NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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In the Matter of

Aetna Life Insurance Company No. 2022-0248-S

Respondent.

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CONSENT ORDER

WHEREAS, the Department of Financial Services (hereinafter "Department") conducted an investigation of Aetna Life Insurance Company (hereinafter "Respondent") regarding the use of unapproved rates and forms in the student health insurance market.

WHEREAS, the Department concluded that Respondent's use of unapproved rates and forms constituted a violation of Insurance Law §§ 3201(b), 3221(l)(5), 3231(d), and 3240(d) and 11 NYCRR 52.21(f), which provides provide that no policy form shall be delivered or issued for delivery unless it has been filed with and approved by the Superintendent, that no copayment or coinsurance imposed for outpatient mental health services provided by a facility licensed, certified or otherwise authorized by the Office Mental Health shall exceed the copayment or coinsurance imposed for a primary care office visit, that no insurer shall enter into any contract unless and until it has filed premium rates and has obtained the Superintendent's approval and that a student accident and health insurance policy provide coverage for essential health benefits.

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 Connecticut and is licensed as a health insurance company in New York. Pursuant to Insurance Law §1113(a)(3), Respondent is authorized to write accident and health insurance in New York. Respondent offers student blanket health insurance policies to institutions of higher education in New York.

2. For the 2019-2020 academic year, Respondent issued student blanket health insurance policies to thirteen institutions of higher education in New York.

3. For the 2020-2021 academic year, Respondent issued student blanket health insurance policies to seventeen institutions of higher education in New York.

4. As part of the Department's annual review of student health insurers in the New York market, Respondent provided the names of the institutions of higher education to which Respondent issued student blanket health insurance policies, the number of insureds covered under the policies, the annual premium, the premium rate development for each plan, and copies of any brochures advertising the student blanket health insurance delivered to the students.

5. For the 2019-2020 academic year, for five institutions of higher education, Respondent deviated from the rating factors set forth in Respondent's premium rate manual filed with the Department, including plan design changes factors, formulary changes, network discounts, and demographic type changes. The plan design changes factor is designed to handle the rate impact if the plan design changes between years in the experience period. Formulary changes and network discounts were detailed elsewhere in the rate manual, but their impact was added to the plan design changes factor, as opposed to their own separate lines. Respondent added other items including demographic type changes such as mandatory international students. Taken together, the factors may have represented legitimate impacts to the rates but were not accounted for in the rate manual.

Respondent's changes to the rating factors resulted in Respondent charging an unapproved premium rate to students covered under the student blanket health insurance policies. Respondent's actions resulted in one institution of higher education being charged rates that were not determined using the approved rating methodology. The use of the unapproved rate resulted in excess premium rates being charged to seven thousand two hundred and fifty-four (7,254) students and one hundred eighty-six (186) dependents for a total of one million seventy-five thousand four hundred and fourteen dollars ($1,075,414).

6. For the 2020-2021 academic year, for twelve institutions of higher education, Respondent deviated from the rate factors set forth in Respondent's premium rate manual filed with the Department, including plan design changes factors, underwriting factors, experience year weights, network savings factors, trend factors and enrollment adjustments. The plan design changes factor is designed to handle the rate impact if the plan design changes between years in the experience period. Underwriting factors allow the underwriter discretion to adjust the rate for legitimate characteristics of the case that are not captured by the rate formula, but within set categories and bounds. Experience year weights are used to determine the proportion each prior year gets in determining the experience rate. Network savings factors are used to determine the impact on the past experience when a new case starts on the Aetna network. Trend factors are used to estimate the increase in medical costs over the years. The enrollment adjustment factor is used to estimate the rate impact of changes in the demographics of a case. The brochures for six plans combined the plan premium with additional fees and did not provide the consumer with a complete breakdown of the fees consistent with 11 NYCRR 52.21(l). Respondent added a rider to one case but the rate for this rider was not submitted for the Department's approval. In most cases, the factors the Respondent applied to the rates may have represented legitimate rate impacts but were not accounted for in the rate manual such that Respondent's changes to the rating factors resulted in Respondent charging an unapproved premium rate to students covered under the student blanket health insurance policies. Respondent's actions resulted in seven institutions of higher education being charged rates that were not determined using the approved rating methodology. The use of the unapproved rate resulted in excess premium rates being charged to twelve thousand eight hundred and fifty-six (12,856) students and three hundred and seventy (270) dependents by a total amount of five hundred seventy-four thousand seven hundred and twenty-five dollars ($574,725).

7. For the 2019-2020 academic year, for thirteen institutions of higher education, Respondent issued policy forms that deviated from the policy forms approved by the Department. Specifically, Respondent issued Schedules of Benefits that did not include required essential health benefits, included cost-sharing structures not approved by the Department, applied an unapproved maximum out-of-pocket limit, and in some instances did not apply any maximum out-of-pocket limit, resulting in Respondent overcharging one hundred sixty-eight students a total of forty-five thousand three hundred sixty-seven dollars and twenty-four cents ($45,367.24), including interest. For two institutions of higher education the issued Schedule of Benefits did not include at least one essential health benefit. For one institution of higher education, Respondent applied a higher maximum out-of-pocket limit than what was approved, resulting in Respondent overcharging three students a total seven hundred ninety-one dollars and thirteen cents ($791.13). For ten institutions of higher education Respondent failed to apply any maximum out-of-pocket limit for services received at the student health center or for out-of-network coverage resulting in Respondent overcharging one student a total of twelve thousand dollars and four cents ($12,000.04). For one institution of higher education, Respondent applied a coinsurance that exceeded the approved amount, resulting in Respondents overcharging one hundred sixty-four students a total of twenty-eight thousand two hundred ninety-two dollars and thirty-six cents ($28,292.36).

8. For the 2020-2021 academic year, for seventeen of higher education, Respondent issued policy forms that deviated from the policy forms approved by the Department. Specifically, Respondent issued Schedules of Benefits that did not include required essential health benefits, included cost-sharing structures not approved by the Department, applied an unapproved maximum out-of-pocket limit, and did not apply any maximum out-of-pocket limit resulting in Respondent overcharging two hundred twenty-four students a total of one hundred fifteen thousand four hundred fifty-six dollars and one cent ($115,456.01), including interest. For two institutions of higher education the issued Schedule of Benefits did not include at least one essential health benefit. For three institutions of higher education, Respondent applied a higher maximum out-of-pocket limit than what was approved, resulting in Respondent overcharging thirteen students a total of four thousand eight hundred forty-four dollars and eighty-seven cents ($4,844.87). For eleven institutions of higher education Respondent failed to apply any maximum out-of-pocket

limit for services received at the student health center or for out-of-network coverage resulting in Respondent overcharging three students a total of twenty-three thousand three hundred thirty-one dollars and twenty-one cents ($23,331.21). For two institutions of higher education, Respondent applied a coinsurance that exceeded the approved amount, resulting in Respondents overcharging one hundred seventy-two students a total of thirty-six thousand four hundred ninety-three dollars and thirty-four cents ($36,493.34). For two institutions of higher education, Respondent applied a coinsurance instead of the approved copayment, resulting in Respondent overcharging four students a total of thirty-five thousand three hundred thirteen dollars and thirty-six cents ($35,313.36). For one institutions of higher education the issued Schedule of Benefits included an unapproved cost-sharing for a specialist office visit dependent on whether a referral was obtained, resulting in Respondent overcharging thirty-two students a total of six thousand five hundred twenty-nine dollars and fourteen cents ($6,529.14) For four institutions of higher education, the issued Schedule of Benefits listed a copayment for the Mental Health – All Other Services benefit that exceeded the copayment listed for the Primary Care Office Visit benefit.

FINDINGS

9. Respondent, for the 2019-2020 and 2020-2021 academic years, violated Insurance Law § 3201(b), 3221(l)(5), 3231(d), and 3240(d) and 11 NYCRR 52.21(f) by entering into agreements with thirteen institutions of higher education in 2019-2020 and seventeen institutions of higher education in 2020-2021 using premium rates that deviated from the approved methodology and included premium rating factors not on file with the Department and by issuing policy forms that did not conform to the policy forms approved by the Department. Respondent's actions resulted in Respondent charging an unapproved premium rate and issuing unapproved policy forms to students covered under the student blanket health insurance policies. In addition, Respondent's actions in using unapproved premium rates and policy forms may have gained Respondent an unfair competitive advantage in the student blanket health insurance market in New York.

10. Respondent's violations during the aforementioned time period contravened New York Insurance Law and Regulation.

VIOLATIONS

11. By reason of the foregoing, Respondent violated Insurance Law § 3201(b), 3221(l)(5), 3231(d), and 3240(d) and 11 NYCRR 52.21(f).

AGREEMENT

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

12. Respondent shall take all necessary steps to comply with the New York Insurance Law with respect to the use of the prior approval process for rates in the student health insurance market.

13. Respondent shall immediately initiate actions to reimburse students who were charged excess premiums and provide quarterly status reports to the Department demonstrating that the seven thousand four hundred forty students and dependents enrolled in the student blanket health insurance policy for the 2019-2020 academic year have been provided retroactive reimbursement totaling one million seventy-five thousand four hundred and fourteen dollars ($1,075,414) and the thirteen thousand two hundred and twenty-six students and dependents enrolled in the student blanket health insurance policy for the 2020- 2021 academic year have been provided retroactive reimbursement totaling five hundred seventy-four thousand seven hundred twenty-five dollars ($574,725).

14. Respondent reprocessed the claims for the cost-sharing errors identified above in paragraphs seven and eight and reimbursed the three hundred thirty-two students impacted a total of one hundred sixty-thousand eight hundred and twenty-three dollars and twenty-five cents ($160,823.25) for overpayments which included interest.

MONETARY PENALTY

15. Within seven (7) days of the execution of this Consent Order, Respondent shall pay a civil penalty of one hundred eighty-one thousand five hundred dollars ($181,500.00) for the violations of

Insurance Law § 3221(l)(5) and two million five hundred sixty-eight thousand five hundred dollars ($2,568,500.00) for the violations of Insurance Law § 3201(b), 3231(d), and 3240(d) and 11 NYCRR 52.21(f) for a total of two million seven hundred fifty thousand dollars ($2,750,000.00). 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.

16. 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

17. 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.

18. 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

19. 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.

20. 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.

21. Upon the request of the Department, Respondent shall provide all documentation and information necessary for the Department to verify compliance with this Consent Order.

22. 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 F. Finston, Executive Deputy Superintendent for Insurance

If to the Respondent:

Aetna Life Insurance Company
151 Farmington Ave.
Hartford, CT 06156
Attention: Gregory Martino,
Executive Director,
Government Affairs

23. This Consent Order and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflicts of laws principles.

24. 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 and agrees that no provision of the Consent Order is subject to review in any court or tribunal outside the Department.

25. This Consent Order may not be amended except by an instrument in writing signed on behalf of all parties to this Consent Order.

26. 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.

27. 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.

28. 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.

29. 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.

Aetna Life Insurance Company

By: /s/ Gregory Martino Dated: March 30, 2023

Gregory Martino
Executive Director, Government Affairs

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

By: /s/ John F. Finston Dated: May 4, 2023

John F. Finston
Executive Deputy Superintendent for Insurance

THE FOREGOING CONSENT ORDER IS HEREBY APPROVED.

By: /s/ Adrienne A. Harris Dated: May 10, 2023

Adrienne A. Harris
Superintendent of Financial Services