MARKET CONDUCT REPORT ON EXAMINATION

OF

AETNA HEALTH INC.

AETNA HEALTH INSURANCE COMPANY OF NEW YORK

AETNA LIFE INSURANCE COMPANY

AS OF DECEMBER 31, 2020

EXAMINER: **TOMMY KONG, CIA, CPCU, CFE, PIR**

DATE OF REPORT: **JULY 30, 2025**

TABLE OF CONTENTS

July 30, 2025

Honorable Adrienne A. Harris
Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Numbers 32285, 32286, and 32288, dated July 1, 2021, attached hereto, I have made an examination, as of December 31, 2020, into the affairs of Aetna Health Inc. (a New York Corporation), a for-profit health maintenance organization certified pursuant to the provisions of Article 44 of the New York Public Health Law; Aetna Health Insurance Company of New York, an accident and health insurance company licensed pursuant to the provisions of Article 42 of the New York Insurance Law; and Aetna Life Insurance Company, a life and accident and health insurance company licensed under the laws of the State of New York, and submit the following report thereon.

The examination was conducted remotely due to restrictions relating to the COVID-19 pandemic.

Wherever the designation "AHI" appears herein without qualification, it should be understood to indicate Aetna Health Inc.

Wherever the designation "AHIC" appears herein without qualification, it should be understood to indicate Aetna Health Insurance Company of New York.

Wherever the designation "ALIC" appears herein without qualification, it should be understood to indicate Aetna Life Insurance Company.

Wherever the designation "Aetna Companies" appears herein without qualification, it should be understood to indicate the three affiliated companies under examination (AHI, AHIC, and ALIC) collectively.

Wherever the designation "Parent" appears herein, without qualification, it should be understood to indicate CVS Health Corporation, the ultimate parent of the Aetna Companies.

Wherever the designation "Department" or "DFS" appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services.

A concurrent financial examination was made of the Aetna Companies, as of December 31, 2020. A separate financial report on examination thereon has been submitted.

1. SCOPE OF THE EXAMINATION

The previous market conduct examination was conducted as of December 31, 2015. This examination covers the five-year period from January 1, 2016 through December 31, 2020. This market conduct examination was performed to review the manner in which AHI, AHIC, and ALIC conducted their business practices and fulfilled their contractual obligations to policyholders and claimants. Transactions occurring subsequent to December 31, 2020 were reviewed where deemed appropriate by the examiner.

This report on examination contains the significant findings of the examination and is confined to comments on those matters which involve departures from laws, regulations, or rules, or which are deemed to require explanation or description.

A review was also made to ascertain what actions were taken by the Aetna Companies with respect to the comments and recommendations contained in the prior market conduct report on examination, as of December 31, 2015. The results of the examiner's review are contained in Item 7 of this report.

2. DESCRIPTION OF THE COMPANIES

The Aetna Companies are all subsidiaries of CVS Health Corporation, a for-profit publicly traded company.

Aetna Health Inc. was incorporated in the State of New York on June 24, 1985, to operate as a health maintenance organization ("HMO") under the name US Healthcare, Inc ("USHI"). USHI was certified by the New York Department of Health on February 3, 1986. USHI is licensed as a for-profit independent practice association model HMO pursuant to the provisions of Article

44 of the New York Public Health Law. In the year 2001, USHI changed its name to its present name of Aetna Health Inc. AHI's primary lines of business are group HMO and point-of-service ("POS") health plan, which provides coverage of out-of-network providers.

Aetna Health Insurance Company of New York was incorporated under the laws of the State of New York on April 19, 1985, as Adirondack Life Insurance Company ("Adirondack") and was licensed to transact the business of insurance in New York on August 29, 1986. On October 26, 1990, Adirondack amended its charter and removed its life and annuity powers and was licensed, effective that same day, to write accident and health insurance as defined in Section 1113(a)(3) of the New York Insurance Law. Effective May 8, 2002, Adirondack changed its name to its current name of Aetna Health Insurance Company of New York. All business conducted by AHIC, during the examination period, represented the out-of-network component of the POS products issued by Aetna Health Inc., which covered the in-network component.

Aetna Life Insurance Company is a Connecticut domestic insurer that was admitted in the State of New York on March 13, 1865. ALIC is licensed to write, as defined within Section 1113(a) of the New York Insurance Law, life insurance, annuities, accident and health insurance, personal injury liability insurance, workers' compensation and employers' liability insurance in New York. ALIC write preferred provider organization and POS products in New York.

Any reference in this report made to the New York Insurance Law shall apply to AHI, AHIC, and ALIC unless reference is also made to the New York Public Health Law, which therefore shall apply only to AHI.

3. GRIEVANCES

Section 4802(h)(i) of the New York Insurance Law states, in part:

> "Within fifteen business days of receipt of the appeal, the insurer shall provide written acknowledgment of the appeal, including the name, address and telephone number of the individual designated by the insurer to respond to the appeal and what additional information, if any, must be provided in order for the insurer to render a decision."

It was noted from a sample review that there were four (4) instances where AHIC failed to provide an acknowledgment letter to insureds within the required fifteen (15) business days of receipt of the appeal.

AHIC is directed to comply with Section 4802(h)(i) of the New York Insurance Law by ensuring that an acknowledgment letter is provided to insureds within fifteen (15) business days of receipt of the appeal.

Section 4802(k)(2) of the New York Insurance Law states, in part:

> "The insurer shall seek to resolve all appeals in the most expeditious manner and shall make a determination and provide notice no more than … (2) thirty business days after the receipt of all necessary information in all other instances."

It was also noted that there were two (2) instances where AHIC failed to provide a notice of appeal determination to insureds within the required thirty (30) business days of receipt of all necessary information.

AHIC is directed to comply with Section 4802(k)(2) of the New York Insurance Law by ensuring that a notice of appeal determination is provided to insureds within thirty (30) business days of receipt of all necessary information.

4. STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF CLAIMS FOR HEALTH CARE AND PAYMENTS FOR HEALTH CARE SERVICES

Section 3224-a of the New York Insurance Law, "The Prompt Pay Law requires all insurers to pay undisputed claims within thirty (30) days of receipt of a claim that is transmitted via the internet or electronic mail or forty-five (45) days of receipt of a claim submitted by other means such as paper or facsimile. If such undisputed claims are not paid within the respective thirty (30) or forty-five (45) days of receipt, interest may be payable.

A review of the Plan's compliance with Section 3224-a, was conducted for the period January 1, 2020, through December 31, 2020. Although there were instances of certain claims being paid beyond 30 or 45 days of receipt, such instances for the entity did not exceed the ninety-eight percent (98%) threshold of claims processed in compliance with Section 3224-a of the New York Insurance Law.

5. PREVENTIVE SERVICES

Section 3216(i)(17)(E) of the New York Insurance Law states, in part:

> "…every policy that provides hospital, surgical or medical care coverage, except for a grandfathered health plan under subparagraph (F) of this paragraph, shall provide coverage for…preventive care and screenings for insureds, and such coverage shall not be subject to annual deductibles or coinsurance."

Section 3221(l)(8)(E) of the New York Insurance Law states, in part:

> "…every group policy that provides hospital, surgical or medical care coverage, except for a grandfathered health plan under subparagraph (G) of this paragraph, shall provide coverage for…preventive care and screenings for insureds, and such coverage shall not be subject to annual deductibles or coinsurance."

Section 4303(j)(3) of the New York Insurance Law states, in part:

> "…every contract that provides hospital, surgical or medical care coverage, except for a grandfathered health plan under paragraph four of this subsection, shall provide coverage for…preventive care and screenings for subscribers, and such coverage shall not be subject to annual deductibles or coinsurance."

Relative to Aetna Student Health ("ASH"), the cost-sharing population of preventive care claims showed copay, deductible and / or coinsurance attributed to insureds. A sample of 167 adjudicated ASH preventive care claims for calendar year 2020 was generated and reviewed for compliance. It should be noted that 45 of the 167 (27%) claims were in violation of the abovementioned sections of the New York Insurance Law. Further, when the error rate was extrapolated from the total preventive care cost-share population (2,336), a violation of 631 claims was calculated.

The Aetna Companies are directed to comply with the requirements of Sections 3216(i)(17)(E), 3221(l)(8)(E), and 4303(j)(3) of the New York Insurance Law by not applying, where applicable, cost-share to preventive care claims.

It is recommended that the Aetna Companies perform a quality assurance review, relative to the Aetna Student Health, on the efficacy of the preventive care claims payment policies and procedures to ensure compliance with Sections 3216(i)(17)(E), 3221(l)(8)(E), and 4303(j)(3) of the New York Insurance Law.

According to the Aetna Companies, a root cause analysis was conducted, and 533 claims were identified that needed to be re-adjudicated.

6. PREP HIV TREATMENT CLAIMS

Insurance Circular Letter No. 21 (2017), Supplement No. 1 (2019), *Item II – Discussion*, Paragraph 3 states, in part:

> "However, now that offering PrEP with effective antiretroviral therapy to persons who are at high risk of HIV acquisition is an "A" rated recommendation, issuers, other than grandfathered health plans, must provide coverage for PrEP for the prevention of HIV infection at no cost-sharing pursuant to Insurance Law §§ 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3). This will remove insurance barriers and ensure that New Yorkers have access to this important preventive medication. The Department of Financial Services ("Department") expects issuers, other than grandfathered plans, to provide coverage for PrEP with effective antiretroviral therapy at no cost-sharing to persons who are at high risk of HIV acquisition as soon as possible, but no later than January 1, 2020, for policies or contracts that are issued or renewed on or after that date."

An analytical review of calendar year 2020 claims data revealed a total of 29,246 PrEP HIV treatment claims. Of the 29,246 claims, 9,377 were identified as adjudicated cost-sharing claims. Of these 9,377 claims, a sample of 167 was generated and reviewed for cost-sharing violations (i.e., copay, deductible, and/or coinsurance) that took effect January 1, 2020. As a result of the review, it was noted there were 35 out of the sample of 167 that were in violation, which equated to an error rate 21%. When the error rate was extrapolated, it resulted in a violation amount of 1,969 claims.

The Aetna Companies are directed to comply with Insurance Circular Letter No. 21 (2017), Supplement No. 1 (2019) regarding cost-sharing of PrEP HIV treatment claims.

It is recommended that the Aetna Companies review and reprocess those adjudicated cost-sharing PrEP HIV treatment claims to ensure compliance with Circular Letter No. 21 (2017), Supplement No. 1 (2019) .

According to the Aetna Companies, a root cause analysis of calendar year 2020 HIV PrEP treatment claims to ensure correct application of cost share was completed. The analysis identified 1,344 claims for re-adjudication. The Aetna Companies also conducted a similar review of its calendar year 2021 HIV PrEP treatment claims and identified 9 claims for re-adjudication due to noncompliance relative to cost share.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior market conduct report on examination, as of December 31, 2015, contained the following twenty-eight (28) comments and recommendations (page numbers refer to the prior market conduct report on examination):

ITEM NO.		PAGE NO.
	Underwriting and Rating	
1.	It is recommended that the Aetna Companies comply with Part 52.40(f) of Insurance Regulation No. 62 (11 NYCRR 52.40) and obtain pre-approval from its board of directors for its experience rating formulas prior to the implementation of such formulas. *The Aetna Companies have complied with this recommendation.*	6
2.	It is recommended that as a good business practice, the Aetna Companies use and maintain within it files, federal tax documents 1094-C and 1095-C as support to validate and classify the group size of employers. *The Aetna Companies have complied with this recommendation.*	7
	The Patient Protection and Affordable Care Act	
3.	It is recommended that the Aetna Companies comply with the above stated sections of the New York Insurance Law and Federal Patient Protection and Affordable Care Act relative to preventive services. *The Aetna Companies have complied with this recommendation.*	15
4.	It is recommended that the Aetna Companies update their claims payment policy procedures to include all preventive services and the associated procedure codes, including diagnosis codes and modifiers which identify preventive services. *The Aetna Companies have complied with this recommendation.*	15
5.	It is also recommended that the Aetna Companies pay claims for preventive services in accordance with their established payment policy and the above stated sections of the New York Insurance Law and Federal Patient Protection and Affordable Care Act.	15

ITEM NO. **PAGE NO.**

The Aetna Companies have complied with this recommendation.

The Patient Protection and Affordable Care Act (cont.)

6. It is further recommended that the Aetna Companies monitor the effectiveness of their payment policy in conjunction with actual claims paid. 16

The Aetna Companies have complied with this recommendation.

7. It is recommended that the Aetna Companies make the necessary configuration changes to reflect the appropriate reference information and customer benefit plans. 16

The Aetna Companies have complied with this recommendation.

8. It is also recommended that the Aetna Companies appropriately train their claim processors. 16

The Aetna Companies have complied with this recommendation.

Utilization Review

9. It is recommended that AHI comply with the provisions of Section 4903(2) of the New York Public Health Law by making prospective determinations for services requiring pre-authorization within three (3) business days of receipt of the necessary information. 17

AHI has complied with this recommendation.

10. It is recommended that ALIC, AHIC and their TPA, CareCore comply with the provisions of Section 4903(b) of the New York Insurance Law, by making prospective determinations for services requiring pre-authorization within three (3) business days of receipt of the necessary information. 17

ALIC, AHIC and their TPA have complied with this recommendation.

11. It is recommended that AHI comply with the requirements of Section 4903(4) of the New York Public Health Law by sending the initial adverse determinations to the insured and the provider within the thirty (30) day time frame. 18

ITEM NO. **PAGE NO.**

AHI has complied with this recommendation.

Utilization Review (cont.)

12. It is recommended that ALIC and its TPA, CareCore comply with the requirements of Section 4903(d) of the New York Insurance Law by sending the initial adverse determinations to the insured and the provider within the thirty (30) day time frame. 18

ALIC and its TPA have complied with this recommendation.

13. It is recommended that the Aetna Companies and their TPAs comply with the requirements of Section 4903(f) of the New York Insurance Law and Section 4903(6) of the New York Public Health Law and remove the fourteen (14) day time frame from their initial adverse determination letters. 19

The Aetna Companies and their TPAs have complied with this recommendation.

14. It is recommended that AHIC and ALIC comply with the requirements of Section 4904(c) of the New York Insurance Law by sending the acknowledgement letters within fifteen (15) days, sending the appeal determination within sixty (60) days of receiving the necessary information to conduct the appeal and sending, in writing, the appeal determination within two (2) business days of rendering a determination. 22

AHIC and ALIC have complied with this recommendation.

15. It is recommended that AHI comply with the requirements of Section 4904(3) of the New York Public Health Law by sending acknowledgement letters within fifteen (15) days, sending the appeal determination within sixty (60) days of receiving the necessary information to conduct the appeal and sending, in writing, the appeal determination within two (2) business days of rendering a determination. 22

AHI has complied with this recommendation.

16. It is recommended that Aetna Companies comply with the requirements of Section 4904(e) of the New York Insurance Law and Section 4904(5) of the New York Public Health Law by 22

ITEM NO. **PAGE NO.**

reversing the adverse determination if they fail to make a determination within the applicable time frame.

The Aetna Companies have complied with this recommendation.

Utilization Review (cont.)

17. It is recommended that ALIC and AHIC comply with the requirements of Section 4904(c)(2) of the New York Insurance Law by including the external appeal rights (with the timeframes to request an external appeal) in all final adverse determination letters. 23

ALIC and AHIC have complied with this recommendation.

18. It is recommended that AHI comply with the requirements of Section 4904.3(b) of the New York Public Health Law by including the external appeals rights (with the timeframes to request an external appeal) in all final adverse determination letters. 23

AHI has complied with this recommendation.

19. It is recommended that ALIC and AHIC comply with the requirements of Part 410.9(e)(2) of Insurance Regulation No. 166 (11 NYCRR 410.9) by including a clear statement that the appeal determination constitutes the final adverse determination. 25

ALIC and AHIC have complied with this recommendation.

20. It is recommended that AHI comply with the requirements of Part 98-2.9(e)(2) of New York New York Department of Health Regulation No. 98-2 (10 NYCRR 98-2.9) by including a clear statement that the appeal determination constitutes the final adverse determination. 25

AHI has complied with this recommendation.

21. It is recommended that ALIC and AHIC comply with the requirements of Part 410.9(e)(9) of the Insurance Regulation No. 166 (11 NYCRR 410.9) by including a clear statement in all final adverse or appeal determination letters that by choosing a second level internal appeal the time frame for filing an external appeal may expire. 25

ITEM NO. **PAGE NO.**

ITEM NO.		PAGE NO.
	The Aetna Companies have complied with this recommendation.	
	Fraud Warning Statements	
28.	It is recommended that the Aetna companies comply with Part 86.4(d)(1) of the Insurance Regulation No. 95 (11 NYCRR 86.4) by placing the fraud warning statement above the space provided for the signature of the person executing the claim form relative to its pharmacy claim forms.	32
	The Aetna Companies have complied with this recommendation.	

8. VIOLATIONS, RECOMMENDATIONS, AND COMMENTS

Respectfully submitted,

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Tommy Kong, CIA, CPCU, CFE, PIR
Financial Services Examiner 2

STATE OF NEW YORK)
)SS.
)
COUNTY OF NEW YORK)

Tommy Kong, being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

_____

Tommy Kong

Subscribed and sworn to before me
this _____ day of _____ 2025

***APPOINTMENT NO.* 32285**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ***LINDA A. LACEWELL****, 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:*

Tommy Kong

as a proper person to examine the affairs of

Aetna Health Inc. (a New York Corporation)

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

HMO

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 1st day of July, 2021

Linda A. Lacewell
Superintendent of Financial Services

By: Alice W. McKenney

Alice McKenney
Deputy Bureau Chief
Health Bureau

***APPOINTMENT NO.* 32286**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ***LINDA A. LACEWELL****, 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:*

Tommy Kong

as a proper person to examine the affairs of

Aetna Health Insurance Company of New York

and to make a report on organization 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 1st day of July, 2021

Linda A. Lacewell
Superintendent of Financial Services

By: Alice W. McKenney

Alice McKenney
Deputy Bureau Chief
Health Bureau

***APPOINTMENT NO.* 32288**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ***LINDA A. LACEWELL****, 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:*

Tommy Kong

as a proper person to examine the affairs of

Aetna Life Insurance Company

and to make a report on organization 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 1st day of July, 2021

Linda A. Lacewell
Superintendent of Financial Services

By: Alice W. McKenney

Alice McKenney
Deputy Bureau Chief
Health Bureau