Report of the

# Targeted Market Conduct Examination

for the

# Maine Bureau of Insurance

of the

# Metropolitan Life Insurance Company

NAIC Company # 65978
New York, New York

And

# MetLife Insurance Company of Connecticut

NAIC Company # 87726
Bloomfield, Connecticut

August 10, 2016

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
BUREAU OF INSURANCE
34 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0034

Paul R. LePage
GOVERNOR

Eric A. Cioppa
Superintendent

# ACCEPTANCE OF REPORT OF EXAMINATION

PURSUANT to 24-A M.R.S. § 211 and § 221, I have caused a targeted market conduct examination to be conducted of Metropolitan Life Insurance Company (NAIC Company #65978) and MetLife Insurance Company of Connecticut (NAIC Company #87726), together (The Companies). The report is dated August 10, 2016. The Companies have waived the response time and the opportunity for a hearing as allowed by 24-A M.R.S. § 226 (1)(2).

NOW, THEREFORE, I accept the report of examination and hereby order it placed on file in the Bureau of Insurance as provided for by 24-A M.R.S. § 226 (3).

Dated: 9/9/16

Eric A. Cioppa, Superintendent

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August 10, 2016

Honorable Eric A. Cioppa
Superintendent
Maine Bureau of Insurance
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Augusta, Maine 04333

Dear Superintendent Cioppa:

Pursuant to the authority granted by ME. REV. STAT. tit. 24-A § 221, your instructions, and in accordance with the *NAIC Market Regulation Handbook* ("Handbook"), a targeted market conduct examination has been conducted of the long term disability income insurance claim handling practices of:

**Metropolitan Life Insurance Company** and
**MetLife Insurance Company of Connecticut**
(together, "MetLife" or the "Company")

The report of examination is herewith respectfully submitted.

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## Foreword

This report on the targeted market conduct examination of MetLife is provided pursuant to the Handbook and is made by exception, i.e. it omits discussion of those claim files reviewed during the examination that did not show possible errors.

## Background and Scope of Examination

On September 30, 2013, the Maine Bureau of Insurance initiated a targeted market conduct examination of the long term disability income ("LTD") insurance claim handling practices of the Metropolitan Life Insurance Company ("MLIC") and its affiliated companies writing LTD insurance.[1] This examination was organized into two phases. The first phase involved review of the Company's LTD policy forms, claim administration manuals, claim training manuals, and organizational charts. The second phase of the examination involved the review of sixteen Maine group long-term disability and individual disability income claim files, the selection methodology for which is described in further detail below.

The purpose of the examination was to determine whether MetLife's claim handling practices conformed with the standards reflected in the National Association of Insurance Commissioners ("NAIC") Unfair Methods of Competition and Unfair and Deceptive Acts and Practices in the Business of Insurance Model Act (1972), NAIC Claims Settlement Practices Model Act (1990) (together, the "Model Act"), and more specifically in ME. REV. STAT. ANN. tit. 24-A, c. 23. Initial review of most claim files was conducted by the examiners on a rolling basis between January and April of 2014. Claim and case files for litigated claims were reviewed in June of 2015 when first made available by the Company. In January of 2016, MetLife provided

[1] The Connecticut Insurance Department, the Massachusetts Division of Insurance, the New Jersey Department of Banking & Insurance, and the New York Department of Financial Services also instituted targeted market conduct examinations of MetLife's LTD claim handling practices. The five examinations were conducted simultaneously and on a coordinated basis by the same examiners.

the examiners with a report regarding its efforts to resolve the claims about which the examiners had raised concerns.

## Profile of the Company

At all relevant times, MLIC has been a licensed insurance company domiciled in the State of New York and is authorized to write life and health insurance in the State of Maine. At all relevant times, the MetLife Insurance Company of Connecticut ("MICC") has been a licensed insurance company domiciled in the State of Connecticut and authorized to write life and health insurance in the State of Maine. MLIC and MICC are subsidiaries of MetLife, Inc., which is a Delaware corporation and the insurers' ultimate parent. MLIC and MICC both wrote individual LTD policies in Maine during the examination period while MLIC was the only affiliate of MetLife, Inc. that wrote group LTD coverage in Maine during that time.

The Company's individual LTD claims (whether written under MLIC or MICC policies) are principally administered in MetLife's offices in Tampa, Florida. The Company's group LTD claims are principally administered in three claim offices located in Bloomfield, Connecticut, Oriskany, New York, and Mount Prospect, Illinois. Company personnel in other offices, including field claim representatives, provide LTD claim handling support.

## Claim Selection Methodology

The examiners requested that MetLife provide a comprehensive database including all pending LTD claims as of September 1, 2013 for Maine residents, all LTD claims for Maine residents that were closed in the twelve month period ending September 1, 2013, all LTD claims for Maine residents appealed in the twelve month period ending September 1, 2013, and all litigations closed during the twelve month period ending September 1, 2013 respecting LTD claims for Maine residents. The claims were then divided by category -- closed claims, appealed claims, and litigated claims. The examiners randomly selected thirteen closed LTD claims. The

examiners also selected both appealed LTD claims and the single litigated claim involving a Maine resident. (The selection of claims was limited to LTD claims that were administered by MetLife and were not self-funded by an employer.) If a single file was selected in both categories the examiners selected an additional closed claim. A large number of the files selected were unsuitable for review because they did not involve substantive claims handling.[2] In total, the examiners selected sixteen claims of which ten were suitable for review. Table 1 depicts the distribution of such claims by category for the population, the sample selected, and the files suitable for review.

**Table 1**

| | Population | Files Selected | Files Selected as a Percent of Population | Files Reviewed | Files Reviewed as Percent of Population |
|---|---|---|---|---|---|
| Closed Claims | 25 | 13 | 52% | 8 | 32% |
| Appealed Claims | 2 | 2 | 100% | 2 | 100% |
| Litigated Claims | 1 | 1 | 100% | 1 | 100% |
| Total | 28 | 16 | 57.1% | 11 | 39.2% |

## Examination Results

The examiners' review of MetLife's LTD policy forms, claim administration manuals, claim training manuals, and organizational charts did not raise concerns.

In their initial review of closed and appealed claim files, the examiners identified one or more areas of concern with regard to three of the randomly selected claim files.[3] The examiners provided MetLife with these preliminary results on April 8, 2014, including description of the concerns raised. MetLife responded to these concerns in writing on August 8, 2014. The

[2] To accelerate the claim determination process, MLIC regularly opened claim files on behalf of claimants prior to the claimants' exhaustion of short term disability benefits and the elimination period. Where claimants did not receive LTD benefits for a reason other than the substantive merits of their claim (e.g. returned to work) the files were still classified as closed claims in the database from which the examiners initially selected claims for review. A significant number of the claims selected by the examiners fell within this category and, as they lacked any substantive claims handling activity, were deemed unsuitable for review.

[3] Several of the examiners' concerns did not give rise to potential exceptions. Most notably, where appealed claims were selected for review the examiners were testing the decision on appeal rather than the underlying claim determination. Nevertheless, to encourage a frank dialogue and identify possible patterns or systemic issues, the examiners raised all concerns whether they had the potential to become an exception or not.

examiners provided the Company with reactions to its response on November 3, 2014 and the company replied on March 6, 2015. After considering the Company's responses and replies, the examiners have concerns regarding none of the appealed LTD claims reviewed and two of the closed LTD claims reviewed:

| Claim No. | Concern(s) |
|---|---|
| MEDN01 | *Failure to adequately explain basis for claim denial* – The examiners were concerned that, though the Company's letter denying benefits adequately explained why the claim fell within a benefit limitation, the determination letter failed to explain why the exceptions to the limitation were applicable. |
| MEDN03 | *Failure to conduct adequate investigation* – The examiners were concerned that the Company did not reopen its claim investigation after claimant reported that her attempt to return to work had been unsuccessful. |
| | *Failure to adequately explain basis for claim denial* – The examiners were concerned that the Company did not send a letter advising that the claim had been closed. |

MetLife agreed with one or more of the examiners' concerns in both claims. The Company has taken appropriate remedial action where required.

The Company produced the claim file for litigated claim in all five examinations in March and May of 2014 and the relevant litigation case files in June of 2015. The examiners reviewed these files to identify trends in the disputes reaching litigation and to evaluate compliance with 24-A ME. REV. STAT. ANN. § 2164-D(4) & (5) and similar statutes.[4] The examiners identified no problematic trends and raised no concerns regarding the claim reviewed.

The examiner-asserted error rate in this examination was 20% (two potential errors out of ten relevant files). In comparison, the aggregate examiner-asserted error rate of the Connecticut, Maine, Massachusetts, New Jersey, and New York examinations was 11.7%. (See Table 2).

[4] Considering the small sample size and the fact that litigated claims are adversely rather than randomly selected, the examiners did not review these files for the purpose of determining potential error rates. Litigated claims were not randomly selected so they are not included in the calculation of error rates.

**Table 2**

| | Reviewed Claims | Files Reviewed as Percent of Population | Asserted Errors | Examiner-Asserted Error Rate |
|---|---|---|---|---|
| Closed Claims | 101 | 5.7% | 13 | 12.9% |
| Appealed Claims | 36 | 11.3% | 3 | 8.3% |
| Total | 137 | 6.5% | 16 | 11.7% |

The Handbook establishes a presumption that a claims handling error rate exceeding 7% indicates a general business practice. That threshold is exceeded in this examination but the high rate of examiner-asserted errors for Maine claimants appears to be the result of a small sample size rather than any State-specific problem with MetLife's claim handling practices.[5] The threshold is also exceeded by the aggregate rate observed in the five examinations. Based upon nature and materiality of the issues raised in the claim review as well as the Company's manuals and training materials, however, I do not believe that the presumption is supported in this case.

The examiners' review of claim files did not disclose significant procedural weaknesses. Instead, the vast majority of examiner-asserted errors involved human error -- mistakes in execution, missed details, or faulty inferences. Many of these errors were of minimal economic significance and in several cases they were purely technical (e.g. a correct claims decision that was incompletely explained) and thus had no material impact on the claimant. The examiners do not believe these errors arose from a lack of institutional control. Indeed, review of appealed claims demonstrated the high frequency with which errors were corrected in the ordinary course of business. The actual rate of material and adverse effects on consumers was therefore significantly below the headline error rate of 11.7%.

Further, our review of MetLife procedures and claim decisions reflects the Company's proactive effort to give due consideration to SSDI awards, comorbid conditions, and attending physician opinions. The Company has also adopted best practices regarding outreach to treating

[5] The same teams handling LTD claims filed by residents of Connecticut, Massachusetts, New Jersey, and New York were also responsible for handling claims filed by Maine residents.

providers and escalated internal review in the event of unresolved differences of medical opinion. Further, MetLife has made reasonable use of external medical resources and independent medical examinations where warranted. Consistent application of these practices and procedures was demonstrated in the examiners' review of claim files in all five examinations.

Considering these facts, I do not believe that the Handbook's presumption is supported in this instance.

**Acknowledgment**

The Examiners express their appreciation to MetLife for its cooperation throughout the course of the examination.

**Report Submission**

The report of examination is herewith respectfully submitted.

Sincerely,

J. David Leslie
Examiner-in-Charge

Examiners

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