) days' written notice to Respondent. In the event of such termination, Respondent expressly agrees and acknowledges that this Consent Order shall in no way bar or otherwise preclude the Department from commencing, conducting, or prosecuting any investigation, action, or proceeding, however denominated, related to the Consent Order, against Respondent, or from using in any way the statements, documents, or other materials produced or provided by Respondent prior to or after the date of this Consent Order, including, without limitation, such statements, documents, or other materials, if any, provided for purposes of settlement negotiations.
15. The Department has agreed to the terms of this Consent Order based on, among other things, representations made to the Department by Respondent and the Department's own factual examination. To the extent that representations made by Respondent are later found to be

materially incomplete or inaccurate, this Consent Order or certain provisions thereof are voidable by the Department in its sole discretion.

16. Upon the request of the Department, Respondent shall provide all documentation and information necessary for the Department to verify compliance with this Consent Order.
17. All notices, reports, requests, certifications, and other communications to the Department regarding this Consent Order shall be in writing and shall be directed as follows:

If to the Department:

New York State Department of Financial Services
One State Street, 19th Floor
New York, NY 10004-1511
Attention: John Powell, Deputy Superintendent for Health

If to the Company:

John Hancock Life & Health Insurance Company
200 Berkeley St.
Boston, MA 02116
Attention: Peter K. Burke
pkburke@jhancock.com

18. This Consent Order and any dispute hereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.
19. Respondent waives its right to further notice and hearing in this matter as to any allegations of past violations up to and including the Effective Date as defined below and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.
20. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.

21. This Consent Order constitutes the entire agreement between the Department and Respondent relating to the violations identified herein and supersedes any prior communication, understanding, or agreement, whether written or oral, concerning the subject matter of this Consent Order. No inducement, promise, understanding, condition, or warranty not set forth in this Consent Order has been relied upon by any party to this Consent Order.
22. In the event that one or more provisions contained in this Consent Order shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Consent Order.
23. Upon execution by the parties to this Consent Order, no further action will be taken by the Department against Respondent for the conduct set forth in this Consent Order, subject to the terms of this Consent Order.
24. This Consent Order may be executed in one or more counterparts and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent of Financial Services.

JOHN HANCOCK LIFE & HEALTH INSURANCE COMPANY

By: AMTeta Dated: August 3, 2022

Anthony Teta
Head US Legacy & Inforce Management

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By:  Dated: 08/05/2022

Sumit Sud
Acting Executive Deputy Superintendent

THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.

By: _____

Adrienne A. Harris
Superintendent of Financial Services

Dated: 8/17/2022 _____