REPORT ON

MARKET CONDUCT EXAMINATION

OF

AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS

AS OF OCTOBER 1, 2010

Conducted from November 28, 2011

Through

October 2, 2012

By

Market Conduct Section

Life and Health Division

BUREAU OF INSURANCE

STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

FEIN: 58-0663085
NAIC: 60380

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I, Jacqueline K. Cunningham, Commissioner of Insurance of the Commonwealth of Virginia, do hereby certify that the annexed copy of the Market Conduct Examination of American Family Life Assurance Company of Columbus, conducted at the State Corporation Commission's Bureau of Insurance in Richmond, VA, as of October 1, 2010, is a true copy of the original Report on file with this Bureau, and also includes a true copy of the Company's response to the findings set forth therein, the Bureau's review letter, the Company's offer of settlement, and the State Corporation Commission's Settlement Order in Case No. INS-2013-00098.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Bureau at the City of Richmond, Virginia this 21st day of August, 2013.

Jacqueline K. Cunningham
Commissioner of Insurance

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I. SCOPE OF EXAMINATION

The Market Conduct Examination of American Family Life Assurance Company of Columbus, (hereinafter referred to as “Aflac"), was conducted under the authority of various sections of the Code of Virginia (hereinafter referred to as “the Code”), and regulations found in the Virginia Administrative Code (hereinafter referred to as “VAC”), including but not necessarily limited to, the following: §§ 38.2-200, 38.2-515, 38.2-614, 38.2-1317, 38.2-1809, and 38.2-3420 of the Code, as well as 14 VAC 5-40-60 B and 14 VAC 5-90-170 A.

The period of time covered for the current examination, generally, was October 1, 2010, through December 31, 2010. The examination was conducted at the office of the State Corporation Commission’s Bureau of Insurance from November 28, 2011, through October 2, 2012. The scope of the examination was limited to Aflac’s group and individual life and accident and sickness lines of business. The violations cited and the comments included in this Report are the opinions of the examiners. The examiners may not have discovered every unacceptable or non-compliant activity in which the company is engaged. Failure to identify, comment on, or criticize specific company practices in Virginia or in other jurisdictions does not constitute acceptance of such practices.

The purpose of the examination was to determine whether Aflac was in compliance with various provisions of the Code and regulations found in the Virginia Administrative Code. Compliance with the following regulations was considered in this examination process:

14 VAC 5-30-10 et seq.	Rules Governing Life Insurance Replacement;

14 VAC 5-40-10 et seq.	Rules Governing Life Insurance and Annuity Marketing Practices;
14 VAC 5-90-10 et seq.	Rules Governing Advertisement of Accident and Sickness Insurance;
14 VAC 5-120-10 et seq.	Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act with Respect to Specified Disease Policies;
14 VAC 5-140-10 et seq.	Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act;
14 VAC 5-170-10 et seq.	Rules Governing Minimum Standards for Medicare Supplement Policies;
14 VAC 5-180-10 et seq.	Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS);
14 VAC 5-400-10 et seq.	Rules Governing Unfair Claim Settlement Practices.

The examination included the following areas:

- Advertising and Marketing Communications
- Policy and Other Forms
- Agents
- Underwriting/Unfair Discrimination/Insurance Information and Privacy Protection Act/Insurance Replacement
- Premium Notices/Reinstatements/Policy Loans and Loan Interest
- Cancellations/Nonrenewals
- Complaints
- Claim Practices

Examples referred to in this Report are keyed to the numbers of the examiners' Review Sheets furnished to Aflac during the course of the examination.

II. COMPANY HISTORY

American Family Life Insurance Company was incorporated on November 17, 1955 as a life and health insurer originally domesticated in Georgia. Operations commenced on April 1, 1956. In 1964, the company name was changed to American Family Life Assurance Company of Columbus. Effective September 16, 1964, American Family Life Insurance Company of Columbus was licensed in Virginia to sell life and accident and sickness insurance. In 1989, American Family Life Assurance Company of Columbus adopted a version of its name using the acronym "Aflac." Aflac redomesticated to Nebraska in December 31, 2001. Effective October 1, 2009, Aflac Inc. acquired Continental American Insurance Company and rebranded the company as Aflac Group Insurance. American Family Life Assurance Company of New York is a wholly-owned subsidiary of Aflac.

Aflac sells supplemental insurance primarily on an individual basis through independent agents with premiums paid through payroll deduction. Supplemental insurance products offered by Aflac include accident, cancer, dental, hospital confinement, hospital indemnity, hospital intensive care, life, long-term care, Medicare supplement, short-term disability, specified health event, and vision. Aflac Inc. operates in the United States and Japan. As of December 31, 2010, Aflac was licensed in 54 states and U.S. territories. In Japan, Aflac is the leading supplemental health insurer where it holds a significant share of the cancer insurance market.

As of December 31, 2010, the total life insurance in force was $3,330,623,746, of which $5,185,466 was the total life insurance in force in Virginia. Direct accident and

health premium totaled $15,523,200,154 of which $130,126,375 was related to Virginia business. Total net admitted assets was $89,523,066,955 as of December 31, 2010.

III. ADVERTISING/MARKETING COMMUNICATIONS

A review was conducted of Aflac's marketing materials to determine compliance with the Unfair Trade Practices Act, specifically §§ 38.2-502, 38.2-503, and 38.2-504 of the Code, as well as 14 VAC 5-40-10 et seq., Rules Governing Life Insurance and Annuity Marketing Practices and 14 VAC 5-90-10 et seq. Rules Governing Advertisement of Accident and Sickness Insurance.

Where this Report cites a violation of this regulation it does not necessarily mean that the advertising/marketing communication has actually misled or deceived any individual to whom the advertising/marketing communication was presented. An advertising/marketing communication may be cited for violations of certain sections of the regulations if it is determined by the Bureau of Insurance that an advertising/marketing communication has the capacity or tendency to mislead or deceive from the overall impression that it may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed and, furthermore for marketing communications, the overall impression that may be reasonably expected to create upon a person of average education or intelligence within such segment of the public. ((14 VAC 5-40-40 and 14 VAC 5-90-50).

14 VAC 5-40-60 B and 14 VAC 5-90-170 A require each insurer to maintain at its home or principal office a complete file of all advertising/marketing communications with a notation indicating the manner and extent of distribution and the form number of any policy referred to in the marketing communication. The review revealed that Aflac was in substantial compliance.

The examiners reviewed a sample of 20 from a total population of 303 advertisements and marketing communications used in the Commonwealth of Virginia during the examination timeframe. In the aggregate, there were 5 violations involving 4 of the marketing materials reviewed.

14 VAC 5-40-40 A 6 states that no marketing communication shall contain statistical information relating to any insurer or any policy unless it accurately reflects recent and relevant facts. The source of any such statistics shall be identified therein. As discussed in Review Sheet AD10, the review revealed 1 violation of this section where the advertisement failed to identify the source of the statistics that supported the statement, “AND WE ALSO HAVE MORE MARKET SHARE THAN THE NEXT FOUR COMPANIES COMBINED.” Aflac agreed with the examiners’ observation.

14 VAC 5-90-55 A states that an invitation to inquire shall contain a provision in the following or substantially similar form: "This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [write] your insurance agent or the company [whichever is applicable]." The review revealed 3 violations of this section. An example is discussed in Review Sheet AD07 where the invitation to inquire failed to contain the required disclosure. Aflac agreed with the examiners’ observation.

14 VAC 5-90-90 C states that the source of any statistics used in an advertisement shall be identified in the advertisement. As discussed in Review Sheet AD10, the review revealed 1 violation of this section where the advertisement did not contain the specific source for the statistic that supported the statement, “…WE HAVE OVER 20X MORE ACCOUNTS THAN OUR CLOSEST COMPETITOR.” This

statement pointed to a footnote that offered its source upon request. Aflac agreed with the examiners' observation.

SUMMARY

Aflac violated 14 VAC 5-40-40 A 6, 14 VAC 5-90-55 A, and 14 VAC 5-90-90 C, placing it in violation of subsection 1 of § 38.2-502 and § 38.2-503 of the Code.

IV. POLICY AND OTHER FORMS

A review was made to determine if Aflac complied with various statutory, regulatory and administrative requirements governing the filing and approval of forms. Section 38.2-316 sets forth the filing and approval requirements for forms and rates that are to be issued or issued for delivery in Virginia.

POLICIES

The examiners reviewed a sample of 87 from a population of 28,432 individual accident and sickness and life insurance policies and a sample of 4 from a population of 70 group accident and sickness and life insurance policies issued during the examination timeframe. The review revealed that Aflac's policies were filed with and approved by the Commission as required.

APPLICATIONS/ENDORSEMENTS

Sections 38.2-316 B and 38.2-316 C 1 of the Code state that no application shall be used with the policy, and no endorsement shall be attached to, printed or stamped upon the policy unless the forms have been filed with and approved by the Commission.

During the underwriting review, the examiners reviewed Aflac's online electronic application process. Electronic applications can be submitted for specific products to include Accident Indemnity, Cancer Indemnity, Hospital Indemnity, Short-Term Disability, and Specified Health Event insurance. The examiners reviewed screen prints of the screens the proposed insured would see during the online process. The process prompts the proposed insured through questions found on the filed and approved application, and provides a PDF copy of the completed application for review prior to acceptance by the proposed insured. The PDF copy is identical to the filed and

approved application. However, as discussed in Review Sheet PF22, the review revealed 1 instance where the questions the proposed insured saw online when applying for Cancer Indemnity Insurance were not identical to the questions on the filed and approved paper application. Specifically, the option for the Return of Premium Rider, the questions related to conversion, and the acknowledgement regarding the Building Benefit Rider are not on the electronic version, but are on the completed PDF. Aflac disagreed stating, "we only show the questions that are applicable to what the applicant is applying for." In that certain questions are omitted from the online application, the form has been altered from its filed and approved form and is; therefore, in violation of §§ 38.2-316 B and 38.2-316 C 1 of the Code.

In addition, as discussed in Review Sheet PF26, the review revealed 10 violations of §§ 38.2-316 B and 38.2-316 C 1 of the Code where Aflac issued an endorsement to the policy that was not filed with and approved by the Commission. Aflac disagreed stating that the form was filed and approved in 1979, and provided a copy of the 1979 endorsement. A side-by-side comparison of the forms revealed that the endorsement discussed in PF26 had been altered from its filed and approved form, including revisions to the form number itself. 14 VAC 5-100-50 3 requires a form to be submitted in the final form in which it is to be marketed or issued. While Aflac responded that the endorsement was approved with a "free-form area" for Aflac's use, the examiners noted additional revisions made to the issued endorsement outside of the "free-form" area. As such, Aflac failed to file the endorsement for approval in its final form, placing Aflac in violation §§ 38.2-316 B and 38.2-316 C 1 of the Code.

Aflac subsequently agreed with the examiners' observations and filed the endorsement for approval by the Commission.

EXPLANATION OF BENEFITS (EOB)

Section 38.2-3407.4 A of the Code requires that each insurer issuing an accident and sickness policy shall file its explanation of benefits forms for approval by the Commission. These explanation of benefit forms shall be subject to the requirements of §38.2-316 of the Code.

Prior to the review, the examiners requested copies of all EOB forms in use during the examination time frame. In response, Aflac indicated that its "EOBs are generated at the time a claim is paid and are specific to each policyholder and claim paid." The examiners reviewed the EOBs issued in connection with each sample paid and denied claim. The review revealed 130 violations of § 38.2-3407.4 A of the Code for failure to file its EOBs for approval prior to use. An example is discussed in Review Sheet CL05ACC where 15 EOBs were not filed with and approved by the Commission prior to use. Aflac agreed with the examiners' observations and indicated that the forms will be filed for approval. At the time of the writing of this Report, the examiners confirmed that Aflac filed its EOB forms with the Commission for approval.

V. AGENTS

The purpose of this review was to determine compliance with various Sections of Title 38.2, Chapter 18 of the Code.

A sample of 20 from a total population of 506 agent and agency appointments was selected for review. In addition, the writing agents or agencies designated in the 140 new business files were also reviewed.

LICENSED AGENT REVIEW

Section 38.2-1822 A of the Code prohibits a person from acting as an agent prior to obtaining a license to transact the business of insurance in the Commonwealth. As discussed in Review Sheet AG07, the review revealed 1 violation of this section where Aflac accepted an application submitted by an unlicensed agent. Aflac agreed with the examiners' observation.

APPOINTED AGENT REVIEW

Section 38.2-1833 A of the Code requires that an insurer, within 30 days of the date of execution of the first application submitted by a licensed but not yet appointed agent, either reject such application or appoint the agent. The review revealed Aflac was in substantial compliance with this section.

Administrative Letters

Administrative Letter 2002-2 was sent to all insurers conducting business in Virginia with the request that insurers insert a separate document in each new agent's packet directing the new agent to be aware of certain administrative letters specifically applicable to licensed agents in Virginia, and advising that a complete listing of these

administrative letters is available on the Bureau of Insurance website. The review revealed that Aflac was in substantial compliance with the Commissioner's request.

Administrative Letter 2002-9 was sent to all insurers conducting business in Virginia with the request that insurers instruct each newly appointed Virginia agent to review this Administrative letter at the BOI website. The review revealed Aflac was in substantial compliance with the Commissioner's request.

COMMISSIONS

Section 38.2-1812 A of the Code prohibits the payment of commission or other valuable consideration to an agent or agency which was not appointed or which was not licensed for the class of insurance involved at the time of the transaction. As discussed in Review Sheet AG07, the review revealed 1 violation of this section. In this instance, Aflac paid commission to an agent that was not licensed. Aflac agreed with the examiners' observation.

TERMINATED AGENT APPOINTMENT REVIEW

Section 38.2-1834 D of the Code requires that an insurer notify the agent within 5 calendar days, and the Commission within 30 calendar days, upon termination of the agent's appointment.

A sample of 15 from a total population of 300 agent and agency terminations processed during the examination time frame was selected for review. As discussed in Review Sheet AG02, the review revealed 1 violation of this section where Aflac failed to notify the agent within 5 calendar days of the appointment termination. Aflac agreed with the examiners' observation.

VI. UNDERWRITING/UNFAIR DISCRIMINATION/INSURANCE INFORMATION AND PRIVACY PROTECTION ACT/INSURANCE REPLACEMENT

The examination included a review of Aflac's underwriting practices to determine compliance with the Unfair Trade Practices Act, §§ 38.2-500 through 38.2-514; the Insurance Information and Privacy Protection Act, §§ 38.2-600 through 38.2-620; 14 VAC 5-30-10 et seq., Rules Governing Life Insurance Replacements; and 14 VAC 5-180-10 et seq., Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome (AIDS).

UNDERWRITING/UNFAIR DISCRIMINATION

The review was made to determine if Aflac's underwriting guidelines were unfairly discriminatory, whether applications were underwritten in accordance with Aflac's guidelines, and whether correct premiums were being charged. The review revealed no evidence of unfair discrimination.

UNDERWRITING REVIEW

Issued

The examiners reviewed a sample of 87 from a total population of 28,432 individual accident and sickness and life insurance policies and a sample of 4 from a total population of 70 group accident and sickness and life insurance policies issued during the examination time frame. The review revealed that the policies were issued in accordance with Aflac's established procedures.

Declined

The examiners reviewed a sample of 25 from a total population of 295 applications for life insurance declined during the examination time frame. The review revealed that Aflac was in substantial compliance with its established procedures. There was no evidence of unfair discrimination.

UNDERWRITING PRACTICES – AIDS

14 VAC 5-180-10 et seq. sets forth rules and procedural requirements that the Commission deems necessary to regulate underwriting practices, policy limitations and exclusions with regard to HIV infection and AIDS. The review revealed that Aflac was in substantial compliance.

MECHANICAL RATING REVIEW

The review revealed that Aflac calculated premium amounts in accordance with its established guidelines.

INSURANCE INFORMATION AND PRIVACY PROTECTION ACT

Title 38.2, Chapter 6 of the Code requires a company to establish standards for collection, use, and disclosure of personal/privileged information gathered in connection with insurance transactions.

NOTICE OF INSURANCE INFORMATION PRACTICES (NIP)

Section 38.2-604 of the Code sets forth the requirements for a NIP, either full or abbreviated, to be provided to all individual applicants and to applicants for group insurance that are individually underwritten. Aflac provided a full and abbreviated NIP form to all applicants that complied with the requirements of this section.

DISCLOSURE AUTHORIZATION FORMS

Section 38.2-606 of the Code sets standards for the content and use of the disclosure authorization forms to be used when collecting personal or privileged information about individuals. The review revealed that Aflac's disclosure authorization forms used in the underwriting of new business and the processing of claims were in substantial compliance.

ADVERSE UNDERWRITING DECISIONS (AUD)

Section 38.2-610 A of the Code requires that, in the event of an adverse underwriting decision, the insurance institution or agent responsible for the decision shall give a written notice in a form approved by the Commission.

The examiners reviewed a sample 25 out of a total population of 295 individual life insurance applications declined during the examination time frame. The review revealed 3 instances in which Aflac declined coverage, yet failed to send an AUD to the applicant, in violation of this section. An example is discussed in Review Sheet UN20a. Aflac agreed with the examiners' observations.

Subsection 1 of § 38.2-502 of the Code states that no person shall make, issue, circulate, cause or knowingly allow to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission, or comparison that misrepresents the benefits, advantages, conditions or terms of any insurance policy.

The review revealed 8 violations of this section. An example is discussed in Review Sheet UN04 where the AUD letter stated that all coverage was excluded when, according to the Exclusion Rider, only a specified condition was excluded for one of the

dependents. Aflac agreed with the examiners' observations and indicated that it was "in the process of redesigning the AUD letter to address this issue."

INSURANCE REPLACEMENT

A review was conducted to determine if Aflac was in compliance with the requirements of 14 VAC 5-30-10 et seq., Rules Governing Life Insurance Replacements; 14 VAC 5-120-10 et seq., Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act with Respect to Specified Disease Policies; and 14 VAC 5-140-10 et seq., Rules Governing the Implementation of the Individual Accident and Sickness Insurance Minimum Standards Act.

The examiners reviewed a sample of 20 life insurance policies and 10 accident and sickness policies which involved the replacement of an existing policy. Insurance replacement procedures, sample letters, and sample forms were also reviewed for compliance with this section.

The review revealed Aflac was in substantial compliance with its established procedures and the requirements of these sections.

VII. PREMIUM NOTICES/REINSTATEMENTS/POLICY LOANS AND LOAN INTEREST

The examiners reviewed Aflac's procedures and practices for processing premium notices, reinstatements and premium loans.

PREMIUM NOTICES

Aflac's procedures state that premium billing and collection may be completed by direct bill, bank draft, credit card or payroll deduction. For direct bill, up to 3 notices may be sent where the first notice is mailed 30 days prior to the due date; the second notice is mailed 15 days after the due date; and the third, which is a lapse notice, is mailed 30 days after the policy due date. Although direct bill policyholders receive a 31-day grace period, premium due is accepted and applied up to 50 days from the premium due date. For bank draft, the policyholder completes an authorization form and selects a draft day from the 1st through the 28th day of the month on which Aflac is authorized to withdraw the premium due. For payment by credit card, premium is automatically charged to the credit card on the premium due date. For payroll deduction, the policyholder must be employed at one of Aflac's established employer payroll accounts. Premium is deducted from the policyholder's paycheck and an invoice is sent to the employer. According to Aflac, a large percentage of its policies are paid through payroll deduction.

Section 38.2-3407.14 of the Code requires an insurer to provide notice of intent to increase premiums by more than 35% and that such notice be provided in writing at least 60 days prior to the proposed renewal of coverage. Aflac informed the examiners that none of its policyholders had premium increases greater than 35% during the examination time frame.

REINSTATEMENTS

Aflac's reinstatement procedure states that reinstatement can be performed on policies which have lapsed due to non-payment of premiums, policies canceled at the policyholder's request, and policies within the reinstatement period. To process the reinstatement, Aflac requires a completed reinstatement form and one modal premium.

A sample of 35 from a total population of 368 reinstatements was selected for review. The review revealed that Aflac was in substantial compliance with its established procedures and policy provisions.

POLICY LOANS AND LOAN INTEREST

Aflac's policy loan procedure states that a Policy Loan Application is required for maximum, net, and premium paying loans. The Automatic Premium Loan option borrows money from the accumulated cash value to pay the premium if the premium remains unpaid after the grace period.

A sample of 12 from a total population of 23 policy loans transactions was selected for review. The review revealed that policy loans and loan interest were calculated and processed in substantial compliance with established procedures and policy provisions.

CASH WITHDRAWALS

Aflac informed the examiners that there were no cash withdrawals on life insurance policies during the examination time frame.

VIII. CANCELLATIONS/NONRENEWALS

The examination included a review of Aflac's cancellation/nonrenewal practices and procedures to determine compliance with its policy provisions and the requirements of § 38.2-508 of the Code covering unfair discrimination.

Cancellations

Aflac's whole life policies that have lapsed due to nonpayment of premium contain provisions to permit the policies to continue in force as extended term insurance until the accumulated cash value is exhausted. Letters are sent to policyholders regarding policy status, available options, and due dates. For policyholders that have requested cancellation, Aflac requires a completed signed form to process the request. For cancelled policies due to nonpayment, cash surrenders, and expired extended term insurance policies, the option to reinstate the policy is offered. Policies that are reduced paid-up have a non-forfeiture option that permits cash surrender of the policy. Extended term insurance policies have a non-forfeiture option that permits reduced paid-up or cash surrender of the policy. For Matured Age at 100, upon reaching an attained age, notice is given that funds will be paid to the policyholder or, if no response is received within 60 days, the funds are paid to the policyholder's state of residence.

Cash Surrenders

Aflac's cash surrender procedures state that a Cash Surrender form must be submitted in order to process the cash surrender. The total population of 5 policies surrendered for cash during the examination time frame was reviewed. The review revealed that Aflac was in substantial compliance with its established procedures and policy provisions.

Extended Term Insurance

Aflac's procedures state that when a policy is placed on extended term insurance, a letter is sent to the policyowner along with an application for reinstatement. The total population of 20 policies placed on extended term insurance were reviewed. The review revealed that Aflac was in substantial compliance with its established procedures and policy provisions.

Terminations

A sample of 75 from a total population of 17,541 life and accident and sickness policies terminated during the examination time frame was selected for review.

As discussed in Review Sheet CN01, the review revealed 1 instance of non-compliance with the terms of the policy. In this instance, the policy contained a Cancellation by Insured provision which stated, "In the event of cancellation, Aflac shall return promptly the unearned portion of any premium paid. The earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the Effective Date of cancellation." Aflac's Policy Remarks screen print indicated that unearned premium was calculated; however, there was no evidence that the unearned premium was returned to the insured. Aflac agreed with the examiners' observation and indicated that the insured will be refunded the amount due with interest and will be provided an explanation. Aflac further indicated that it will communicate and reinforce compliance related to this finding.

IX. COMPLAINTS

Aflac's complaint records were reviewed for compliance with § 38.2-511 of the Code. This section sets forth the requirements for maintaining complete records of complaints to include the number of complaints, the classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. A "complaint" is defined by this section as "any written communication from a policyholder, subscriber or claimant primarily expressing a grievance."

The total population of 3 complaints received during the examination time frame was reviewed. The review revealed that Aflac was in substantial compliance with its established procedures and the requirements of this section.

X. CLAIM PRACTICES

The examination included a review of Aflac's claim practices for compliance with §§ 38.2-510 and 38.2-3115 of the Code, as well as 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

GENERAL HANDLING STUDY

The review consisted of a sampling of closed group and individual life and accident and sickness claims processed during the examination time frame, including accident, cancer, dental, hospital indemnity, hospital intensive care, long-term care, Medicare supplement, short-term disability, specified event and vision insurance claims.

The examiners were furnished with a claims manual containing detailed instructions and procedures for the receipt, handling and payment of claims. Aflac indicated that it does not use outside claim administrators for processing claims and that it processed all claims on one claims processing platform for all lines of business.

PAID CLAIM REVIEW

In the aggregate, a sample of 125 from a total population of 47,622 claims paid during the examination time frame was selected for review.

Life

A sample of 7 from a total population of 14 claims paid during the examination time frame was selected for review. The review revealed that claims were paid in accordance with Aflac's procedures and the terms of the policy.

Accident and Sickness

A sample of 118 from a total population of 47,618 claims paid during the examination time frame was selected for review.

Section 38.2-508 2 of the Code states that no person shall unfairly discriminate or permit any unfair discrimination between individuals of the same class and of essentially the same hazard (iii) in any of the terms or conditions of such policy or contract, or (iv) in any other manner. Aflac's policies include the following provision related to proof of loss:

> "Written proof of loss must be furnished to AFLAC at our worldwide headquarters within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time. However, such proof must be furnished as soon as reasonably possible and in no event (except in the absence of legal capacity) later than 15 months from the time proof is otherwise required."

The review of the sample claims revealed 4 instances where Aflac paid the claim when proof was received more than 15 months after the date of the loss. The claims review did not reveal any instances where Aflac denied a claim when proof of loss was received more than 15 months after the date of loss; therefore, no violations were cited. When this inconsistency was brought to Aflac's attention, Aflac indicated that its written claim procedures would be revised, and it would conduct a claims audit to determine if other claims for Virginia consumers were denied due to receipt of proof of loss more than 15 months from the date of the loss. Following its audit, Aflac reported that no claims were denied during the examination timeframe due to receipt of proof of loss after 15 months.

INTEREST ON CLAIM PROCEEDS

Section 38.2-3407.1 B of the Code states that interest upon claim proceeds shall be computed daily at the legal rate of interest from the date of 15 working days from the

insurer's receipt of proof of loss to the date of claim payment. The review revealed Aflac was in substantial compliance with this section.

TIME PAYMENT STUDY

The time payment study was computed by measuring the time it took Aflac, after receiving the properly executed proof-of-loss, to issue a check for payment. The term "working days" does not include Saturdays, Sundays, or holidays.

Aflac stated that its "goal is to process all claims within 5 business days." Specifically, Aflac stated that it makes every effort to process all clean claims "within 15 days of receipt of all necessary information" for accident and sickness claims and 30 days for life insurance claims.

PAID CLAIMS			
Claim Type	Working Days to Settle	Number of Claims	Percentage
Life	0 – 15	7	100%
	16 – 20	0	0%
	Over 20	0	0%
Accident & Sickness	0 – 15	116	98.3%
	16 – 20	0	0%
	Over 20	2	1.7%

Of the 125 claims reviewed for the time study, 2 (1.7%) were not settled within 15 working days.

DENIED CLAIM REVIEW

In the aggregate, a sample of 60 from a total population of 10,553 claims denied during the examination time frame was selected for review.

Life

A sample of 2 from a total population of 6 individual life claims denied during the examination time frame was selected for review. The review revealed that the claims were processed in accordance with Aflac's procedures and the terms of the policy.

Accident and Sickness

A sample of 58 from a total population of 10,547 claims denied during the examination time frame was selected for review. The review revealed that the claims were processed in accordance with Aflac's procedures and the terms of the policy.

UNFAIR CLAIM SETTLEMENT PRACTICES REVIEW

The total sample of 185 paid and denied claims was also reviewed for compliance with 14 VAC 5-400-10 et seq., Rules Governing Unfair Claim Settlement Practices.

The review was conducted using the date the check was mailed as the settlement date. The areas of non-compliance are discussed in the following paragraphs.

14 VAC 5-400-60 A requires that within 15 working days after receipt of properly executed proofs of loss, the insurer shall advise the claimant of acceptance or denial of the claim by the insurer. 14 VAC 5-400-70 A states that any denial of a claim must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial. 14 VAC 5-400-70 B requires an insurer to include a reasonable explanation

of the basis for the denial of a claim in the written denial.

14 VAC 5-400-60 A and 14 VAC 5-400-70 A – In 1 instance each, a claim was not accepted or denied within 15 working days after proofs of loss were received and Aflac failed to notify the claimant of the denial in writing. As discussed in Review Sheet CL38VIS, Aflac failed to process part of a claim for a vision exam and vision materials. The vision exam portion of the claim was paid, but Aflac failed to advise the insured of the acceptance or denial of the claim for vision materials. Aflac agreed and indicated that it will determine if this was an isolated incident or if its system requires correction.

14 VAC 5-400-70 B – In 6 instances, claims were denied and the written denial letter failed to include a reasonable explanation of the basis for such denial. An example is discussed in Review Sheet CL02ACC where Aflac requested on 09/08/2010 and 09/16/2010, an itemized bill in order to process the claim. Within 28 days from the date of loss, Aflac denied the claim in writing indicating that the claim could not be processed "without the required information" and that the claim "is denied due to insufficient proof of loss." Aflac disagreed stating,

> "Although the letter dated 10/16/10 states that the claim is "denied due to insufficient proof of loss", the claim was closed because we did not receive the requested information. Additionally, the letter informs the insured that if Aflac receives the requested information we will reopen the claim."

The examiners disagreed based on the policy provision regarding proof of loss that states,

> "Written proof of loss must be furnished to AFLAC at our worldwide headquarters within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time. However, such proof must be furnished as soon as reasonably possible and in no event (except in the absence of legal capacity) later than 15 months from the time proof is otherwise required."

Therefore, the denial was in non-compliance with the proof of loss provision and, as a result, Aflac failed to provide a reasonable explanation for the denial of the claim. Although Aflac disagreed with the examiners' observations, Aflac voluntarily revised its denial letter.

Aflac's failure to comply with 14 VAC 5-400-70 B occurred with such frequency as to indicate a general business practice placing Aflac in violation of § 38.2-510 A 14 of the Code.

THREATENED LITIGATION

Aflac informed the examiners that no cases involving litigation related to claims were settled during the examination time frame.

XI. CORRECTIVE ACTION PLAN

Based on the findings stated in this Report, Aflac shall:

1. Review and revise its procedures to ensure that its advertisements are in compliance with 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq., as well as subsection 1 of §38.2-502 and § 38.2-503 of the Code;
2. Review all advertisements available for use and take the necessary actions to bring each into compliance with 14 VAC 5-41-10 et seq. and 14 VAC 5-90-10 et seq., as well as Subsection 1 of § 38.2-502 and § 38.2-503 of the Code;
3. Establish and maintain procedures to ensure that all necessary forms are filed with and approved by the Commission prior to use to include paper and electronic formats, as required by §§ 38.2-316 B and 38.2-316 C 1 of the Code;
4. Establish and maintain procedures to ensure that agents are licensed prior to the acceptance of insurance applications, as required by § 38.2-1822 A of the Code;
5. Establish and maintain procedures for compliance with § 38.2-1812 A of the Code concerning the payment of commission to agents and agencies;
6. Establish and maintain procedures for compliance with § 38.2-1834 D of the Code concerning the notification to agents of appointment termination;
7. Establish and maintain procedures to ensure that notices of adverse underwriting decisions contain the specific reason for the decision or that upon request one may receive the specific reason or reasons in writing, as required by § 38.2-610 A of the Code;

8. Refund the unearned premium discussed in CN01 and provide the insured an explanation and reason for the refund;
9. Establish and maintain procedures to ensure that unearned premium is refunded upon termination of a policy, in accordance with the terms of the policy;
10. Establish and maintain procedures to ensure that the claimant is provided with a reasonable explanation of the basis for the denial of a claim, as required by 14 VAC 5-400-70 B, as well as § 38.2-510 A 14 of the Code;
11. Establish and maintain procedures to ensure that the claimant is notified in writing of the acceptance or denial of a claim by the insurer within 15 working days after proofs of loss were received, as required by 14 VAC 5-400-60 A and 14 VAC 5-400-70 A;
12. Report results to the BOI concerning its audit to determine if a system correction is required related to CL38VIS; and
13. Within 90 days of this Report being finalized, furnish the examiners with documentation that each of the above actions has been completed.

XII. ACKNOWLEDGMENT

The courteous cooperation extended to the examiners by Aflac's officers and employees during the course of this examination is gratefully acknowledged. Melissa Gerachis, FLMI, AIRC, Bill Benson, FLMI, AIE, ACS, Arthur Dodd, MBA, FLMI, MCM, AIE, AIRC, and Laura Klanian of the Bureau of Insurance participated in the work of the examination and writing of the Report.

Respectfully submitted,

Julie Fairbanks, FLMI, AIE, AIRC
Supervisor, Market Conduct Section II
Life and Health Division
Bureau of Insurance

XIII. REVIEW SHEET SUMMARY BY AREA

ADVERTISING
14 VAC 5-40-40 A 6, 1 violation, AD10 14 VAC 5-90-55 A, 3 violations, AD07, AD11, AD14 14 VAC 5-90-90 C, 1 violation, AD10
POLICY FORMS
§§ 38.2-316 B and 38.2-316 C 1, 11 violations, PF22, PF26 (10) § 38.2-3407.4 A, 130 violations, CL04ACC, CL05ACC (15), CL08CAN, CL10CAN (25), CL14DEN (6), CL15DEN (10), CL16GMS (2), CL18GSTD (2), CL20HIC (5), CL21HIP, CL24HIP (14), CL27LTC (9), CL30IMS, CL32IMS (15), CL33LOB (2), CL35SE (6), CL36ISTD (5), CL37VIS (2), CL39VIS (8)
AGENTS
§ 38.2-1812 A, 1, violation, AG07 § 38.2-1822 A, 1, violation, AG07 § 38.2-1834 D, 1 violation, AG02
UNDERWRITING
Subsection 1 of § 38.2-502, 8 violations, UN04, UN05, UN06, UN07, UN08, UN09, UN10, UN11
§ 38.2-610 A, 3 violations, UN02, UN03, UN20a
CLAIM PRACTICES
14 VAC 5-400-60 A, 1 violation, CL38VIS
14 VAC 5-400-70 A, 1 violation, CL38VIS
14 VAC 5-400-70 B, 6 violations, CL01ACC, CL02ACC, CL17GSTD, CL19HIC, CL23HIP, CL26LTC

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

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February 21, 2013

CERTIFIED MAIL 7002 0860 0001 3221 3959
RETURN RECEIPT REQUESTED

Ms. Monica Milner
Manager, Market Conduct/Regulatory Compliance
American Family Life Assurance Company of Columbus
1932 Wynnton Road
Columbus, GA 31999-0001

RE: Market Conduct Examination Report
Exposure Draft

Dear Ms. Milner:

Recently, the Bureau of Insurance conducted a Market Conduct Examination of American Family Life Assurance Company of Columbus (AFLAC), for the period of October 1, 2010, through December 31, 2010. A preliminary draft of the Report is enclosed for your review.

Since it appears from a reading of the Report that there have been violations of Virginia Insurance Laws and Regulations on the part of AFLAC, I would urge you to read the enclosed draft and furnish me with your written response within 30 days of the date of this letter. Please specify in your response those items with which you agree, giving me your intended method of compliance, and those items with which you disagree, giving your specific reasons for disagreement. AFLAC response(s) to the draft Report will be attached to and become part of the final Report.

Once we have received and reviewed your response, we will make any justified revisions to the Report and will then be in a position to determine the appropriate disposition of this matter.

Thank you for your prompt attention to this matter.

Yours truly,

Julie R. Fairbanks, AIE, AIRC, FLMI, ACS
Principal Insurance Market Examiner
Market Conduct Section II
Life and Health Division
Bureau of Insurance
(804) 371-9385

JRF:mhh
Enclosure
cc: Althelia Battle

Monica Milner
Manager, Market Conduct/Regulatory Compliance
Compliance Department

March 21, 2013

Julie Fairbanks
Principal Insurance Market Examiner
Bureau of Insurance
State Corporation Commission
PO Box 1157
Richmond, VA 23218

Re: Market Conduct Examination Report
Exposure Draft Response

Dear Ms. Fairbanks:

This letter is in response to the above mentioned Exposure Draft Report issued by the Commonwealth of Virginia Bureau of Insurance dated February 21, 2013. In the enclosed document, we have provided the Company's official response to each violation. In addition, we have also included, where appropriate, evidence of corrective actions that have already been completed, or the proposed corrective action that will be implemented upon execution of the Final Report.

In light of the minimal policyholder impact associated with the majority of the noted violations, the Company respectfully requests consideration of these facts as the BOI finalizes the revised report. I will be happy to schedule a conference call to discuss those items in more detail if you feel it would be beneficial.

In the interim, please don't hesitate to contact me if you have any questions or concerns, or need additional information.

Sincerely,

Monica Milner

American Family Life Assurance Company of Columbus (Aflac)
Worldwide Headquarters · 1932 Wynnton Road · Columbus, Georgia 31999
706.317.2773 tel ·706.660.7080 fax · mmilner@aflac.com · aflac.com

ADVERTISING/MARKETING COMMUNICATIONS

Violation

1 violation of 14 VAC 5-40-40 A 6, where the advertisement failed to identify the source of the statistics that supported the statement, "AND WE ALSO HAVE MORE MARKET SHARE THAN THE NEXT FOUR COMPANIES COMBINED." (Review Sheet AD10)

Company Response

Aflac agrees with this violation and, as a result, has corrected advertisement M1740R1 (formerly M1740) to include complete sources for statistics. Please see attachment "Revised M1740R1".

**note: no policyholder harm; corrective action implemented*

Violation

3 violations of 14 VAC 5-90-55 A, in which the invitation to inquire failed to contain the required disclosure. (Review Sheets AD07, AD11, AD14)

Company Response

Aflac agrees with these violations and has made the following corrections.

- The disclosure has been added to form M1675R (formerly M1675). Please see attachment "Revised M1675R".
- Form MMC0089B1 is no longer in use.
- The disclosure has been added to page 3 of form A81075B1VA (formerly A81075BVA). Please see attachment "Revised A81075B1VA".

**note: no policyholder harm; corrective action implemented*

Violation

1 violation of 14 VAC 5-90-90 C, where the advertisement did not contain the specific source for the statistic that supported the statement, "…WE HAVE OVER 20X MORE ACCOUNTS THAN OUR CLOSEST COMPETITOR." (Review Sheet AD10)

Company Response

Aflac agrees with this violation and, as a result, has corrected advertisement M1740R1 (formerly M1740) to include complete sources for statistics. Please see attachment "Revised M1740R1".

**note: no policyholder harm; corrective action implemented*

POLICY AND OTHER FORMS

Violation

11 violations of §§ 38.2-316 B and 38.2-316 C 1, which includes 1 violation in which questions the proposed insured saw online when applying for Cancer Indemnity Insurance were not identical to the questions on the filed and approved paper application (Review Sheet PF22). 10 violations of the same regulations for which an endorsement to a policy was issued that was not filed with and approved by the Commission. (Review Sheet PF26)

Company Response

Regarding the electronic application, the Company agrees with these violations and will file the screen shots with the Virginia Commission for approval. In addition, Aflac also concurs with the violations concerning endorsement A-5436 and, as a result, has filed form A5436A26VA for approval and will discontinue the use of form A5436.

**note: no policyholder harm*

Violation

130 violations of § 38.2-3407.4 A, for failure to file EOBs (Explanation of Benefits) for approval prior to use. (Review Sheets CL04ACC, CL05ACC, CL08CAN, CL10CAN, CL14DEN, CL15DEN, CL16GMS, CL18GSTD, CL20HIC, CL21HIP, CL24HIP, CL27LTC, CL30IMS, CL32IMS, CL33LOB, CL35SE, CL36ISTD, CL37VIS, CL39VIS)

Company Response

The Company agrees with this violation and has filed its EOBs for approval with the Virginia Commission.

**note: no policyholder harm – All EOB's previously sent to policyholders contained all information as required by Virginia regulation. Corrective action implemented*

AGENTS

Violation

1 violation of § 38.2-1822 A, where Aflac accepted an application submitted by an unlicensed agent. (Review Sheet AG07)

Company Response

After further research, the Company respectfully disagrees with this violation as the Company did not accept an application from an unlicensed agent. The agent that solicited the application was properly licensed. Please see attachment "policy application".

**note: no policyholder harm*

Violation

1 violation of § 38.2-1812 A, where commission was paid to an agent that was not licensed. (Review Sheet AG07)

Company Response

The Company agrees that an override commission was paid to an unlicensed agent who was in the writing agent's hierarchy. The Company is enhancing the existing system controls to prevent this issue from occurring in the future.

**note: no policyholder harm*

Violation

1 violation of § 38.2-1834 D, where the agent was notified within 5 calendar days of the appointment termination. (Review Sheet AG02)

Company Response

The Company agrees and updated its procedures effective August 6, 2012 to include the requirement of notifying an agent of his or her appointment termination within 5 calendar days. In addition, this scenario will be used as reinforcement training.

**note: no policyholder harm; corrective action implemented*

UNDERWRITING

Violation

3 violations of § 38.2-610 A, in which Aflac declined coverage but failed to send the AUD (Adverse Underwriting Decision) letter to the applicant. (Review Sheets UN02, UN03, UN20a)

Company Response

The Company respectfully disagrees with the violation concerning UN03 as coverage was never declined. The original application was received for two parent family coverage and question 2 was answered "yes" for a child. As the child listed was not eligible for coverage, the application was pended and sent back to the associate to inquire if other children should be covered to ensure the policyholder received appropriate coverage. A corrected application was received for primary and spouse coverage (not Two Parent Family as originally applied for) and the application was then issued with the correct coverage. Consequently, neither a rider nor an AUD letter should have been sent as the coverage was not declined, but rather issued appropriately based upon corrected revised information from the policyholder. However, Aflac agrees with the violation as discussed in UN02 and UN20a. To ensure compliance in the future, the Company will review/update the New Business manuals to ensure steps are clearly documented. In addition, the Company will review systems to identify any edits that may help prevent specialist error, and conduct reinforcement training of the process with New Business specialists to ensure understanding. The Company will also implement a quarterly review to ensure sustained compliance.

Violation

8 violations of subsection 1 of § 38.2-502, in which the AUD letter states that all coverage was excluded when only a specified condition was excluded. (Review Sheets UN04, UN05, UN06, UN07, UN08, UN09, UM10, UN11)

Company Response

The Company agrees that the AUD letter states all coverage was declined, when in fact the policy was issued with an exclusion rider. A new AUD letter has been created and will be filed with the Virginia Commission for approval.

CLAIM PRACTICES

Violation

1 violation of 14 VAC 5-400-60 A, where a claim was not accepted or denied within 15 working days after proofs of loss were received. (Review Sheet CL38VIS)

Company Response

The Company agrees with this violation. After further research, it was determined this was an isolated specialist error, and not due to a system failure. This scenario will be used to conduct reinforcement training. In addition, Aflac will explore system enhancements to ensure this issue does not occur in the future.

Note: corrective action implemented

Violation

1 violation of 14 VAC 5-400-70 A, in which Aflac failed to notify the claimant of the denial in writing. (Review Sheet CL38VIS)

Company Response

The Company agrees with this violation. After further research, it was determined this was an isolated specialist error. This scenario will be used to conduct reinforcement training. In addition, Aflac will explore system enhancements to ensure this issue does not occur in the future.

Note: corrective action implemented

Violation

6 violations of 14 VAC 5-400-70 B, where claims were denied and the written denial letter failed to include a reasonable explanation of the basis for such denial. (Review Sheets CL01ACC, CL02ACC, CL17GSTD, CL19HIC, CL23HIP, CL26LTC)

Company Response

The Company respectfully disagrees with this violation. Although the letter states that the claim is "denied due to insufficient proof of loss", the claim was closed/denied because the requested information was not received. NAIC model law defines Proof of Loss as "written proofs, such as claims forms, medical bills, medical authorizations or other reasonable evidence of the claim that is ordinarily required of all insureds or beneficiaries submitting the claims." The insurer uses the information gained to determine their liability for the loss. When the Company does not receive the necessary information after requested, the claim can not be adjudicated, as the Claims specialist has no basis to determine if benefits are payable. Therefore, the claim is closed/denied. However, the letter advises the insured that Aflac will reopen the claim if the requested information (i.e., proof of loss, as defined above) is received. As an additional service to our policyholders, the Company has voluntarily re-worded the insufficient documentation letter to help reduce any confusion caused by the previous verbiage. Please see attachment "INS letter for Claims".

**note: no policyholder harm*

JACQUELINE K. CUNNINGHAM
COMMISSIONER OF INSURANCE
STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

COMMONWEALTH OF VIRGINIA

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May 16, 2013

CERTIFIED MAIL 7012 2210 0000 4815 3365
RETURN RECEIPT REQUESTED

Monica Milner
Manager, Market Conduct/Regulatory Compliance
Compliance Department
American Family Life Assurance Company of Columbus
1932 Wynnton Road
Columbus, GA 31999-0001

Dear Ms. Milner:

The Bureau of Insurance (BOI) has completed its review of your March 21, 2013, response to the Target Market Conduct Examination Report of American Family Life Assurance Company of Columbus (Aflac), sent with my letter of February 21, 2013.

Your response indicates that Aflac has concerns regarding the writing of the Report. This letter addresses those concerns in the same order as presented in your March 21st response. Since Aflac's response will be attached to the final Report, this response does not address those issues where Aflac indicated agreement and/or action taken as a result of the Report.

Aflac's response letter noted that there was no policyholder harm resulting from most of the violations cited in the Report. While these statements may or may not be accurate, the purpose of a market conduct examination is to determine whether the insurer is operating in compliance with Virginia's statutes and regulations and to recommend corrective action be taken to ensure future compliance. The absence of policyholder harm does not absolve Aflac from its obligation to comply with Virginia's statutes and regulations. Violations of Virginia's statutes and regulations were observed and duly noted in the Report, and will remain in the Report to accurately reflect the examination findings.

Advertising/Marketing Communications

14 VAC 5-40-40 A 6 (AD10) - for failing to identify statistical information relating to the insurer.

The examiners have reviewed the revisions to advertisement M1740R1, and it appears that the advertisement is now in compliance.

14 VAC 5-90-55 A (AD07, AD11, AD124) - for failing to contain the required exclusions and limitations disclosure on an invitation to inquire.

The examiners have reviewed the revisions to advertisements M1675R (formerly M1675) and A81075B1VA (formerly A81075BVA), and it appears that these advertisements are now in compliance. The examiners also acknowledge Aflac's statement that MMC0089B1 is no longer in use.

14 VAC 5-90-90 C for failure to state the source of any statistics used in an advertisement.

The examiners have reviewed the revisions to advertisement M1740R1, and it appears that the advertisement is now in compliance.

Policy Forms

38.2-316 B & C 1 (CL04ACC, CL05ACC, CL08CAN, CL10CAN, CL14DEN, CL15DEN, CL16GMS, CL18GSTD, CL20HIC, CL21HIP, CL24HIP, CL27LTC, CL30IMS, CL32IMS, CL33LOB, CL35SE, CL36ISTD, CL37VIS, CL39VIS) – violation of issuing Explanations of Benefits (EOBs) prior to being filed with and approved by the Commission.

In its response, Aflac indicated agreement with these violations, and noted that it has filed its EOBs for approval with the Commission, and that this corrective action has been implemented. However, BOI records indicate that the filing was withdrawn by Aflac on December 27, 2012 and no additional action has been taken by the Company since that time. Until the EOBs are approved, this corrective action has not been fully implemented.

Agents

38.2-1822 A (AG07) - requires that no insurer shall knowingly permit a person to act as an agent of an insurer prior to obtaining a license to transact the business of insurance.

BOI records indicate that the agent obtained his Life Insurance license effective December 13, 2010, while his October 2009 commission statement indicated that he was paid commission in connection with the sale of a life insurance policy. Section 38.2-1822 A defines what it is to "act as an agent" to include selling, soliciting, or negotiating contracts of insurance or annuity on behalf of an insurer licensed in this Commonwealth or receiving or sharing, directly or indirectly, any commission or other valuable consideration arising from the sale, solicitation, or negotiation of any such contract, or both. In its response, Aflac indicated that it did not accept an insurance application from the unlicensed agent; the agent was in the hierarchy of the soliciting agent and was properly licensed. Based on the definition above, the hierarchical agent received or shared in the commission from the sale of the policy. Therefore, the soliciting agent, as well as any hierarchical agent, is required to be properly licensed.

Underwriting

38.2-610 A (UN03) – in the event of an adverse underwriting decision, the insurance institution or agent responsible for the decision shall give a written notice in a form approved by the Commission.

According to Administrative Letter 2003-06, in the event the approved policy form states that the applicant would not be eligible for stated reasons, an AUD letter is not required. Aflac's approved application form only indicates that "additional underwriting may be required to determine eligibility for coverage", not that any "Yes" answer to Questions 1 through 16 would result in declination of coverage. In this instance, upon receipt by Aflac, the application was pended, not for additional underwriting as the application states, but for the agent to obtain a signed Exclusion Rider at Aflac's request. The Exclusion Rider excluded **all** coverage for the child. There being no other dependent children, the eligibility class changed. Aflac, in its response, considered the exclusion and the resulting eligibility class change to be a "correction" as opposed to a decline in coverage. Since coverage was not issued on the parents and the child as it was originally applied for and the approved application form does not indicate stated reasons or circumstances under which an applicant would not be eligible for coverage, an AUD letter was required to be sent in this instance.

Claims

14 VAC 5-400-70 B (CL01ACC, CL02ACC, CL17GSTD, CL19HIC, CL23HIP, CL26LTC) – requires an insurer to include a reasonable explanation of the basis for the denial in the written denial.

The policy that Aflac issued contains a proof of loss provision that allows the insured 90 days from date of loss to submit the requested information. However, Aflac denied the claims in less than 90 days stating that the claim was "denied due to insufficient proof of loss". This action demonstrates that Aflac was in non-compliance with its policy. It also demonstrates that contrary to the definition of "proof of loss", the denial reason was so broad-based that it failed to provide a reasonable explanation as to indicate what exactly Aflac needed in order to process the claim. Although Aflac disagreed, the BOI acknowledges Aflac's effort to re-word the letter.

No revisions have been made to the Report. Aflac will be required to complete the Corrective Action Plan within 90 days of this Report being finalized.

On the basis of our review of the entire file, it appears that Aflac has violated the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia.

In addition, there were violations of §§ 38.2-316 B, 38.2-316 C 1, 38.2-610 A, 38.2-1812 A, 38.2-1822 A, 38.2-1834 D, and 38.2-3407.4 A of the Code, as well as 14 VAC 5-40-40 A 6, 14 VAC 5-90-55 A, and 14 VAC 5-90-90 C, Rules Governing Life Insurance and Annuity Marketing Practices, and 14 VAC 5-400-60 A, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 B, Rules Governing Unfair Claims Settlement Practices.

Violations of the above sections of the Code can subject Aflac to monetary penalties of up to $5,000 for each violation and the suspension or revocation of its license to transact business in Virginia.

In light of the foregoing, this office will be in further communication with you shortly regarding the appropriate disposition of this matter.

Very truly yours,

Julie R. Fairbanks, AIE, FLMI, AIRC
Supervisor
Market Conduct Section
Life and Health Division
Telephone (804) 371-9385

JRF/

cc: Bob Grissom

Monica Milner
Manager, Market Conduct/Regulatory Compliance
Compliance Department
American Family Life Assurance Company of Columbus
1932 Wynnton Road
Columbus, GA 31999-0001

Althelia P. Battle, FLMI, HIA, AIE, MHP, AIRC, ACS
Deputy Commissioner
Bureau of Insurance
Post Office Box 1157
Richmond, VA 23218

RE: Alleged Violations of the Unfair Trade Practices Act, specifically Subsection 1 of § 38.2-502 and § 38.2-503 of the Code of Virginia. As well as violations of §§ 38.2-316 B, 38.2-316 C 1, 38.2-610 A, 38.2-1812 A, 38.2-1822 A, 38.2-1834 D, and 38.2-3407.4 A of the Code, as well as 14 VAC 5-40-40 A 6, 14 VAC 5-90-55 A, 14 VAC 5-90-90 C, Rules Governing Life Insurance and Annuity Marketing Practices, and 14 VAC 5-400-60 A, 14 VAC 5-400-70 A, 14 VAC 5-400-70 B, Rules Governing Unfair Claims Settlement Practices.

Dear Ms. Battle:

This will acknowledge receipt of your letter dated May 28, 2013, concerning the above-captioned matter.

AFLAC wishes to make a settlement offer for the alleged violations cited above. Enclosed with this letter is a check (certified, cashier's or company) in the amount of $10,000 payable to the Treasurer of Virginia. The Company further understands that as part of the Commission's Order accepting the offer of settlement, it is entitled to a hearing in this matter and waives its right to such a hearing and agrees to comply with the Corrective Action Plan contained in the Target Market Conduct Examination Report as of October 1, 2010.

This offer is being made solely for the purpose of a settlement and does not constitute, nor should it be construed as, an admission of any violation of law.

Yours very truly,

Monica Milner

Company Representative

6/4/2013

Date

Enclosure (check)

COMMONWEALTH OF VIRGINIA 130640100

STATE CORPORATION COMMISSION

AT RICHMOND, JUNE 27, 2013

COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

v.

CASE NO. INS-2013-00098

AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS,
Defendant

SETTLEMENT ORDER

Based on a target market conduct examination performed by the Bureau of Insurance ("Bureau"), it is alleged that American Family Life Assurance Company of Columbus ("Defendant"), duly licensed by the State Corporation Commission ("Commission") to transact the business of insurance in the Commonwealth of Virginia ("Commonwealth"), in certain instances violated §§ 38.2-316 B and 38.2-316 C (1) of the Code of Virginia ("Code") by failing to comply with policy and form filing requirements; violated § 38.2-502 (1) of the Code by misrepresenting the benefits, advantages, conditions or terms of an insurance policy; violated § 38.2-503 of the Code by making, publishing, disseminating, circulating, or placing before the public an advertisement, announcement or statement containing an assertion, representation or statement relating to the business of insurance which was untrue, deceptive or misleading; violated § 38.2-610 A of the Code by failing to accurately provide the required adverse underwriting decision and reasons to insureds; violated § 38.2-1812 A of the Code by paying a commission for services as an agent to a person who was not properly licensed and appointed; violated §§ 38.2-1822 A and 38.2-1834 D of the Code by failing to comply with agent licensing requirements; violated § 38.2-3407.4 A of the Code by failing to comply with explanation of benefits practices; violated 14 VAC 5-40-40 A (6) of the Commission's Rules Governing Life

Insurance and Annuity Marketing Practices ("Rules"), 14 VAC 5-40-10 *et seq.*, by failing to maintain files and record documentation as required by the Commission;[1] violated 14 VAC 5-90-55 A and 14 VAC 5-90-90 C of the Commission's Rules Governing Advertisement of Accident and Sickness Insurance, 14 VAC 5-90-10 *et seq.*, by failing to comply with advertising requirements; and violated 14 VAC 5-400-60 A, 14 VAC 5-400-70 A, and 14 VAC 5-400-70 B of the Commission's Rules Governing Unfair Claim Settlement Practices, 14 VAC 5-400-10 *et seq.*, by failing to properly handle claims with such frequency as to indicate a general business practice.

The Commission is authorized by §§ 38.2-218, 38.2-219, and 38.2-1040 of the Code to impose certain monetary penalties, issue cease and desist orders, and suspend or revoke a defendant's license upon a finding by the Commission, after notice and opportunity to be heard, that a defendant has committed the aforesaid alleged violations.

The Defendant has been advised of its right to a hearing in this matter whereupon the Defendant, without admitting any violation of Virginia law, has made an offer of settlement to the Commission wherein the Defendant has tendered to the Commonwealth the sum of Ten Thousand Dollars ($10,000), waived its right to a hearing, and agreed to comply with the corrective action plan contained in the Target Market Conduct Examination Report as of October 1, 2010.

The Bureau has recommended that the Commission accept the offer of settlement of the Defendant pursuant to the authority granted the Commission in § 12.1-15 of the Code.

[1] The current version of these Rules is found at 14 VAC 5-41-10 *et seq.*

NOW THE COMMISSION, having considered the record herein, the offer of settlement of the Defendant, and the recommendation of the Bureau, is of the opinion that the Defendant's offer should be accepted.

Accordingly, IT IS ORDERED THAT:

(1) The offer of the Defendant in settlement of the matter set forth herein is hereby accepted.

(2) This case is dismissed, and the papers herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Monica Milner, Manager, Market Conduct/Regulatory Compliance, American Family Life Assurance Company of Columbus, 1932 Wynnton Road, Columbus, Georgia 31999-0001; and a copy shall be delivered to the Commission's Office of General Counsel and the Bureau of Insurance in care of Deputy Commissioner Althelia P. Battle.

A True Copy
Teste: Joel H. Peck
Clerk of the
State Corporation Commission