



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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Notice of Adoption and Filing of Examination Report

Take notice that the proposed report of the market conduct examination of the

CONTINENTAL LIFE INSURANCE CO OF BRENTWOOD TN
800 CRESCENT CENTRE DR STE 200
FRANKLIN TN 37607

dated JUNE 27, 2014, and served upon the company on FEBRUARY 1, 2016, has been adopted as the final report, and has been placed on file as an official public record of this Office.

Dated at Madison, Wisconsin, this 14th day of April, 2016.



Theodore K Nickel
Commissioner of Insurance

**STATE OF WISCONSIN
OFFICE OF THE COMMISSIONER OF INSURANCE**

MARKET CONDUCT EXAMINATION

OF

**CONTINENTAL LIFE INSURANCE COMPANY OF BRENTWOOD, TENNESSEE
FRANKLIN, TENNESSEE**

JUNE 16-27, 2014

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July 1, 2014

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Honorable Theodore K. Nickel
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Madison, WI 53702

Commissioner:

Pursuant to your instructions and authorization, a targeted market conduct examination was conducted June 16 to June 27, 2014, of:

CONTINENTAL LIFE INSURANCE COMPANY OF BRENTWOOD, TENNESSEE
Franklin, Tennessee

and the following report of the examination is respectfully submitted.

I. INTRODUCTION

Continental Life Insurance Company of Brentwood, Tennessee (CLI or the company) was incorporated December 5, 1983, and commenced business on December 16, 1983. It primarily writes Medicare supplement business. On May 1, 2006, Genworth Life Insurance Company (Genworth) purchased the company and combined its existing Medicare supplement business with CLI. In June 2011, Aetna purchased the company from Genworth. It acquired 100% of the stock of the company. In October 2011, CLI signed an administrative services agreement with Aetna Life Insurance Company. Aetna provided the company with personnel to perform accounting, payment of claims, quality assessment and pharmacy benefits management services.

The company is licensed in 41 states and territories with the exceptions being Alaska, Arkansas; Connecticut, District of Columbia, Georgia, Guam, Massachusetts, Maine, North Mariana Islands, New Jersey, New York, Puerto Rico, South Carolina, South Dakota, and U.S. Virgin Islands.

The top five states for premium are Wisconsin, Missouri, Florida, Texas, and Ohio. The company became licensed in Wisconsin November 28, 2000. On April 2, 2014, the company notified the Office of the Commissioner of Insurance (OCI) that it would no longer be marketing Medicare supplement insurance in Wisconsin effective May 15, 2014.

In 2011, the company ranked as the 8th largest writer of Medicare supplement business in Wisconsin. It wrote 10,976 policies in 2011. The company ranked as the 4th largest writer of Medicare supplement business in 2012. It wrote 7,228 policies in 2012.

Wisconsin received a waiver regarding the federal Medicare supplement Plans A to N design requirements. Wisconsin Medicare supplement regulations provide for standardized benefits under a basic policy with optional riders for the Medicare Part A deductible, Part B deductible, Part B excess expenses, additional home health visits, and foreign travel rider.

The company does not contract with the Centers for Medicare and Medicaid Services (CMS) as a plan sponsor to offer Medicare Advantage (Medicare Part C) or Medicare prescription drug plans (Medicare Part D). In 2012 and 2013 the company reported written premium in all states where it was licensed. The following table summarized the total direct national premium written in 2012 and 2013 as compared to the total direct premium written in Wisconsin.

National Direct Business to Wisconsin Direct Business Summary

	Life Insurance Premiums	Annuity Considerations	Accident and Health Insurance Premiums	Deposit Type Funds	Other Considerations
2013					
Wisconsin	\$ 4,997	\$0	\$ 49,151,302	\$0	\$0
National	4,692,558	0	254,632,177	0	0
2012					
Wisconsin	\$ 5,554	\$0	\$ 36,863,471	\$0	\$0
National	5,077,187	0	163,389,378	0	0

The majority of the premium written by the company in 2012 and 2013 was for accident and health insurance.

The following tables summarize the premium written and benefits paid in Wisconsin for 2012 and 2013.

Wisconsin Premium and Loss Ratio Summary

Line of Business	Direct Premiums Earned	Percent of Total Premium	Direct Losses Incurred	Pure Loss Ratio
2013				
Group policies	\$ 0	0%	\$ 0	
Credit	0	0	0	
Guaranteed renewable (other individual policies)	48,429,118		40,479,510	83.6%
All other individual policies	0	0	0	
Total	\$48,429,118		\$40,479,510	
2012				
Group policies	\$ 0	0%	\$ 0	
Credit	0	0	0	
Guaranteed renewable (other individual policies)	35,924,612		30,086,533	83.7%
All other individual policies	0	0	0	
Total	\$35,924,612		\$30,086,533	

The majority of the premium written by the company in both 2012 and 2013 was for guaranteed renewable or Medicare supplement insurance policies.

The following table summarizes the company's Medicare supplement business for 2012 and 2013.

Wisconsin Medicare Supplement Summary

Classification	Premiums Earned	Amount Incurred Claims	Percent of Premiums Earned - Incurred Claims	Number of Covered Lives
2013				
Individual Policies				
Most Current 3 Years	\$36,507,522	\$26,833,244	69.683%	22,686
All Years Prior to Most Current 3 Years	10,086,211	12,397,747	122.918	4,547
2012				
Individual Policies				
Most Current 3 Years	\$35,670,023	\$29,807,902	83.566%	22,664
All Years Prior to Most Current 3 Years	209,533	232,739	111.075	98

OCI received 36 complaints against the company between January 1, 2012, and December 31, 2013. A complaint is defined as "a written communication received by the

Commissioner's Office that indicates dissatisfaction with an insurance company or agent." OCI complaint data indicated that the company had a pattern of not paying correctly for the Wisconsin chiropractic mandate and the skilled nursing mandate. In addition, OCI received complaints from insureds who received additional premium notices after paying their 2012 annual premium.

The following table categorizes the complaints received against the company by type of policy and complaint reason. There may be more than one type of coverage and/or reason for each complaint.

Complaints Received

	Total	Reason Type			
		Underwriting	Marketing and Sales	Claims	Policyholder Service
2012					
Coverage Type					
Group A&H					
Individual A&H					
Medicare					
Supplement	13		4	4	5
Misc. Health & Life					
Total	13		4	4	5
2013					
Coverage Type					
Group A&H					
Individual A&H					
Medicare					
Supplement	23	2	1	9	11
Misc. Health & Life					
Total	23	2	1	9	11

The annual grievance report for 2012 and 2013 indicated that the company had no grievances or independent review requests to report.

II. PURPOSE AND SCOPE

A targeted examination was conducted to determine whether the company's practices and procedures for its Medicare supplement business complied with the Wisconsin insurance statutes and rules. The examination focused on the period from January 1, 2012, through March 31, 2014. In addition, the examination included a review of any subsequent events deemed important by the examiner-in-charge during the examination.

The examination was limited to a review of company operations and management; claims; marketing, sales and advertising; policyholder service and complaints; grievances and independent review; producer licensing; policy forms and rates; and new business and underwriting.

The report is prepared on an exception basis and comments on those areas of the company's operations where adverse findings were noted.

III. CURRENT EXAMINATION FINDINGS

Claims

The examiners reviewed the company's response to the claims interrogatory. The examiners also reviewed the company's claims administration processes and procedures; administrative services agreement for HDM Corporation that converts paper claims to an EDI file (837 file); procedure for paying interest on delayed claim payments; explanation of benefit (EOB) forms; and claim adjustment (ANSI) codes. The examiners also interviewed the company's claims manager. The company indicated that 93% of claims were processed electronically.

The company used two claims processing systems. Its older legacy system (CLI-OTE) was used for policies written prior to 2010. The company used InsPro for policies written after 2010. The company had a separate claim processing manual for Wisconsin mandated benefits. The company removed claims for Wisconsin mandated benefits from electronic adjudication and reviewed manually. The company paid mandated benefit claims based on the billed amount not on the usual customary and reasonable (UCR) claim payment methodology. The company stated it planned to pay mandated benefit claims based on UCR in the future. At the time of the examination, the company did not have an implementation date for the claim system modification.

The company's audit team performed a daily audit of InsPro and CLI-OTE claims. It ran reports on late claims, claim adjudication summary, state notification letters, state timeliness, and claims pending.

The examiners reviewed a random sample of 50 paid Medicare supplement claims, 50 denied Medicare supplement claims files, and 10 denied skilled nursing claims. The examiners found that the skilled nursing claims were denied correctly based on the denial codes used. The examiners found 22 denied claims in which the company did not initially provide benefit coverage for chiropractic services. The claims were later reprocessed and paid with

interest when necessary. The company stated that in August 2012, a system conversion affected its ability to identify chiropractic claims for processing under the Wisconsin mandate. The company conducted an audit on January 8, 2013, that found 328 claims were impacted by the system conversion. The company established a daily report for all claims that referenced chiropractic codes so that the claims could be manually adjusted. It effectuated full system automation of chiropractic claims on May 12, 2014.

The examiners verified that the company had annually filed the required Medicare supplement insurance benefit appeals report as required by s. 632.84, Wis. Stat. The company reported that it received no benefit appeals in either 2012 or 2013.

Grievances and Independent Review

The examiners reviewed the company's response to the grievance and independent review interrogatory, the company's internal grievance procedures, and independent review procedures.

Section Ins 3.39 (4s), Wis. Adm. Code, provides that Medicare supplement policies are subject to Wisconsin's grievance procedures and independent review requirements related to Wisconsin mandated benefits that apply to Medicare supplement policies. The examiners verified that the company filed its grievance experience reports for calendar years 2012 and 2013 as required by s. 632.83, Wis. Stat., and s. Ins 18.03, Wis. Adm. Code. The company reported that it received zero grievances in either 2012 or 2013.

The examiners reviewed the company's internal process and procedure for training employees on how to respond to inquiries from policyholders regarding the grievance and independent review processes. The examiners found that the company did not have a documented process and procedure in place. The company relied on a policy form for the internal training of its representatives on the Wisconsin grievance and IRO process. The company stated that utilizing the policy form was sufficient for internal training purposes. However, as is referenced later in this examination report regarding the company's failure to

distinguish between a complaint and grievance, the examiners found that the company should institute training regarding grievance, complaints and appeals.

1. **Recommendation:** It is recommended that the company create and institute a training module for its staff about Wisconsin's complaint, appeal, grievance, and independent review requirements, and the reporting requirements related to each of these processes to ensure compliance with ss. 632.83, 632.835, and 632.84, Wis. Stat., and ch. Ins 18, Wis. Adm. Code.

Policyholder Service and Complaints

The examiners reviewed the company's response to the policyholder service and complaints interrogatory and the company's complaint handling policies and procedures and complaint log.

The company indicated it defined a complaint as a written or verbal communication expressing a grievance. Upon review of the complaint sample and the company's internal appeal tracker, the examiners found that the definition was not consistent with the requirements in s. Ins 3.39, Wis. Adm. Code, regarding Medicare supplement policies. The examiners found three complaints in the complaint log that were written complaints received from a Medicare beneficiary that met the definition of a grievance. The examiners found the company did not handle or resolve the correspondence as grievances. The examiners also found that the company did not send acknowledgment letters, invitations to appear before the grievance committee, or send a final decision letter as required by s. Ins 18.03, Wis. Adm. Code.

Sections Ins 3.39 (4) (a) (12) and (4s) (a) (12), Wis. Adm. Code, require that Medicare supplement policies contain a provision describing the review and appeal procedure for denied claims required by s. 632.84, Wis. Stat., and a provision describing any grievance rights required by s. 632.83, Wis. Stat., applicable to Medicare supplement policies. Section Ins 18.01, Wis. Adm. Code, includes definitions of the terms used in s. 632.83, Wis. Stat., and defines a grievance as any dissatisfaction with an insurer that is expressed in writing to the insurer. As referenced earlier in this examination report, the company's annual benefit

summaries filed with OCI indicated it had not received any benefit appeals for the period of review. Likewise, the company's annual grievance reports for the period of review indicated it had received zero grievances.

2. **Recommendation:** It is recommended that the company develop and implement a written procedure, including definitions, to ensure that its grievance procedure is compliant with the provisions of ch. Ins 18, Wis. Adm. Code.
3. **Recommendation:** It is recommended that the company develop and implement a written procedure for the identification of grievances and the reporting of these grievances to OCI on an annual basis as required by s. 632.83, Wis. Stat., and s. Ins 18.06, Wis. Adm. Code.
4. **Recommendation:** It is recommended that the company refile its annual grievance reports of its experience for the years 2013 and 2014 in order to comply with s. 632.83 (2) (c), Wis. Stat.

The examiners reviewed 36 complaints on the company's complaint log, which included complaints received by OCI. OCI's initial correspondence to the company (OCI letter 51-11), instructed the company to contact the complainant within 10 calendar days of receipt of the letter to review the complaint to try to resolve the problem. The examiners found that the company files did not include documentation that the company had complied with the instructions of the OCI letter. The company stated that it would implement a process to contact the complainant within 10 days whether orally or via correspondence to resolve the issue.

5. **Recommendation:** It is recommended that the company develop, document and implement a process to ensure a complainant is contacted within 10 days of receipt of a complaint from OCI as required in OCI's 51-11 letter pursuant to s. 601.42, Wis. Stat.

Marketing, Sales, and Advertising

The examiners reviewed the company's response to the marketing, sales, and advertising interrogatory; its advertising files; and agent training procedures for Medicare supplement. The examiners also interviewed the company's regional vice president, new business director, and company financial officer regarding the company's marketing-related activities.

On April 2, 2014, the company notified OCI that it would no longer be offering Medicare supplement coverage in Wisconsin as of May 5, 2014. The company's parent had introduced a new Medicare supplement policy issued by another of the parent's companies.

The company indicated that it provided agent training by means of sales kits that contain detailed product information given to agents upon appointment. The company also made available webinars, e-mail blasts on products, and other areas of specific interest through its agent Web site. The webinars were led by regional vice presidents who serve as primary trainers. The company's regional vice presidents and the marketing general agents (MGAs) also held one-on-one meetings with agents. The company delegated much of the agent training to the contracted insurance agencies. The MGAs were expected to relay information to their agents and to take responsibility for their agents.

The company indicated that it did not offer leads, but it did have a consumer lead program. Each new Medicare supplement policy issued had a lead card inserted in the policy information kit delivered to the policyholder. If the policyholder filled out the lead card, the lead was given to the writing agent, if still appointed. The company also inserted a flyer into each explanation of benefits (EOB) for policyholders to complete and return to the home office.

The examiners reviewed the company advertisements and also inspected the company advertisement files that the company is required to maintain under s. Ins 3.27 (28), Wis. Adm. Code. The examiners found that the advertisement files were kept in a PDF format on a shared drive with limited access. The advertisements were organized by state and separated into active advertisements and inactive advertisements. The examiners found that most of the 141 advertisements included on its list covering the period of review were not created to induce sales to consumers but were for agent recruitment. The examiners verified that the company had filed the Medicare supplement advertisements required to be filed under s. Ins 3.39 (15), Wis. Adm. Code. The company indicated that it conducted a compliance review annually of active advertisements.

The examiners found that the company had a review process for agent-created advertisements. The company marketing department approved the advertisements for use for three months and monitored for continued compliance.

The examiners reviewed the company's procedures for agent oversight. The company indicated its sales department was responsible for agent oversight. The sales department monitored the agents' books of business and sales on a weekly basis through regular and ad hoc reports. The procedure included a process for identifying potential violations of the ethics code of the company and/or state regulations. The company also had a special investigative unit that was responsible for investigating more serious complaints and issues.

The company did have a Facebook link but it did not appear to have much activity.

No exceptions were noted regarding the marketing review.

Electronic Commerce

The examiners reviewed the company's response to the electronic commerce interrogatory and the company's corporate Web site, <https://www.aetnaseniorproducts.com/>. The company utilized its public Web site for informational purposes and to provide information about the company. The company had a secure portal for agents who were licensed with the company. The company also had a secure portal for policyholders to provide policyholders with in force policies information about their policies and claims.

The company indicated that it had a two-level process for reviewing requests from its licensed agent producers to use the corporate company logo, company name, and/or its products in marketing materials. The second level of the review process included a review by the company's legal and compliance departments.

No exceptions were noted regarding the electronic commerce review.

Policy Forms and Rates

The examiners reviewed the company's response to the policy forms and rates interrogatory and the company's policies, riders, applications, and outline of coverage that were

used or in effect during the period of review. The company's compliance department was responsible for policy form submissions.

Effective July 1, 2008, s. 631.20, Wis. Stat., was amended to allow most policy forms to be submitted to OCI on a file-and-use basis rather than on a prior-approval basis. The statute included an exception to file-and-use for Medicare replacement policies or Medicare supplement policies that continue to be subject to review and approval. Section Ins 6.05, Wis. Adm. Code, requires that all policy forms that are filed with OCI include a certificate of compliance by which the company certifies that the forms were in compliance with all applicable provisions of the Wisconsin insurance laws and regulations.

The examiners reviewed all Medicare supplement form submissions filed with OCI during the period of review. The examiners found for policy form CLIMSP10BC WI that the policy did not contain language regarding coverage for care performed by a nurse practitioner, which is mandated coverage under s. 632.87 (5), Wis. Stat., nor did the policy contain language regarding coverage for cancer clinical trials, which is mandated coverage under s. 632.87 (6), Wis. Stat. The examiners found that the outline of coverage form, CLIMS0486 WI, indicated the policy would not pay for hospice care, which was not consistent with the language in the policy form. The examiner found the rider form PBDR10WI was titled Medicare Part B Copayment Rider. Section Ins 3.39 (5m) (e) 4., Wis. Adm. Code, requires that the rider be called Medicare Part B Deductible Rider.

- 6. Recommendation:** It is recommended that the company file with OCI amendments to the referenced forms and mail to current policyholders the amended language no later than the policyholder's next annual renewal to ensure that its policyholders have accurate policy descriptions to comply with s. 631.20, Wis. Stat., and s. Ins 3.39, Wis. Adm. Code.

The examiners found that the company had used application form CLIMS0533 WI for new business written during the period of review. The application contained the name of a sister company and not the name of the company. The company had not filed the application form for review and approval as required by s. 631.20, Wis. Stat. The examiners also found that

the company could not provide documentation that it had filed its HIPAA authorization form, CL10323, for review and approval by OCI. However, as the company had discontinued marketing its Medicare supplement policies in Wisconsin at the time of the examination, this examination report does not include recommendations regarding these findings.

Producer Licensing

The examiners reviewed the company's response to the producer licensing interrogatory, its agency agreements, and its policies and procedures regarding producer licensing, terminations, and training. The examiners also interviewed the company's regional vice president, new business director, and company financial officer regarding the company's producer licensing and appointment processes.

The examiners requested from the company a listing of all Wisconsin agents that represented the company as of the end of the examination period. The examiners compared the company's agent data with OCI's agent database. The examiners found that 6 agents had appointment dates incorrectly keyed as years 1909 to 1912, instead of the correct licensing dates of years 2009 to 2012. The examiners found 9 agents had not been appointed with the company as required by s. Ins 6.57 (1), Wis. Adm. Code. The company indicated that some of the appointments failed or were rejected during its vendor's submission process. The examiners found that 5 new business applications were submitted and accepted by the company for those agents, which does not comply with s. Ins 6.57 (5), Wis. Adm. Code. The examiners found that 61 agents had an incorrect Wisconsin license number in the company system. The examiners found 5 agents had termination dates that differed from the termination dates in OCI's agent database. The examiners found 99 agents had termination dates reported to OCI over 30 days after the date the producer's appointment was terminated with the company, which does not comply with s. Ins 6.57 (1), Wis. Adm. Code.

7. **Recommendation:** It is recommended that the company reconcile its agent appointment records at the time of receipt of its annual billing from OCI in order to document its efforts to comply with s. Ins 6.57 (1), Wis. Adm. Code.
8. **Recommendation:** It is recommended that the company institute a process to verify agent appointments processed by its vendor complete the transaction processing cycle or are corrected and reprocessed in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.
9. **Recommendation:** It is recommended that the company develop, document and implement procedures to ensure that the company reports all producer terminations to OCI within 30 days of the termination date in order to comply with the requirements of s. Ins 6.57 (2), Wis. Adm. Code.

Section Ins 6.57 (1), Wis. Adm. Code, requires that an application for appointment of a producer be submitted to OCI and entered in the OCI licensing system within 15 days after the earlier of the date the producer contract is executed or the date the first insurance application is submitted. Section Ins 6.57 (5), Wis. Adm. Code, states that no insurer shall accept business directly from any producer or enter into an agency contract with a producer unless that producer is a licensed producer appointed by the company. Section Ins 6.57 (2), Wis. Adm. Code, provides that notice of termination of a producer's appointment shall be filed with OCI prior to, or within 30 calendar days of, the termination date. Termination date means the date on which the insurer effectively severs the agency relationship with its producer and withdraws the producer's authority to represent the company in any capacity.

The examiners reviewed a random sample of 25 agent files for agents with active appointments. The examiners found that 6 files included a copy of the company's welcome letter informing agents that they could write life and/or other health products in addition to a Medicare supplement product on a single Medicare supplement application. OCI records indicate that the application form was filed with OCI and denied on February 1, 2006, due to the multiple products option on the application. The company filed a new application on March 9, 2006, that removed the section for life insurance and additional health insurance. The

company indicated that the welcome letter was a generic letter used for all agents and that it had been discontinued in February 2011.

The examiners found 2 agent files included a company agent contract and company agent reference sheet indicating that the agents were approved to sell products for the company in Wisconsin. However, OCI records did not show the agents as appointed with the company. The company indicated that the appointments failed transaction processing, and it had not reprocessed the appointments. The company indicated that it had accepted one application from the non-appointed agents.

The examiners found 21 agent files that did not contain a copy of the agent's license. The company's appointment procedures stated that all agent files were electronically imaged, included onboarding documents, contracting forms, appointment and termination letters, license copies, and other ancillary documents. The company provided copies of the agent licenses and indicated it would be validating all licenses for agents appointed with the company in Wisconsin.

10. **Recommendation:** It is recommended that the company ensure that it not accept business from or pay commissions to agents that do not have a valid appointment with the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57, Wis. Adm. Code.
11. **Recommendation:** It is recommended that the company either follow its written procedures or change its procedures regarding the materials that it maintains in its agent files.

The examiners reviewed a random sample of 24 agent termination files. The examiners found 13 files contained a termination reason that differed from the termination reason reported to the commissioner, and the termination date reported to the commissioner was also after the termination date listed in the letters. The company stated that it had used one default reason for all terminations because it was terminating agents appointed in multiple states and was unable to use multiple reasons in its vendor's system.

12. **Recommendation:** It is recommended that the company follow the written instructions from the Office of the Commissioner of Insurance regarding the notice of agent termination and use the appropriate termination reason and code in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (2), Wis. Adm. Code.

The examiners found 1 agent termination file in which the agent had not been appointed with the company. The company indicated that it had accepted one application written by the agent. Section Ins 6.57 (5), Wis. Adm. Code, prohibits an insurer from accepting business directly from any intermediary or entering into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

13. **Recommendation:** It is recommended that the company develop, document and implement procedures to ensure that all agents are appointed with the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.

The examiners found 4 agent termination files that did not contain a copy of the agent termination letter. The company stated that although it was its practice to provide the agent written notice prior to or within 15 days of filing the termination notice with the OCI, it could not produce termination letters for the 4 agents from its imaging system. Section Ins 6.57 (2), Wis. Adm. Code, states, in part, notice of termination of appointment of individual intermediary shall be filed prior to or within 30 days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative of the company and he or she may not act as its representative.

14. **Recommendation:** It is recommended that the company develop a process for the periodic monitoring and auditing of its paperless workflow process to ensure that all documents are imaged so that it can document that termination letters complying with s. Ins 6.52, Wis. Adm. Code, are sent, and that it can reproduce documents requested by OCI in order to comply with s. 601.42, Wis. Stat.

The examiners found 2 files in which the agent termination letters were not sent prior to or within 15 calendar days of filing the termination notice. The company stated that the license cancellation was not converted during an administrative system conversion. Section Ins

6.57 (1), Wis. Adm. Code, states, in part, prior to or within 15 days of filing the termination notice, the insurer shall provide the agent written notice that the agent is no longer to be appointed as a representative. This notice shall also include a formal demand for the return of all indicia of agency.

15. **Recommendation:** It is recommended that the company develop a process to ensure that agent termination letters are sent timely and comply with s. Ins 6.57 (1), Wis. Adm. Code.

The examiners found 1 agent termination file in which the company did not terminate the agent's appointment after receiving a revocation notice from OCI. The company acknowledged that it did not process the OCI appointment action notice indicating that the agent's license was revoked and indicated it had taken steps to execute OCI appointment action notices within 24 hours of receipt from OCI. The company indicated it had changed vendors, which would allow the company to be in sync with the OCI database. Section Ins 6.57 (5), Wis. Adm. Code, states, no insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

16. **Recommendation:** It is recommended that the company develop a process to ensure that it processes timely agent license revocation notices from the Office of the Commissioner of Insurance in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.

New Business and Underwriting

The examiners reviewed the company's response to the new business and underwriting interrogatory and the premiums, billing, and refunds interrogatory.

The examiners reviewed the 31 applications the company received from under age 65 applicants. The examiners found that the company declined 18 of the applications, which did not comply with s. Ins 3.39 (4s) (a) 22., Wis. Adm. Code. The company approved 10 applications and 3 were withdrawn. The company stated that starting in November 2013, it stopped declining under age 65 applicants outside of open enrollment. There were 21 of the

applications that were from 2012 and 10 that were from 2013. Section Ins 3.39 (4s) (a) 22., Wis. Adm. Code, states that the insurer may not use an underwriting standard for persons who are under age 65 that is more restrictive than is used for persons age 65 and above.

17. **Recommendation:** It is recommended that the company ensure that its underwriting guidelines for Medicare supplement applicants under age 65 are no more restrictive than for those applicants 65 and above in order to comply with s. Ins 3.39 (4s) (a) 22., Wis. Adm. Code.

The examiners reviewed a random sample of 25 issued Medicare supplement applications. The examiners found 11 files in which the applications used were for form numbers CLIMS0533 WI 061610 and CLIMS01085 WI 110712. The examiners found that the applications had not been filed with OCI. The company stated that form number CLIMS0533WI 061610 had been created when parent company Genworth revised the company logo in June 2010. As the logo was the only thing that had been changed, the form was not filed with OCI. The company further stated that form CLIMS01085 WI 110712 was again revised in November 2012 by Aetna when it updated its company logo on the application. And, again, as only the logo had changed, it had not been filed by the company. Section 631.20 (6), Wis. Stat., states that a form used and not already filed under par (a) on or after August 1, 2008, is exempt from par (a) except for any of the following: (c) a form for a Medicare replacement policy or a Medicare supplement policy.

18. **Recommendation:** It is recommended that the company file all forms that are revised to ensure compliance with s. 631.20 (6), Wis. Stat.

The examiners reviewed a random sample of 25 declined new business applications. The examiners found 1 application file that indicated the application was declined because the applicant did not meet underwriting guidelines. The examiners found that the applicant was losing coverage under a Medicare Advantage plan within 12 months of enrolling in it. The company acknowledged that it had incorrectly underwritten the applicant who was in a guarantee issue timeframe. The examiners found that the company did not have a documented process and procedure to ensure that it did not submit an application eligible for guarantee-

issue to underwriting. Section Ins 3.39 (34) (b) 5. a. and b., Wis. Adm. Code, states that an eligible person who was enrolled under a Medicare supplement policy and terminates enrollment and enrolls for the first time with any Medicare Advantage organization and the enrollment is terminated by the enrollee during any period within the first 12 months of enrollment is allowed guaranteed issue.

19. **Recommendation:** It is recommended that the company develop, document, and implement written procedures to ensure that an applicant eligible for a guarantee-issue policy not be subject to underwriting pursuant to s. Ins 3.39 (34) (b) 5. a. and b., Wis. Adm. Code.

The examiners reviewed a sample of 30 new business replacement applications for the period of review. The examiners found 3 applications were either missing a replacement form or the form was not complete. The company stated that its current underwriting process did not require a completed replacement form if the applicant was disenrolling from a group plan and qualified for guarantee issue rights or the enrollee applied during open enrollment. The company indicated that the underwriting staff would be instructed that all information was to be completed on the replacement form for all underwritten applications prior to issuance of the policy. Section Ins 3.39 (23) c., Wis. Adm. Code, states that upon determining that a sale will involve replacement, an issuer shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of accident and sickness coverage. One copy of the notice signed by the applicant and the agent shall be provided to the applicant and an additional signed copy shall be retained by the issuer.

20. **Recommendation:** It is recommended that the company have a replacement form completed with all submitted Medicare supplement applications to ensure compliance with s. Ins 3.39 (23) c., Wis. Adm. Code.

The examiners reviewed the company's rate increase validation report used to audit rate increases. The company indicated that the report was created daily to validate the rate increase letter and new premium amount. The examiners found that the company processed 995 policyholder rate increases incorrectly in 2012, which resulted in these policyholders being

undercharged. The company indicated that a discrepancy in the company system caused the correct rate to not implement on the accounts, which caused the premium notices to generate with incorrect premium amounts. The company later requested from policyholders the additional premium to complete the 2012 annual premium payment prior to releasing the annual 2013 billing notices. The examiners found that the company's oversight over the implementation of new rates was not adequate in order to ensure that its policyholders were charged correct rates.

21. **Recommendation:** It is recommended that the company implement a documented process and procedure of oversight of the implementation of new rates including periodic monitoring and auditing to ensure that rate increases are correctly applied to its policyholders' policies.

Company Operations and Management

The examiners reviewed the company's response to the company operations and management interrogatory, the company's compliance plan, compliance manual, and the explanation of the process for reviewing and updating the compliance plan documents. The company indicated that, as a subsidiary of Aetna, it followed Aetna's compliance guidelines. It provided a copy of Aetna's code of conduct and explained how the document was used, the training employees were required to take, and how violations of the code of conduct were reported.

The company indicated that each business unit was responsible for self-auditing. The examiners were provided a list of audits done by the various units such as policyholder service, new business, contracting, claims, and the call center. The company assessed risk associated with its vendors using three key areas such as projected expense, operational dependency, and access to customer data. Management annually assigned potential risk exposure to the vendors as high, medium, and low, and reviewed the vendors using such processes as technology and business risk assessment questionnaires, scheduled reporting to monitor contractual service level agreements, periodic contract reviews, and financial reviews of

monthly vendor expense. The company had a disaster plan for all business units which was reviewed annually.

The company indicated it followed its parent company's compliance guidelines and was supported by its parent's corporate law and compliance departments. The company had a dedicated business compliance officer that provided day-to-day compliance oversight and leadership. The company indicated its philosophy about compliance was that all departments, managers, and staff were responsible for compliance, and that no one department was solely responsible.

The examiners found that the company did not exercise adequate oversight of its complaint, appeal, and grievance reporting functions; its producer appointment activities; or its rate increase implementation process.

- 22. Recommendation:** It is recommended that the company develop and document, as part of its company compliance program, a plan for addressing issues relating to complaint, appeal, and grievance reporting; producer appointments; and rate increase implementation to ensure compliance with Wisconsin statutes and regulations.

IV. CONCLUSION

The targeted market conduct examination resulted in 22 recommendations in the areas of claims, producer licensing, grievance and independent review, company operations and management, policy forms and rates, policyholder service and complaints, and underwriting and rating.

V. SUMMARY OF RECOMMENDATIONS

Grievances and Independent Review

- Page 8 1. It is recommended that the company create and institute a training module for its staff about Wisconsin's complaint, appeal, grievance, and independent review requirements, and the reporting requirements related to each of these processes to ensure compliance with ss. 632.83, 632.835, and 632.84, Wis. Stat., and ch. Ins 18, Wis. Adm. Code.

Policyholder Service and Complaints

- Page 9 2. It is recommended that the company develop and implement a written procedure, including definitions, to ensure that its grievance procedure is compliant with the provisions of ch. Ins 18, Wis. Adm. Code.
- Page 9 3. It is recommended that the company develop and implement a written procedure for the identification of grievances and the reporting of these grievances to OCI on an annual basis as required by s. 632.83, Wis. Stat., and s. Ins 18.06, Wis. Adm. Code.
- Page 9 4. It is recommended that the company refile its annual grievance reports of its experience for the years 2013 and 2014 in order to comply with s. 632.83 (2) (c), Wis. Stat.
- Page 9 5. It is recommended that the company develop, document and implement a process to ensure a complainant is contacted within 10 days of receipt of a complaint from OCI as required in OCI's 51-11 letter pursuant to s. 601.42, Wis. Stat.

Policy Forms and Rates

- Page 12 6. It is recommended that the company file with OCI amendments to the referenced forms and mail to current policyholders the amended language no later than the policyholder's next annual renewal to ensure that its policyholders have accurate policy descriptions to comply with s. 631.20, Wis. Stat., and s. Ins 3.39, Wis. Adm. Code.

Producer Licensing

- Page 14 7. It is recommended that the company reconcile its agent appointment records at the time of receipt of its annual billing from OCI in order to document its efforts to comply with s. Ins 6.57 (1), Wis. Adm. Code.
- Page 14 8. It is recommended that the company institute a process to verify agent appointments processed by its vendor complete the transaction processing cycle or are corrected and reprocessed in order to document compliance with s. 628.11, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.
- Page 14 9. It is recommended that the company develop, document and implement procedures to ensure that the company reports all producer terminations to

OCI within 30 days of the termination date in order to comply with the requirements of s. Ins 6.57 (2), Wis. Adm. Code.

- Page 15 10. It is recommended that the company ensure that it not accept business from or pay commissions to agents that do not have a valid appointment with the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57, Wis. Adm. Code.
- Page 15 11. It is recommended that the company either follow its written procedures or change its procedures regarding the materials that it maintains in its agent files.
- Page 16 12. It is recommended that the company follow the written instructions from the Office of the Commissioner of Insurance regarding the notice of agent termination and use the appropriate termination reason and code in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (2), Wis. Adm. Code.
- Page 16 13. It is recommended that the company develop, document and implement procedures to ensure that all agents are appointed with the company in order to comply with s. 628.11, Wis. Stat., and s. Ins 6.57 (1) and (5), Wis. Adm. Code.
- Page 16 14. It is recommended that the company develop a process for the periodic monitoring and auditing of its paperless workflow process to ensure that all documents are imaged so that it can document that termination letters complying with s. Ins 6.52, Wis. Adm. Code, are sent, and that it can reproduce documents requested by OCI in order to comply with s. 601.42, Wis. Stat.
- Page 17 15. It is recommended that the company develop a process to ensure that agent termination letters are sent timely and comply with s. Ins 6.57 (1), Wis. Adm. Code.
- Page 17 16. It is recommended that the company develop a process to ensure that it processes timely agent license revocation notices from the Office of the Commissioner of Insurance in order to comply with s. Ins 6.57 (5), Wis. Adm. Code.

New Business and Underwriting

- Page 18 17. It is recommended that the company ensure that its underwriting guidelines for Medicare supplement applicants under age 65 are no more restrictive than for those applicants 65 and above in order to comply with s. Ins 3.39 (4s) (a) 22., Wis. Adm. Code.
- Page 18 18. It is recommended that the company file all forms that are revised to ensure compliance with s. 631.20 (6), Wis. Stat.
- Page 19 19. It is recommended that the company develop, document, and implement written procedures to ensure that an applicant eligible for a guarantee-issue

policy not be subject to underwriting pursuant to s. Ins 3.39 (34) (b) 5. a. and b., Wis. Adm. Code.

Page 19 20. It is recommended that the company have a replacement form completed with all submitted Medicare supplement applications to ensure compliance with s. Ins 3.39 (23) c., Wis. Adm. Code.

Page 20 21. It is recommended that the company implement a documented process and procedure of oversight of the implementation of new rates including periodic monitoring and auditing to ensure that rate increases are correctly applied to its policyholders' policies.

Company Operations and Management

Page 21 22. It is recommended that the company develop and document, as part of its company compliance program, a plan for addressing issues relating to complaint, appeal, and grievance reporting; producer appointments; and rate increase implementation to ensure compliance with Wisconsin statutes and regulations.

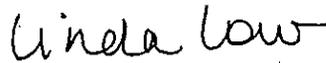
VI. ACKNOWLEDGEMENT

The courtesy and cooperation extended to the examiners during the course of the examination by the officers and employees of the company is acknowledged.

In addition to the undersigned, the following representatives of the Office of the Commissioner of Insurance, State of Wisconsin, participated in the examination.

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Respectfully submitted,



Linda Low, MCM
Examiner-in-Charge