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STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

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In the Matter of	Hearings Unit Docket No. 14-0187
LEO J. DRISCOLL AND MARY T. DRISCOLL,	APPLICANTS RESPONSE TO OIC STAFF'S MOTION FOR SUMMARY JUDGMENT
APPLICATION FOR HEARING	

Applicant Leo Driscoll respectfully submits this response to OIC Staff's Motion for Summary Judgment and memorandum which seeks dismissal of all Counts of the application filed in these proceedings.

1. When and by What Means was the Premium-Increase Request Approved?

1.1 Fifty one (51) copies of e-mails (***OIC Exhibit 3)*** variously sent or received by various OIC personnel on June 13, 2011, June 22, 2011, and August 17, 2011, provide evidence as to the action and/or inaction of OIC in response to the 41% premium rate increase request submitted to OIC on June 10, 2011 that is here in issue. Those consist of 17 e-mails sent and an additional 34 copies received, which are not arranged or presented in chronological sequence in ***OIC Exhibit 3.***

1.2 For purposes of facilitating ease of reference and communication, and as explained in paragraphs 1.1 to 1.3 of the declaration of the undersigned (***LJD Declaration #1),*** the undersigned has prepared and submitted "cut and paste" true copies of the 17 e-mails sent that are now arranged and numbered #1 to #17 in keeping with the chronological sequence in which they were sent, ***Applicants Exhibit 1.***

1.3 OIC Staff's "Summary" of their memorandum, at page 2, lines 18-19, contends that the June 10, 2011 rate increase request was approved by OIC on June 22, 2011 [citing ***"OIC Exhibit 3:*** *OIC Actuary Staff Emails Regarding Approval, pg. 5"].* However, examination of the OIC e-mails by the undersigned disclosed that OIC approval of the increase was not given in or evidenced by the June 22, 2011 e-mails (i.e., #9 and #10, the only e-mails of that date) or by any of the previous e-mails of June 13, 2011, #1 to #8 inclusive.

1.4 Such e-mails show that OIC first purported to approve the increase on August 17, 2011 by means of the OIC "Disposition" form of that date which OIC Staff'

memorandum in support of the Motion identifies as "*a Disposition approving the rate filing. See RCW 48.19.120(1)*". [1] [Staff memorandum , pg. 25. Lines 3 and 4 ***OIC Exhibit 4)***]. Likewise on August 17, 2011, OIC's actuary Lee Michelson sent an e-mail to five (5) OIC employees stating that "*We are allowing a 41% increase*" of the forms issued by TIAA and the forms issued by T-C Life. *[OIC E=Mail #5, Applicants Exhibit 1].*

1.5 Meanwhile and in any event prior to August 10, 2011, the increase was *deemed approved* by operation of law because OIC did not approve or disapprove the rate increase request within the statutory waiting period allotted for that function. The deemed approval became effective upon the expiration of the thirty (30) day waiting period from and after June 10, 2011, no notice of extension of time for review, approval, or disapproval having been given, all as provided in RCW 48.19.060, or, alternatively, by August 9, 2011, the date of expiration of the sixty (60) day waiting period provided in RCW 48.18.110(2) [see ***LJD Declaration 1,*** paragraphs 1.8 to 1.16].

1.6 Washington appellate courts have not ruled on the effect of *deemed approval* in the context of the RCW 48.19.060(2)(b) and/or RCW 48.18.110(2). In other contexts, however, the finality, efficacy, and stated consequences of deemed approval have been recognized and enforced. For example, see Review Board v. Auburn, 45 Wn. App.363, 725 P.2d 451 (1986) { holding that a boundary review board lost jurisdiction of a request to extend water and sewer service to an area when the request was deemed approved by operation of law due to the board's failure to act upon the request within the applicable statutory time limitation. Also, Norco Construction v. King County, 29 Wn. App. 179, 627 P. 2d 988 (1981) ("When the statutory time within which the legislative body of a political subdivision of the State must act on a preliminary plat has expired without the required action being taken, the applicant then acquires certain vested rights in connection with the plat application.")

1.7 In the context of insurance statutes that appear to be similar to those of WA, the Supreme Court of North Carolina has held that "Operation of the 'deemer' provision can be averted only by the approval or disapproval of the Commissioner within 60 days * * *" Approval or disapproval necessarily contemplates *action* by the Commissioner * * * " See State ex rel. Commissioner of Insurance v. NC Fire Insurance Rating Bureau, 234 S.E 720, 292 N.C. 471 (1977), citing and quoting prior ruling.

1.8. As alleged in paragraph 1.67 of the application, and consistent with the ruling of the North Carolina Supreme Court cited above, any purported action by OIC to affirmatively allow the deficient rate increase request subsequent to the deemed

[1] RCW 48.19.120(1) requires an "order" in instances of disapproval of a request but not if the request is approved.

approval was ineffective, ineffectual, unavailing, bootless, useless, and void ab initio. Summary judgment in favor of OIC Staff is unwarranted on the issue of when and by what means the approval of the premium increase occurred.

2. Did MetLife waive the right to rely upon a *deemed approval* of the increase request?

2.1 RCW 48.19.040(4) obliged MetLife to state an effective date of the proposed rate modification: "(4) Every such filing shall state its proposed effective date". Paragraph 21 of the June 6, 2011 Actuarial Memorandum reads **"21. Proposed Effective Date** The rate increase will apply to policies on their policy anniversary date following at least a 60 day policyholder notification period following approval". Nothing in those words or in the June 6, 2011 Actuarial Memorandum limits the means by which approval of the rate modification be achieved. It does not have any language or provision waiving the right of the insurer to rely upon deemed approval of the rate modification.

2.2 In contending that MetLife waived the right to have its' request for premium-increase "deemed approved" by operation of law [see OIC Staff' "Summary" of their M/S/J at p. 1, lines 24-26 to page 2, line 1), OIC Staff cites "***OIC Exhibit 1:*** *MetLife Premium Rate Schedule Filing, pg.2"* ***(now pg. 2 of 3 of OIC's Amended Exhibit 1)*** i.e., the second page of the 2 page letter dated June 10, 2013, signed by MetLife's Carolyn J. Roth, that submitted the premium-increase proposal to OIC. The only words that MetLife used regarding approval of the increase appearing on the 2nd page of Ms. Roth's letter are these:

"At this time, we are requesting a premium rate increase of 41% of the above listed policy forms series and all associated riders that were issued in your state. No premium rate increase has been previously approved or implemented for these forms. We are submitting an actuarial memorandum and rates in support of our request.

"Notification to Policyholders of Premium Rate Schedule Increase

"<u>After we have obtained approval of the premium-increase request</u>, we intend to provide policyholders with a minimum of 60 days advance written notification prior to the first effective date of the increase. In our written notification we will explain that * * * " [***N.B. <u>Underlining</u> emphasis added to highlight the MetLife's words that OIC must be relying on to establish waiver, none others exist. Omitted from the quote is the detail of the intended 60-day notification to policyholders, none of which detail references approval or waiver].***

2.2 Established case law holds that the existence of an intent to intentionally waive and relinquish a known right must *"clearly appear in order to show a waiver". State ex Rel. Madden vs. Public Utility District,* 83 Wn. 2d 219, 222 (1973) APPEAL DISMISSED,

CERT. DENIED, PUD 1 v. MADDEN, 419 U.S. 808, 42 L. Ed. 2d 33, 95 S. Ct. 20 (1974). Although waiver may be established by proof of an express agreement or implied from the circumstances, the party who asserts the existence of a waiver has the burden of proving it. *Keyes v, Bollinger, 31 Wn. App. 286, 640 P. 2d 107* (1982). As shown below, neither the standard nor burden has not been met by OIC Staff in claiming that MetLife waived the right to have the subject premium-increase request *deemed approved* by operation of law.

2.3 Yet, OIC Staff's M/S/J "SUMMARY", at pg. 1, line 24, to page 2, line 1, states:

"The MetLife rate filing advised that the increase would only be implemented after approval of the Office of the Insurance Commissioner with a 60 day notice to policyholders prior to the first effective date of the rate change. ***See OIC Exhibit 1: MetLife Premium Rate Increase filing, pg. 2.***" **(Underlining emphasis by applicant to highlight restrictive words of limitation appearing in the OIC Staff memorandum but which were not used by MetLife's Carolyn J. Roth in the same or similar context).**

Continuing at lines 1-4 of pg. 2 of its' "SUMMARY" OIC Staff amplifies on the materiality of the restrictive words that were not used by MetLife and that, applicant contends, are not reasonably inferable from words that were used: "As a result, the MetLife rate filing could not take affect without specific approval from the Office of the Insurance Commissioner, effectively waiving its rights to a determination within thirty (30) days." [2]

2.4 RCW 48.19.040(4) obliged MetLife to state an effective date of the proposed rate modification: "(4) Every such filing shall state its proposed effective date". Paragraph 21 of the June 6, 2011 Actuarial Memorandum reads **"21. Proposed Effective Date** The rate increase will apply to policies on their policy anniversary date following at least a 60 day policyholder notification period following approval". Nothing in those words limits the means by which approval of the rate modification is to be achieved; my reading of the June 6, 2011 Actuarial Memorandum reveals that it does not include any language or provision waiving or purporting to waive rights of the insurer accruing from deemed approval of the rate modification request.

2.5 Applicant acknowledges that implementation of the rate increase could only occur after MetLife "obtained approval" of the rate increase request and that implementation would be preceded by at least a 60 day notice from MetLife to policyholders. However it is certain that MetLife did not clearly and intentionally restrict the means by which that approval was to be obtained. In common parlance, the phrase used by Carolyn J. Roth

[2] As explained in applicant's declaration, ***LJD Declaration #1***, MetLife has asserted that LTCI is disability insurance and accordingly that provisions of Ch. 48.19 RCW are inapplicable to such (other than RCW 48.19.010(2), which infers that MetLife likely was of the view that the 30 day waiting provision of RCW 48.19.060(2)(a) was inapplicable and that the 60 day waiting period of RCW 48.18.110(2) was the applicable waiting period.

"After we have obtained approval of the premium-increase request," would not of itself be commonly understood to restrict (much less clearly restrict) the source or means of obtaining that approval.

2.6 Likewise, the commonly understood meaning of "obtain" (root of "obtained") and/or of "approval" do not include such a restriction:

- **"obtain":** Reader's Digest Oxford *Complete Wordfinder* (American edition, © 1999 University Press, Inc., defines word "obtain" to mean *"acquire; secure; have granted to one"*. Synonyms include *"get, procure, come by, come into (the) possession of"*. Also see **Webster's New Dictionary of Synonyms, © 1973 by G. & C. Merriam Co.,** that addresses the comparability of the words '*get*' and '*obtain', as follows: "* ***1, Get, obtain , procure, secure, acquire, gain, win*** *are comparable and often interchangeable when they mean to come into possession of.* ***Get*** *is very general in its meaning and simple and familiar in its use. * * **Obtain** is likewise rather general. It may suggest that the thing sought has been long desired or that it has come into possession only after the expenditure of considerable effort or the lapse of considerable time * * *."*

- The noun "approval" is defined as "**1** the act of approving. **2** an instance of this; consent; ..."*Complete Wordfinder, supra.*

2.7 OIC Staff's Exhibit 4 includes a declaration of OIC actuary Scott Fitzpatrick which in part states:

> *"Carriers desire approval before implementing changes that could be costly to undo if the Commissioner disapproved the rates afterwards."*

2.8 Carriers undoubtedly desire approval by whatever means before implementing changes in rates, which does not evidence that MetLIfe or T-C Cref here clearly and unambiguously waived rights accruing from deemed approval by operation of law.

2.9 Tracking Mr. Fitzgerald's paragraph 14 in relationship to Evidence Rule 406, paragraph 14 does <u>not</u> evidence *"the routine practice of an organization"* (MetLife) that "*is relevant to prove that the conduct of the * * * organization on a particular occasion"* (i.e., the occasion of MetLife's submission of its' June 10, 2011 increase request to OIC) *"was in conformity with the * * * routine practice"* of MetLIfe. Mr. Fitzpatrick's declaration does not say that he has knowledge of MetLife's *"routine practice"* as to waiving or not waiving rights that accrue to the issuer upon deemed approval of a premium rate increase request.

2.10 Instead, his declaration, at paragraph 14, offers evidence of the routine practices and desires of *"carriers"* generally as to *deemed approval* of premium-increase requests. OIC Staff infers thereby that MetLife's June 10, 2011 letter to OIC waived rights of deemed approval " *in conformity with the* * * * *routine practice"* of carriers generally, an unwarranted expansion of the boundaries of Evidence Rule 406. The inference is unfounded and is undeserving of any significant evidentiary weight. See *Washington Practice Series, Evidence Law and Practice, Fifth Edition, by Karl B. Tegland, Vol. 5* , sections 406.4 to 406.6, differentiating between admissibility and required weight neither of which has been shown here.

2.11 That same treatise, at section 406.6, addresses proof of routine practice of an organization: **"Methods of proof.** Rule 406 is silent on the acceptable methods of proving habit or routine practice. " It reports that the proposed (unadopted) federal rule would have permitted proof in the form of opinion or by specific instances of conduct *"sufficient in number to warrant a habit existed or that the practice was routine."* [with footnote as to Wright and Miller discussion of the un-adopted Federal Rule'].

2.12 Mr. Fitzpatrick's paragraph 14 is insufficient to prove the existence of a prevailing and universally observed insurance industry custom that carriers customarily waive rights of deemed approval. BARBEE MILL COMPANY v. THE STATE OF WASHINGTON, 43 Wn.2d 353,356 (1953) : " In Washington Brick, Lime & Sewer Pipe Co. v. Anderson, 176 Wash. 416, 29 P. (2d) 690, we said: "It [custom] must be shown to be uniformly prevalent and universally observed, . . . the evidence to establish custom must be clear and convincing, free from ambiguity, uncertainty or variability. It must be positively established as a fact, and not left to be drawn as an inference from isolated transactions."

2.13 For many years, in numerous and varied settings, legislatures across the land have been responsive to the claimed need for the statutory vehicle of *deemed approval* to fix and to vest rights of applicants who were frustrated by *regulatory inaction* and/or *indecision* in responding to petitions and requests for action by regulators, , e.g., requests for municipal annexations [3], proposals for water service extensions [4], plat proposals [5], petition for incorporation of a city [6], and insurance premium increase requests [7]. The vesting of the statutory right of deemed approval obviously is a valuable right that ordinarily and expectedly would not intentionally be waived without a

[3] Bellevue v. Boundary Review Board, 90 Wn.2d 856, 586 P. 2d 470 (1978)
[4] Review Board v. Auburn,, 45 Wn. App 363 (1986).
[5] Norco Construction v. King County, 29 Wn. App 179, 627 P. 2d 988 (1981)
[6] Hanson v. Spokane County, 53 Wn. App, 723, 770 P.2d 210(1989)
[7] State ex rel. Commissioner of Insurance, v. North Carolina Fire Insurance Rating Bureau, 234 S.E. 2d 720 (1970).

very compelling reason. Expectedly an intended waiver would be un-ambiguous and clearly apparent, such as:

> "Insurer hereby fully and forever waives and foregoes any rights accruing at any time from statutory deemed approval of this rate increase request by operation of law, including any right to assert and/or to rely upon any statute or rule that imposes time limitations on the Insurance Commissioner for completion of his/her review, approval, or disapproval of our request for premium increase that is the subject of this letter.
>
> Approval of this premium increase request must be granted by the Insurance Commissioner or designate and not by operation of law."

2.14 If it is true that insurers commonly waive and forego rights under statutory "deemed approved" provisions, one would reasonably expect to find that extensive paper work exists within OIC addressing the topic of such waiver, to include, for example: (a) training manuals and instructions relating to the legal sufficiency of the waiver; (b) requirements for written and/or electronic acknowledgment by OIC to the insurer(s) confirming the insurer's intent to waive and OIC's reliance upon it.. None of that evidence has been brought forward by OIC.

3. Did MetLife 's submission to OIC include all information required for approval of the increase?

3.1 A central issue of fact is whether the MetLIfe submissions to OIC were or were not sufficient to show affirmatively that the rate increase request complied with the requirements of applicable statutes and regulations. In considering the Motion for Summary Judgment on that issue, it is for the Presiding Officer to determine which laws are applicable by the process if taking *judicial notice* of possibly-applicable laws and regulations, with appropriate consideration of the evidence presented as to that. Although some deference is given to the expertise of the agency as to that, the ultimate determination of applicability of laws is a judicial function as required by the separation of powers provisions of our state and federal constitutions.

3.1 The MetLife submissions to OIC are found in OIC Tracking file #230615, a finite cache of 82 pages of writings that were submitted to OIC electronically by MetLife. The details and full extent of the pages of those that OIC Staff and/or applicants deem to be relevant to the application and/or the Motion consist of those that are in ***OIC Amended Exhibit 1, OIC Exhibit 2;*** and ***Applicants Exhibit 4*** that is identified and submitted with ***LJD Declaration #1.***

3.2 . The declarations of OIC's Scott Fitzpatrick (included in **OIC Exhibit 4** and of applicant Leo Driscoll (***LJD Declaration #1)*** evidence their respective conflicting views as to what those submissions did or did not show regarding the requisite sufficiency or insufficiency of the MetLife submissions in relation to applicable laws and regulations.

3.3 ***LJD Declaration #1,*** in paragraphs 3.1 to 3.20 thereof, evidences that the MetLife submissions to OIC did not include all information required by applicable laws and regulations for OIC approval of the requested increase for the series LTC.04(WA) policy forms, including the information required by RCW 48.19.030(3); RCW 48.19.040(2) and (3); WAC 284-60-040(1) and (5); WAC 284-60-050(5), WAC 284-60-070 [and/or the Ch. 384-54 counterparts of those listed Ch. 284-60 WAC provisions that in general mirror the listed Ch. 284-60 provisions].

3.4 ***LJD Declaration #1***, at paragraphs 3.1 to 3.20, controverts the opinions of OIC's Scott Fitzpatrick stated in paragraphs 11, 18, and 19 of his declaration in **OIC Exhibit 4.**

3.5 The "actuarial calculations" in Exhibits I, II, and III of the June 6, 2011 Actuarial Memorandum that Mr. Fitzpatrick references in paragraph 18 of his declaration are not secret or opaque symbols known only or decipherable only by professionally-qualified members of his profession and specialty - - rather, they are words and data that are understandable to persons of average intelligence who read the "English" language, including the undersigned. Exhibits I, II, and III do not state or convey what Mr. Fitzpatrick says they do in paragraph 18 of his declaration.

3.6 Objective, detailed review of legible copies of Exhibits I, II, and III (***Applicants Exhibit 4)*** a will disclose That those Exhibits (a) solely and exclusively address the *"Nationwide"* past and projected loss experience for the LTC.02, LTC.03, LTC.04 policy forms combined, and (b) do not specify or identify the past or projected loss ratio experience singularly of any or all of those three (3) policy forms or the **Washington** experience of any of them.

3.7 Objective review of the statutes and regulations cited by the undersigned in **the *LJD Declaration #1,* at paragraphs 3.1 to 3.20 inclusive** thereof, will confirm the applicability of those statutes and regulations to the subject rate increase request.

4 Demand(s) for hearing time-barred by RCW 48.04.010(3), WAC 284-02-070(1)(b)(ii), or the APA?

4.1 **OIC** Staff"'s memorandum in support of the Motion, at pages 13 and 15, contends that the "demand" for hearing [8] is untimely and time-barred by RCW 48.04.010 (3),

[8] OIC Staff's memorandum does not state whether the time challenge relates to Count 1 only or also applies to Counts 3 and 4. Regardless, as will be shown, the demands for hearing were not untimely.as to any of those counts.

and/or by WAC 284-02-070(1)(b)(ii), both of which require that a person aggrieved by an *order* of the commissioner must demand a hearing within 90 days after receiving notice of such *order*.

4.2 Applicants are not persons aggrieved by an order of the commissioner; rather, they are persons "aggrieved by . . . failure of the commissioner to act" within the meaning of RCW 48.04.010(b), as specified in paragraphs 5 D and 5 E of their amended Demand for hearing.

4.3 As to the WA APA, in adopting Ch. 34.05 RCW the legislature deliberately opted to exclude "agency inaction" or failure to act in the definition of "agency action", RCW 34.05.010(3). Professor William E. Andersen explains why in his law review article, *"The 1988 Washington Administrative Procedures Act – An Introduction"*, Vol. 64, Washington Law Review, 761 (1989) At pp. 844-845, Andersen addresses *agency inaction*, and states that *"The original Task Force proposals were patterned after the Model Act approach"*, which included "*inaction*" within the definition of *agency action;* however, based on the concerns of WA state agencies, *"the legislature left inaction out of the definition of agency action", see* RCW 34.05.010(c).

4.4 Consistent with that legislative choice, the legislature likewise did not include agency "inaction " or "failure to act" in RCW 48.04.010(3). The time limitations of that subsection for demanding a hearing apply only to persons aggrieved by an agency *order*. Likewise the WAC 284-02-070 (1)(b)(ii) ninety day time restrictions for demanding a hearing applies only as to a person aggrieved by an *order* of the commissioner.

4.5 The purported "order" upon which OIC Staff relies, the August 17, 2011 Disposition documentation that purportedly approved the rate increase [included in ***OIC Exhibit 4]***, was a nullity, as alleged in application paragraph 1.67. It was issued too-late, not until August 17, 2011; the preceding deemed approval by operation of law had previously occurred and was an absolute bar and legal impediment to the validity of the August 17 "order" - - in the same way that a valid, existing marriage of two people is an absolute bar and legal impediment to the validity of a 2nd purported "marriage" by one of them .

4.6 Applicants are persons aggrieved by *"failure of the commissioner to act"* within the meaning of RCW 48.04.010(1)(b) because *"such failure is deemed an act under any provision of this code"*, in that each such alleged failure is a failure of duty that arises under the insurance code or regulations adopted thereunder.

4.7 RCW 48.04.010(1) and(1)(b) in their applicable parts read together says:
" * * * The commissioner shall hold a hearing: * * *(b) * * * upon written demand for a

hearing made by any person aggrieved by any * * * failure of the commissioner to act, if such failure is deemed an act under any provision of this code , * * *. " No time limitation is specified for that written demand.

4.8 The contention made at page 5, lines 13-21 of the OIC Staff memorandum that RCW 48.04.010 (3), and/or WAC 284-02-070(1)(b)(ii) constitute ninety (90) day time limits on an application by an aggrieved party under RCW 48.19.120(3) is inconsistent with the purposes of that statute. Furthermore, in the instant circumstances, the approval of the increase was not by "order" the Commissioner but was deemed to be approved by operation of law; thus the time limitations RCW 48.04.010 (3), and/or by WAC 284-02-070(1)(b)(ii) are inapplicable to Count 4 of the application.

4.9 No WA statutory or regulatory time limitations existed for applicants to present their grievances and demands for hearing of Counts 1, 3, or 4.

5 Is the loss ratio of the series LTC.04(WA) policy forms excessive even as of now? Has OIC Staff shown that the increased rates are not "excessive, inadequate, or discriminatory?

5.1 In paragraph 20 of his declaration, Mr. Fitzpatrick states that he has concern that the "products" currently-occurring loss ratio with the increased rates may be too-high. That concern is based on the June 10, 2011 submissions of the three policy forms combined and aggregated on a nationwide basis and which did not include the necessary information required by applicable laws and regulations to support the increase. ***LJD Declaration #1***, paragraphs 3.1 to 3.20.

5.2 In paragraph 21 of his declaration, Mr. Fitzpatrick affirms "*the approval of the MetLife rate filing because the rate filing was not excessive, inadequate, or discriminatory as defined by the relevant insurance statutes and rules*". RCW 48.19.020 mandates that *"Premium rates for insurance shall not be excessive , inadequate, or discriminatory".* WA statutes and regulations do not define the meaning of "excessive" and/"or inadequate". RCW 48.84.030(1) authorizes adoption of rules "requiring reasonable benefits in relation to the premiums charged" for LTCI which rules "may include but are not limited to establishment of reasonable loss ratios..."

5.3 WAC 284-60-050(1) specifies that benefits shall be deemed to be reasonable in relation to premiums if the overall loss ratio is at least sixty (60) percent over a calculating period chosen by the insurer and satisfactory to the commissioner.

5.4 The February 2002 study commissioned by AARP entitled "Long-Term Care Insurance: An Assessment of States' Capacities to Regulate Rates" by **The Lewin**

Group, at page 3, states: "Loss-ratios, which appear to have been adopted for use from health insurance regulations [citation omitted] is an imperfect tool for assessing whether a LTCI policy is appropriately priced, because of the prefunded nature of the product". Selected excerpts of that study are included in ***Applicants Exhibit #11.***

5.5 A second excerpt from p.3 of the same study reads in part: "Several actuaries interviewed by The Lewin Group as part of another study noted that the variation in the loss ratio over time adds a considerable amount of uncertainty to the process of setting rates and creates the ability to manipulate loss ratios by altering key actuarial pricing assumptions, such as interest rates." [Footnote citation to a 1996 study omitted here]

5.6 An additional excerpt from p. 15 of the same study, reads in part: *"Few states have criteria to determine whether a policy is underpriced and the vast majority of states rely solely or mostly on the use of loss ratios to determine if a policy is overpriced or a rate increase is justified. As we argued in the introduction, loss ratios are an imperfect measure of the accuracy of premiums. Recent changes to NAIC standards , which de-emphasize the use of loss ratios as a good measure of policy value, validate this concern."* **Id.**

5.7 Nonetheless, loss ratio is Washington state's imperfect method for determining reasonableness, excessiveness, or adequacy of premiums of LTCI policies issued prior to January 1, 2009. The factual issues of whether there exists basis to determine that the current increased rates are reasonable in relation to premiums charged and/or that they are excessive or inadequate, are matters as to which there is genuine dispute [compare declaration of Scott Fitzgerald, paragraph 21 and ***LJD Declaration #1,*** paragraphs 3.1 to 3.20].

5.8 Applicants respectfully submit that no one other than MetLife and/or T-C Life has knowledge or information as to the past or prospective loss ratio **Washington** experience of the series LTC.04(WA) policy forms or even of the **nationwide** past and prospective loss ratio experience of the series LTC.04 policy forms. Unless and until that undisclosed information is submitted to OIC by MetLife and/or by T-C Life (updated to or near the time of that submission), it is pre-mature and speculative for anyone to opine as to whether the increased premium rates for such forms are or are not excessive, inadequate, or non-discriminatory.

6 Laches Cannot Be Used as an Affirmative Defense to Bar a Constitutional Challenge

6.1 Applicants application in this matter was filed September 19, 2014, less than three years after notice of the rate increase was received by either of applicants and/or the later- date of implementation of the increase, August 1, 2012.

6.2 OIC Staff"s memorandum in support of their Motion, at pg. 3, states that "*Some Washington policy holders may now be relying on their policy for long-term care coverage in 2014; others may now be relying on the stability of their policy and policy premium.*"

6.3 Count 1 of the application consists of as-applied constitutional challenges under the due process and non-delegation of legislative powers clauses of our state and federal constitutions. Laches cannot be interposed to bar a constitutional claim. *Automotive United Trades Organization v. State,* 175 Wn. 2d 537 (2012) holds that an as-applied constitutional challenge to a tax under the Uniform Declaratory Judgment Act ("UDJA") initiated 22 years after imposition of the tax. The Washington Supreme Court ruled: :"Even if AUTO and Tower waited 22 years to bring their lawsuit, the reasonable time and laches doctrines still cannot be used as affirmative defenses to bar a constitutional challenge." [The Court identified the several rationales for that ruling].

6.4 OIC Staff cannot successfully contend that OIC was prejudiced by delay in the filing of the demands for hearing of Counts 3 and 4 which seek prospective relief from the deemed approval. In the North Carolina decision previously cited, *State ex rel. Commissioner of Insurance v, NC Fire Insurance Rating Bureau*, 235 S.E. 2nd 720 (1977), the court addressed the issue of refund of premiums collected under a "deemer" approval. The court held that "Premiums lawfully collected, pursuant to such filing, are not subject to refund even though the filing be subsequently disapproved by the Commissioner ". The prospective relief sought by Counts 3 and 4 does not include refund of premiums previously exacted.

7 Lack of standing/not aggrieved per APA, RCW 48.04.010(1)-(8), and/or RCW 48.19.120?

7.1 Standing Under the WA APA

7.1-a. At pg, 16 to 18 of their memorandum in support of the Motion, OIC Staff contends that applicants are not aggrieved by the rate filing and thus do not have standing to demand a hearing under the WA APA (and/or case law construing it) to assert their constitutional rights under Count 1 OIC Staff points to "three conditions" or qualifications needed to be an aggrieved person that are specified in RCW 34.05.530, which " *three conditions were derived from federal case law",*

TRADES COUNCIL v. TRAINING COUNCIL, 129 Wn.2d 787, 793, 920 P.2d 581 (1996), to-wit:

> "." RCW 34.05.530. A person is so aggrieved or adversely affected when:
>
> (1) The agency action has prejudiced or is likely to prejudice that person;
>
> (2) That person's asserted interests are among those that the agency was required to consider when it engaged in the agency action challenged; and
>
> (3) A judgment in favor of that person would substantially eliminate or redress the prejudice to that person caused or likely to be caused by the agency action,

Continuing (after a footnote here omitted) the Trades Council court explains: "The first and third conditions are often called the injury-in-fact requirement, and the second condition is known as the "zone of interest" test. Id. Not only are these particular provisions drawn largely from federal case law, the APA expressly states the Legislature's intent that "courts should interpret provisions of this chapter consistently with decisions of other courts interpreting similar provisions of . . . the federal government . . . ." RCW 34.05.001.

7.1-b. The term "agency action" is a pivotal term in the 1st and 2nd conditions of RCW 34.05.530. As previously stated in section **4.3** above,

". . .in adopting Ch. 34.05 RCW, the legislature deliberately opted to not include agency inaction or failure to act in the definition of "agency action", RCW 34.05.010(3). Professor William E. Andersen explains why in his law review article, *"The 1988 Washington Administrative Procedures Act – An Introduction"*, Vol. 64, Washington Law Review, 761 (1989) At pp. 844-845, Andersen addresses *agency inaction,* and states that *"The original Task Force proposals were patterned after the Model Act approach"*, which included "*inaction*" within the definition of *agency action;* however, based on the concerns of WA state agencies, *"the legislature left inaction out of the definition of agency action", see* RCW 34.05.010(c).

(1) That legislative departure was not mentioned in the Trades Council decision obviously because 'agency action' was the operative factor under review in that case. Conversely here, agency inaction (failure to act) is the operative factor under review, as specified in the application and in the amended demand for hearing. The formulation of the "three conditions" (qualification) for standing set forth in the *Trades Council* decision is inapplicable to examine applicants standing to make the demands for hearing of Counts 1, 3, and 4, all of which are based on the same agency inaction.

(2) Conversely, the federal administrative procedures act, at 5 U.S.C 701(2) . provides that the term "agency action" has the meaning given to it by section 551 of title 5, which at subsection (3) states that " *"agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act."*

(3) Professor Andersen's article, at 844-845, *"c. Review of Agency Inaction"*, states in part: *". . . the legislature left inaction out of the definition of agency action. Nevertheless, much agency inaction remains subject to judicial review under the new Act."* The article identifies provisions of the WA APA providing for judicial review, including RCW 34.05.570(4)(b) which provides for review on limited grounds of a petition for judicial review sought by a person whose rights are violated by an agency's failure to perform a duty, as here.

7.2 Standing as Persons Aggrieved Under RCW 48.04.010 and RCW 48.19.120

7.2-a. Applicant's amended demand for hearing conforms to the requirements of RCW 48.04.010(2). Paragraph 5-D of the demand specifies "in what respects" applicant and spouse are aggrieved by the alleged failures of OIC to act, and paragraph 5- E of the demand specifies the grounds to be relied upon as a basis for relief to be demanded at the hearing

7.2-b. OIC Staff' contends that applicant and spouse are not aggrieved by the alleged failures and deprivations because they had the right to choose between Hobson-like options, each financially detrimental to them. [9], that partly lessen the magnitude of the deprivations imposed upon them as compared to having no options. N.B.: The state and federal constitutions protect all significant property interests and not just those of a stated minimum value or more.

7.2-c OIC Staff's memorandum in support of the Motion, at p.20, cites *Pain Diagnostics and Rehabilitation Center v. Brockman,* 97 Wn. App. 691, 697 (1999), which in its' analysis observed that " In creating the insurance regulatory scheme, the Legislature and the insurance commissioner did not intend to provide protection or remedies for individual interests; they only intended to create a mechanism for regulating the insurance industry. Escalante v. Sentry Ins., 49 Wn. App. 375, 389, 743 P.2d 832 (1987), review denied, 109 Wn.2d 1025 (1988)."

7.2-d The *Brockman* decision held that the plaintiff-assignee of an insured could not maintain a negligence action against the insurer based of violation of its'

[9] See Application, paragraphs 1.13 to 1.15 inclusive.

statutory duties of good faith and could not assert a direct claim against the insurer under the Consumer Protection Act for violation of the duty of good faith.

7.2-e *Escalante,* cited by the *Brockman* court, involved a claim for a single violation (rather than frequent violations) of RCW 48.30.010 and of related insurance regulations there under review. As to the purpose and intent of those particular laws, the *Escalante* court stated "A reading of RCW 48.30.010 and the relevant WAC regulations in isolation suggests that in creating this regulatory scheme the Legislature and the Insurance Commissioner did not intend to provide protection or remedies for individual interests, but rather only intended to create a regulatory mechanism for the Insurance Commissioner."

7.2-f RCW 48.30.010 and the insurance regulations pertaining to it that were at issue in *Escalante* are not present here. Nor are issues of the insurers negligence based upon alleged violation of its' statutory duty of good faith present here. Neither the *Brockman* court nor the *Escalante* court considered or addressed the factual and/or legal issues, laws, and/or regulations that are the subject matter of Counts 1, 3, and/or 4. The purpose and intent of the laws and regulations that are applicable here was not considered or addressed in those decisions. *Escalante* and of *Brockman* are not apposite here and reliance upon either of them is misplaced in the circumstances of this case.

7.2-g Unlike the circumstances at hand, neither *Brockman* nor *Escalante* involved constitutional due process and/or unlawful delegation of legislative powers issues nor did either involve agency inaction or the statutory duties of the Commissioner that are of concern here. Those cases do not provide basis for dismissal of Counts 1,2, or 3 of the application.

7.2-h. Applicants did not come here as members of the public seeking to vindicate the interests of the public at large as to the process and effects of deemed approval of the rate increase; rather, applicants are here as policyholders of the subject policies who are personally aggrieved and adversely affected by the deemed approval of the increase and it is on that basis that standing exists. See *Insurance Rate Litigation,* Judith K. Mintel, © Kluwer-Nijhoff Publishing Co, at page 83-85, summarizing cases addressing ***"Standing to Seek Judicial Review",*** Including Thaler v. Stern, 44 Misc. 2d 278, 253 N.Y.S, 2d 622 (1964). Mintel states at pg, 83: *"In most instances, courts have allowed standing to any organization or person to challenge a commissioner's rate decisions when it is established that the plaintiff has purchased insurance from the company seeking the rate change."*

7.2-i Paragraphs 1.13 to 1.15 of the application, each based on personal knowledge (pkoa), identify our grievances in the nature of past and ongoing adverse financial impacts arising from the process, the rate increase, and the Hobson-like options in

the notice of increase. Yet, OIC Staff minimalizes those deprivations and blandly argues in their memorandum:

- *"However, policyholders are not required to obtain insurance nor are they required to pay the changed rate, rather policyholders remain free to contract. In this instance, policyholders were even offered a number of options to avoid the impact of the rate increase."* [pg. 17, lines 17 – 20]; *"Buyers are free to stop paying premiums, purchase other insurance, or decline coverage"* [pg. 20, lines 19-20].

7.2-j It is true that our grievances could be greater in magnitude than they are; true that we could have elected to forego continued coverage; true that we were not obliged to pay the changed rate (we could have elected to suffer the consequences of not doing so): true that we remain free to contract (except that insurers do not issue LTCI policies to folks of our age and health status); true that we were offered three options to deal with the impact of the rate increase but none that were not financially detrimental to us (see application, paragraphs 1.13 to 1,15 . None of that alters the undeniable fact that we have been and are being aggrieved by, adversely affected by, the financial impacts imposed upon us and resulting from failures and other grounds for grievance that are specified in our amended demand for hearing of Counts 1, 3, & 4.

7.3 Application Under RCW 48.19.120(2) Made Timely & in Good Faith?

7.3.1 OIC Staff's memorandum at pg, 19, lines 1-6 contends that applicants have not timely submitted the Count 4 application for hearing under RCW 48.19.120(3), have not "submitted any evidence that contests the actuarial findings" or evidence that the rates were inaccurately projected by analysts , and, thus, that the Commissioner cannot find that applicants are in good faith in seeking a hearing under RCW 48.19.120(3).

7.3.2 RCW 48.19.120(3) provides in relevant part: " 3) Any person aggrieved with respect to any filing then in effect * * * may make written application to the commissioner for a hearing thereon. The application shall specify the grounds to be relied upon by the applicant. If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding the hearing, he or she shall, within thirty days after receipt of the application, hold a hearing as required in subsection (1) of this section."

7.3.3 Timeliness: The statute does not impose time restriction on when such an application may be made but only that it be made "with respect to any filing then in effect", which of course presupposes that the filing has been in effect previously for a period of undefined duration.

7.3.4 The amended demand for hearing appropriately" specify the grounds to be relied upon by the applicant" and together with the allegations of paragraphs 4.1 to 4.3 of the application, provides the basis for a finding by the Commissioner " that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding the hearing."

7.3.5 Subsection (3) do not require the applicant to offer evidence at the time of making the application; rather, It calls upon the commissioner to find whether "the applicant would be so aggrieved if his or her grounds are established...". Nonetheless, the information provided in ***Applicants Exhibit 4, and LJD Declaration #1*** at paragraphs 3.2 to 3.20 thereof, and the applicable statutes and regulations of which the Presiding Officer should take judicial notice, controvert the evidence cited and relied upon by OIC Staff.

8 Inapplicability of RCW 48.19.310, its' timeline for appeal, and its' procedural safeguards

8.1 At pages 16, 18, 21, and 22 of their memorandum, OIC Staff erroneously contends in effect that the grievances of applicant are based on the insurer's rating system that is applicable to the insurance and that applicants have not timely filed request for review thereof as provided in RCW 48.19.310, which provides that:

> "Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his or her authorized representative, on his or her written request to review the manner in which such rating system has been applied in connection with the insurance afforded him or her. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his or her application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon notice to the appellant and to the rating organization or insurer, may affirm or reverse such action."

8.2 However, the rating system utilized by the issuer of the series LTC.04(WA) LTCI policy forms in respect to issuing and/or implementing such forms, and/or fixing rates therefor, is not and cannot be the basis of applicants' grievances and demand for hearing. That is because applicants have no grievance arising from application of the insurer's rating system as to age, sex, health history, or other differentiating rating factor(s) in respect to the "*insurance afforded him or her*" . Accordingly, applicants cannot responsibly make non-grievance the subject of a request for review by the insurer - - or

thereafter (other than in fantasy) - - "*proceed in the same manner as if it* [the request to review the non-grievance] *had been rejected"* , i.e., *"appeal to the commissioner" "within thirty days"* thereafter.

8.3 The basis for applicants' grievances and demand for hearing are the OIC failures, the constitutional violations, and other grounds set forth in Counts I, 3 and 4 as stated in the amended demand for hearing. RCW 48.19.310 and its' 30-day timeline for making request for review do not apply to applicants' grievances.

8.4 Inasmuch as the notice and hearing process provided under RCW 48.19.310 does not apply to the grievances of applicants, that process does not provide procedural safeguards that protect applicants constitutionally protected property interests that are the subject of Counts 1, 3 and 4, contrary to the contentions made at pages 21-22 of OIC Staff"s memorandum.

9 .Would insolvency of the pool result or reserves be impaired by any order that negates the deemed approval?

9.1 OIC Staff's memorandum, at pg.18, lines 13 to 16, contends that "*. . . any order that would reverse the approved rate filing would only drive the product closer to insolvency, violating WAC 284-83-230(6) which requires that loss-ratios must provide for future reserves, and must account for the maintenance of such reserves for future needs."*

OIC Staff thus contends that an order negating a deemed approval is never, ever justified in any circumstances, even if unconstitutionally achieved, regardless of the terms and conditions of the order.

9.2 The cited WAC 284-83-230(6) in part provides: "(6) A request for a rate increase submitted during the calculating period must include a comparison of the actual to the expected loss ratios, a demonstration of any contributions to and support from the reserves, and must account for the maintenance of such reserves for future needs."

Given that the Ch. 284-83 WA provisions apply to LTCI policies issued on or after January 1, 2009 and that the series LTC.04(WA) policies were all issued before that, presumably OIC Staff's intent was to cite WAC 284-60-050(6) which is identical to the WAC cited except for the word "shall" instead of 'must', twice used in the first sentence.

9.3 In envisioning a hypothetical order negating the deemed approval of the increase and granting other relief based on its unconstitutionality and lack of foundation, applicant rightly envisions that the Presiding Officer would be guided by considerations of reasonableness, equity, fairness, practicality, and of avoiding unjust results, including

determination of whether refunds are required or not. Doomsday predictions by anyone are unwarranted; instead it is reasonable to envision that replacement rates would proposed by the insurer based on a submission that complies with all applicable WA laws and regulations, including those applicable to reserves and maintenance of such reserves for future needs, all of which would be subject to OIC review and approval.

10. Were constitutionally- protected property Interests created?

10.1 OIC Staff's memorandum, pg, 18-22, contends that constitutionally protected rights were not created by the WA Insurance Code and or regulations and that such do not otherwise exist. Paragraphs 1.68 to 1.69.2 of the application specify provisions of the contract that create constitutionally protected property interests of applicants. Paragraphs 1.75 to 1.75.3 specify the then-existing laws and regulations that impliedly became part of the contract, the applicability of which are not challenged by the Motion.

10.2 *Conard v. University of Washington,* 119 Wn.2d 519, 834 P. 2d 17 (1992) ruled that property interests protected by the due process provision may be created by state laws and regulatory provisions through the following means and ways:

> "Protected interests also may be created if there are statutes or other rules which contain "'substantive predicates'" or "'particularized standards or criteria . . .'" to guide the discretion of decisionmakers and which contain "'explicitly mandatory language,' i.e., specific directives to the decisionmaker that if the regulations' substantive predicates are present, a particular outcome must follow . . .". (Citations omitted.) Kentucky Dep't of Corrections v. Thompson, 490 U.S. 454, 462-63, 104 L. Ed. 2d 506, 109 S. Ct. 1904 (1989). Although Thompson involved a liberty interest, the above test has been applied in various contexts to determine if protected property interests have been created ."
> **(Cases cited by the *Conard* court in support of the last sentence above are omitted here)**

10.3 Paragraph 1.75 to 1.81 of the application identify or reference provisions of Ch. 48.18 RCW, Ch. 48.19 RCW, and of the Ch. 284-60 WAC regulations that meet the foregoing criteria for creating property interests that are protected by the due process provisions of the state and federal constitutions, and/or that direct the outcome of disapproval of the 41% increase request submitted by MetLife to OIC for the LTC.04(WA) policy forms. Furthermore, the WA insurance laws and regulations satisfy both prongs of the Thompson formulation for creating constitutionally protected property interests of applicant and spouse in such policy forms.

10.4 At page 20 of their memorandum, OIC Staff again relies upon *Pain Diagnostics v. Brockman* , 97 Wn. 691(1999) in the context of Staff's contention that the insurance code does not give rise to constitutionally protected property rights.

10.5 The *Brockman* court did not address or consider constitutional due process or the *Thompson* principles quoted above, nor did it address the implied dependency and essential reliance that LTCI policyholders like applicants have upon:

(a) The insurance policy terms, including the provision thereof that gives the insurer only a limited, impliedly-conditional right to increase premiums (i.e., impliedly-conditioned on approval of the proposed increase, either affirmatively by OIC or by operation of law);

(b) The applicable WA statutes and/or regulations which mandate that the commissioner review and approve or disapprove any proposed increase in such premiums and do so within the limited time allotted by the legislature for such functions lest the proposed increase be deemed approved by operation of law;

(c) The WA statutes that require that such premiums not be excessive, inadequate, and non-discriminatory, with benefits that are reasonable in relation to premiums;

(d) The sufficiency or insufficiency of information (submitted to OIC by or on behalf of the insurer who seeks an increase in premiums) needed by OIC to determine whether the proposed increase submission to OIC complies with all applicable laws and regulations, including without limitation submission of information as to the Washington loss ratio experience of the insurer with the policy forms.

10.6 *Brockman* used broad language as to the purposes of the insurance code but did not address (and the case did not involve) the specific statutes and regulations upon which applicants rely for creation of property interests. *Brockman* did not address or purport to address the principles of *Thompson* that are cited above, *Brockman's* unnecessary breadth of language does not provide a solid foundation on which to make a dispositive ruling in the differing circumstances of this case.

11. Did applicants fail to timely exercise procedures available for hearing their grievances?

11.1 At page 22 , lines 9 to 20, of their memorandum, OIC Staff contends that *"After receiving notice [of the increase], aggrieved parties can request a hearing pursuant to RCW 48.04.010 or RCW 48.19.310"* and that *"Petitioners simply failed to avail themselves of the protections provided under Washington law and are now barred from arguing any related claim due to a lack of standing and the untimely submission of Demand for Hearing."*

11.2 Paragraphs **7-2-a to j** above address applicants' standing as aggrieved persons under RCW 48.04.010. Paragraphs **8.1 to 8.4** above address their contention that applicants are not aggrieved by the "rating system of RCW 48.19.310 and, thus, that it is not applicable to applicants' grievances.

11.3 It is applicants' position that RCW 48.19.310 is totally inapplicable to applicants' grievances, that applicants could not avail themselves of those inapplicable procedures and were under no obligation to attempt to do so.

11.4 RCW 48.04.010 does not include a stated time limit for applicants, as persons who are aggrieved by the commissioner's inaction [failures to act], to make a demand for hearing under such statute in respect to failures that are acts under provisions of the Insurance Code, as have been identified in the application and in applicants' amended demand for hearing filed in these proceeding. The contention that an time limit for applicants to make demand for hearing pursuant to RCW 48.04.010 was applicable is erroneous.

12. An unconstitutional taking of private property for public use is not alleged or an issue here

12.1 At pages 22-23 of their memorandum, OIC Staff discusses unconstitutional taking of private property for public use without just compensation. Applicants have not alleged any such unconstitutional taking by the state; it is not an issue for adjudication in these proceedings.

13. Commissioner has authority to hear Count 2 and to order limited relief; "blanket" order not requested

13.1 Count 2 seeks hearing and an order from the Commissioner requiring T-C Life, the insurer, to provide to applicants specified documentary information pertaining to the rate increase, which information was duly requested of T-C Life under RCW 48.19.300, and which was later separately requested of T-C Life, as a matter of good faith and fairness in keeping with duties of such insurer owing under RCW 48.01.030 and under applicable case law.

13.2 At page 25, lines 13-15, of their memorandum in support of the Motion, OIC Staff contends that ". . .*the Office of Insurance Commissioner does not conduct adjudications between insurers and insureds.*" Insurers will be interested to learn of that; it signals that the Commissioner is toothless and unauthorized to require insurers to comply with their duties owing under the Insurance Code, a signal that is inconsistent, however, with the past practices and published notices of the agency.

13.3 The Commissioner routinely has exercised authority to address and consider complaints made by insureds against their insurer and issues orders to insurers in connection therewith. See the OIC website which includes this information and invitation to insureds: "If you have a problem with your insurance company, the OIC can require it to explain its actions and make sure it followed Washington state laws and your policy." "The OIC investigates complaints against agents, agencies and other insurance licensees. When appropriate we take action, such as imposing fines and suspending or revoking a license."

13.4 OIC also publishes and includes a complaint form on its' website, which form includes space for an insured to provide "Policyholder Information" and advises insureds and the public: "Please use this form to submit a complaint about an insurance company. You can also submit a complaint online at: www.insurance.wa.gov". Also included on the OIC website is this entry: "The Washington state Office of the Insurance Commissioner protects insurance consumers and oversees the insurance industry. We make sure insurance companies follow the rules and people get the coverage they've paid for. " .

13.5 OIC Staff cites *Pain Diagnostics v. Brockman, supra,* in support of their contention that a breach of the insurer's duty of good faith *"cannot be litigated under the insurance code and regulations"* and *"must be brought under the CPA."* Applicants seek a limited order from the Commissioner directing the insurer to furnish the requested documents as required by RCW 48.19.300 and/or otherwise required by duties of good faith and fair dealing in matters of insurance. The *Brockman* decision did not address RCW 48.19.300; its' overly-broad language relied upon by OIC Staff was unnecessary to its' holding and is inapposite to Count 2.

13.6 OIC Staff memorandum, at pg. 26, lines 12-21, errs in stating that applicants have made a blanket request for documents from the insurer. The documents initially requested were specified (see paragraph 2,2 of the application); some were provided but others were omitted; Count 2 seeks an order directing the insurer to provide the specified documents which were omitted, which documents are specified in ***Applicants Exhibit #5*** submitted with ***LJD Declaration #2***..

Conclusion

The undersigned respectfully requests that the Presiding Officer deny the motion for summary judgment in its entirety, grant the applicants' demands for hearing of Counts 1, 3 and 4 and the request for hearing of Count 2, and enter an order providing for an

additional pre-hearing conference to expedite the hearing, including discovery and agreements as to facts as to which there is no significant dispute, and for involvement of MetLife and T-C Life to whom the undersigned has provided notice of these proceedings.

Respectfully submitted, December 15, 2014.

Leo J. Driscoll
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Spokane, WA 99223
(509) 747 7468

App

Office of The Insurance Commissioner
Hearings Unit, Docket No. 14-0187

"LJD Declaration #1"

The undersigned Leo J. Driscoll hereby declares: I am more than 18 years of age. This declaration is made and based on my personal knowledge. I am competent to testify to the matters stated herein. This declaration relates to the subject matter of the application dated September 15, 2014 (received by the Hearings Unit September 19, 2014) that I submitted to the Washington State Insurance Commissioner seeking adjudicative proceedings as to four (4) related counts, now pending in the Hearings Unit, Docket No. 14-0187.

1. Matters relating to when and by what means the rate increase was approved

1.1 The items that OIC Staff has included in ***OIC Exhibit 3*** are copies of OIC e-mails that were produced by OIC in response to my July 7, 2014 public record requests made of OIC, ***Applicants Exhibit 2*** that requested production of all *records "made by any OIC representative in the course of OIC review , or as a result of OIC review, of the [subject] premium increase request . . "* OIC's response included 51 internal OIC e-mail items , 17 of which were originating e-mails from OIC staff senders and 34 duplicates thereof that variously were received by the designated named addressee(s) and copy recipients within OIC. ***OIC Exhibit 3*** consists of a copy of each of those 51 items; they are not chronologically arranged by date in the sequence in which they were sent and are not individually numbered for identification..

1.2 In responding to the pending Motion of OIC Staff, I find that the multiplicity of those documents and the lack of a chronologically-ordered presentation of them unduly impedes my ability to readily access, study, and effectively communicate regarding those e-mails.

1.3 ***Applicants Exhibit 1*** submitted herewith consists of my "cut and paste" copies of the 17 originating e-mails, presented in chronological order and sequence in which each was sent and labeled #1 to #17 respectively to facilitate ease of reference to each. The labelling numbers are assigned in the sequential order in which each was sent. The exhibit does not include 34 duplicates of those 17 that were variously received by addressees. ***Applicants Exhibit 1*** fully and accurately includes all and only the information that appears in the corresponding e-mails of ***OIC Exhibit 1***. Following is my summary of the review of those e-mails that I have made to determine what the OIC

e-mails say or don't say about OIC approval or disapproval of the premium increase request, and/or as to OIC action or inaction in respect thereto:

1.4 E-mails #1, #2, and #3 are communications among and between OIC actuaries Lee Michelson and Lee Barclay; #4 to #8 are between Michelson, Barclay and OIC"s Beth Berendt. #11 to #14 are between Michelson and OIC's Mike Bryant. #15 and #16 are between Michelson and Bryant. #17 is from Michelson to five named OIC employees. A list of employees of OIC in 2011 that I found and visited on-line in November 2014 appears at:

http://data.spokesman.com/salaries/state/2012/348-office-of-insurance-commissioner/

That list includes the names and OIC job titles of OIC employees Elizabeth L Berendt, Deputy Insurance Commissioner; David L Barclay Actuary 4; and H. Lee Michelson, Actuary 2 (with Barclay listed as then being the highest compensated employee at OIC), presumably the same individuals of near-similar names as are referenced in the OIC e-mails that are under review here. I did not find the name of Michael (or Mike) Bryant on the list but in #11 he identifies the title of his position with OIC as "Insurance Policy & Compliance Analyst" and indicates that he has attained a "JD"(commonly used abbreviation for 'doctor of laws').

1.5 OIC e-mails #1 to #8 were sent on June 13, 2011. E-mail #1, from Michelson to Barclay, states in substance and effect that OIC has received three (3) premium rate increase filings which the filing company [identified as 'Met"] *'wants us to consider together";* that *"The supporting exhibits are the same aggregate exhibits in all the filings. The policies are similar and the actuary considers the aggregation appropriate.*"; that the filings disclose the total number of LTCI policies issued nationwide by TIAA and by T-C Life as well as the combined number of policies of the two companies in force in WA; however, that "*The filings do not break down the Washington number by issuing company." * * * 'The aggregate experience exhibit supports the requested rate increase.* ***I am willing to file the rate increase unless you think that we need more detailed information."*** *(bold emphasis mine).*

1.6 The aggregated experience exhibit (the June 6, 2011 Actuarial Memorandum) submitted in support of the rate increase disclosed the aggregated "*Nationwide"* past and projected loss ratio experience of the three (3) policy forms, two (2) of which had been issued by TIAA, and the 3rd by T-C Life. Michelson's e-mail #1 did not inform Barclay that the information submitted by MetLife to OIC in support of the rate increase made no disclosure whatsoever as to *Washington state* experience singularly; only nationwide experience of the three forms combined and aggregated

was provided, That omission of WA state expereience was not disclosed or discussed in any of e-mails #1 to #17 inclusive.

1.7 In response to Michelson's #1, Barclay in #2 simply asked: *"Do you consider the aggregation appropriate?"* Replying in #3: Michelson says *"Yes, they are successive policy forms with only minor changes. WAC 284-60-040(10 [sic] supports aggregating them"*. By #4, Barclay requested guidance from Deputy Commissioner Berendt, which request gave rise to questions by Berendt (posed in #5 and #7) as to the acceptability of combining experiences of different companies (parent and subsidiary companies) for purposes of the increase. In #6 and #8 Michelson provided his explanation of reasons justifying combining of experiences of the two (2) companies. In #6 he states: *"If we want a breakdown by company, we can ask for one"* and reiterates that fact in #8. My review of the ensuing #9 to #17 inclusive e-mails reflects that the breakdown by issuers was never requested by OIC of MetLife.

1.8 The OIC Staff "Summary" of their memorandum states at pg. 2, lines18-19: *"The rate increase was approved on June 22, 2011. See* ***OIC Exhibit 3:*** *OIC Actuary Staff Emails Regarding Approval, pg. 5"*. That page includes the e-mails dated June 22, 2011 that I have numbered #9 and #10 and are the only e-mails of that date that OIC has provided. In #9, Berendt advised Barclay (with copy to Michelson) "OK to proceed" and nothing more. It did not say or reasonably infer the rate increase request was approved by Berendt. It likwly *infers* that Berendt was satisfied with (or acquiesced in) Michelson's explanation as to the legitimacy of combining the experiences of the two companies and that it was permissible for the two actuaries to continue performing their respective duties relating to the requests.

1.9 By e-mail #10, dated June 22, Michelson informed Berendt and Barclay: *"I have referred these filings to Mike Bryant for review of the nonforfeiture provisions"*. [1] The e-mail does not say or reasonably infer that Michelson has approved the rate increase. The words used reasonably infer that Michelson's wanted assurance from Bryant that the proposed nonforfeiture benefit provisions (specified at pg. 2 of *OIC Exhibit 1* that were being offered to policyholders as part of the rate increase request comported with applicable legal requirements and were consonant with the rate increase request .

1.10 No evidence has been presented by OIC Staff to applicants that the rate increase was conditionally approved by Michelson subject to or contingent upon later approval of the nonforfeiture provisions. No evidence has been presented of

[1] E-mail #11 shows that it was sent to Michelson by "Michael Bryant, JD (Insurance Policy & Compliance Analyst, OIC".

communication between Bryant and Michelson relative to the June 22 referral (subject of #10) until August 17, 2011 when Bryant and Michelson exchanged e-mails #11 to #14, which e-mails are reasonably interpreted as follows:

1.11 E-mail #11, sent by Bryant to Michelson, relates to one of the three MetLife rate filings but not to the filing here under review; #11 expressly identifies and relates to SERFF META #127151572. The SERFF META number assigned to the filing under review is #127150316. See ***OIC Exhibit 4,*** *page 1.* Michelson's receipt of #11 prompted Michelson to reply in #12 "*What about the Teacher's and TIAA-CREF filings administered by Metropolitan?*" - - i.e., Michelson's realization that Bryant has not responded to the June 22 referral. Bryant, responding, asks in #13 "*Are those rate filings ready to go? If so, I will approve the forms.*" - - to which Michelson replied in #14 "*Yes*" -- i.e., that he was prepared to approve the rate filing. Significantly, he did not say that he had previously approved the rate filing.

1.12 OIC e-mails #11 to #17 were all sent on August 17, 2011. Michelson's sent e-mail, #15, to Barclay shortly after the #11 to #14 exchange with Bryant. In #15, Michelson reported to Barclay the <u>results</u> of his earlier referral "*. . . to Mike Bryant for review of the contingent non-forfeiture forma; there were no outstanding rate filing issues. Today, Mike is approving the forms. Unless you object, I am going to file the rates. The rates should be filed promptly to keep the forms and rates actions in synch.*"

1.13 By e-mail **#16** Barclay said "OK" to Michelson' #15 proposal to file the rates and shortly thereafter, by e-mail **#17**, Michelson notified various OIC personnel "***We are allowing*** *a 41% rate increase on policy series LTC.02 and LTC.03, issued by Teachers Insurance and Annuity Association of America, and LTC.04, issued by TIAA-CREF Life Insurance Company.*" **(Bold emphasis mine)** Additional information was also included in the notification to OIC personnel.

1.14 The words "We are allowing a 41% rate increase" is to say 'We are approving" a 41% rate increase". No evidence has been offered of an *earlier-dated* approval of the increase or of an earlier communication of it to OIC personnel or any other party,

1.15 My Public Records Request of July 7, 2014 *[see first four pages of* ***Applicants Ex. 2]*** requested OIC to disclose and produce all notes or record of any kind made by any OIC representative in the course of review of the subject rate increase. OIC promptly complied *(* see 5th and 6th pages of ***Applicants Ex. 2).*** The declaration of OIC's Scott Fitzgerald states that Mr. Michelson was the OIC actuary assigned to make the review of the subject increase request. The OIC response to my public

records request evidences that no writings of Michelson or of any other OIC representative were found by OIC that memorialized an act or action approving the increase prior to August 17, 2011.

1.16 The OIC Staff "Summary" of their memorandum, at pg. 2, lines 19-21 states: "*MetLfe also submitted modified policy forms to reflect the 2011 rate filing. These were approved August 17, 2011. Id. pg. 4*" [i.e., pg. 4 of ***OIC Exhibit 3].*** That reference by OIC Staff necessarily [2] is to the August 17, 2011, 8:25 AM e-mail sent by Bryant to Mickelson which refers to and relates to MetLife filings that have SERFF META numbers that differ from than the SERFF META numbers assigned to the filing here under review, as noted in a preceding paragraph.

2. Matter relating to the MetLife's alleged waiver of rights accruing from *deemed approval* of the increase request

2.1 OIC Staff's "SUMMARY" of their memorandum, at pg. 1, line 24, to page 2, line 1, states: "The MetLife rate filing advised that the increase would only be implemented after approval of the Office of the Insurance Commissioner with a 60 day notice to policyholders prior to the first effective date of the rate change. ***See OIC Exhibit 1:*** *MetLife Premium Rate Increase filing, pg. 2."* ***[underlining emphasis mine]***

2.2 My review of pg. 2 of ***OIC Amended Exhibit 1*** discloses that MetLife's Carolyn J. Roth did not there use the above underlined words in the context of the " 60 day notice to policyholders" and that in fact she used these words: "After we have obtained approval of the premium rate increase, we intend to provide policyholders with a minimum of 60 days advance written notification prior to the first effective date of the increase". MetLife's June 10, 2011 submittal letter to OIC did not limit the means by which approval might be achieved for the requested increase; nothing in that letter excluded deemed approval of the requested increase or warranted OIC Staff's use of the words of limitation that I have underlined in the preceding paragraph.

2.3 The purported words of limitation (and citation to purported source thereof) are reiterated in the OIC Staff Summary at page 23, lines 22-23, to page 24, line 2.

2.4 RCW 48.19.040(4) obliged MetLife to state an effective date of the proposed rate modification: "(4) Every such filing shall state its proposed effective date". Paragraph 21 of the June 6, 2011 Actuarial Memorandum reads **"21. Proposed Effective Date**

[2] 'necessarily' because the other two (2) e-mails that appear on the referenced page of pg. 4 of ***OIC Exhibit 3*** are not apposite to the point that OIC Staff.is attempting to make.

The rate increase will apply to policies on their policy anniversary date following at least a 60 day policyholder notification period following approval".

3. Matter relating to whether MetLife submitted all required information to support the rate increase?

3.1 I have reviewed: (a) all materials filed in OIC state Tracking file #230615, which includes all materials submitted by MetLife to OIC June 10, 2011 in support of the 41% premium rate increase filing for the LTC.04(WA) policy forms (the subject matter of this proceeding); (b) ***OIC Exhibits 1,2, 3, and 4,*** including ***OIC Amended Exhibit 2,*** submitted by OIC Staff in support of their Motion for Summary Judgment, and including the declarations of OIC personnel included therein ; and (c) each of the statutes and regulations specifically cited in the application and/or in OIC Staff's memoranda filed in support of their Motion for Summary Judgment.

3.2 Those reviews enable me to state in this declaration my personal knowledge of what was included or was not included in the records that I reviewed. My qualification for accurately doing so includes the following: I actively engaged in practicing the profession of law in the state of Washington for over 46 years, on a full time basis. During most of those years I was a general practitioner but during some of those years I worked in specialized areas and/or reoccurring areas of concentration.

Commonly during those 46+ years, I spent countless hours reviewing, analyzing, construing, distinguishing, summating, opining upon, and/or distinguishing, a wide-ranging variety of legally-significant records, documents, writings, laws, precedents, reports, regulations, and standards, some relatively simple, others highly complex, relating to a wide array of different legal issues and topics. Through the years, I gained experience, competence, and discipline in those tasks. All matters stated below are based on my personal knowledge derived from the materials that I reviewed in this matter.

3.3 My review of the laws and regulations referenced below and of the submissions of June 10, 2011 made by MetLIfe to OIC in support of the 41% rate increase for the series LTC.04(WA) policy forms that are the subject of OIC SERFF Tracing file #230615 confirms that the following items information was not included in the #230615 materials that MetLIfe submitted to OIC for purposes of review, approval, or disapproval of that rate increase request:

a. No information was included therein as to the *"past and prospective loss experience within the state"* of the series LTC.04 policy forms, which

information was required to be furnished to OIC by RCW 48.19.030(3)(a), or, alternatively, as stated in that statute, "*if the information is not available or is not statistically credible*" information of "*loss information in those states which are likely to produce loss experience similar to that in this state*", as alleged in paragraphs 1.33,to 1.36 inclusive of the application.

b. Information that RCW 48.19.040(2) required be submitted to OIC but which was not included in the #230615 submissions to OIC included: (i) ("*An exhibit detailing the major types of operating expenses of the insurer * * * making the filing*", i.e,, T-C Life, on whose behalf MetLife was administrator and reinsurer of the policies subject of the filing; (ii) *An explanation of how investment income has been taken into account in the proposed rates*"; and (iii) "*Any other information that the insurer * * * deems relevant*", as alleged in paragraphs 1.36.1 and 1.37 of the application.

c. No information was included in the #230615 submissions to OIC reflecting whether the issuing insurer of the series LTC,04(WA) policy forms, T-C Life, "*has insufficient loss experience to support its proposed rates*" permitting the submission of "*loss experience for similar exposures of other insurers*"(here TIAA), as required by RCW 48.19.040(3) and as alleged in paragraph 1.37 of the application.

d. With respect to the subject matter of WAC 284-60-040, information was not included in the #230615 submissions to OIC as to the 1st and last four of these six (6) factors: "*similar claims experience, types of benefits, reserves, margins for contingencies, expenses and profit, and equity between policyholders*", as required by WAC 284-60-040(1), as alleged in paragraphs 1.42 to 1.47 inclusive of the application.

e. Information was not included in the #230615 submissions to OIC of a "*comparison of the actual to expected loss ratios*" of the series LTC.04(WA) policy forms singularly, see WAC 284-60-050(5).

f. Information was not included in the #230615 submissions to OIC as to the actual to expected loss ratios of the series LTC .04(WA) form singularly nor was any information included that showed that such omitted information was not available or was statistically unreliable.

g. Information was not included in the #230615 submissions to OIC as to the Historical Loss Ratio with Active Life Reserves Nationwide Experience (or

Washington Experience), without interest, for the LTC.04(WA) forms singularly, either with or without the 41% rate increase. Nor was any information included in the #230615 submissions to OIC that such information was not available or was not statistically reliable.

h. With respect to the requirements of WAC 284-60-070 and WAC 284-60-050(5) and Exhibit III of the June 6, 2011 Actuarial Memorandum, information was not included in the #230615 submissions to OIC that identified the extent of "Change in Active Life Reserve" for each of calendar years1991 to 2005 except for a "cumulative change" entry for the year 2005, nor did such include explanation or justification for that omission other than this footnote to Exhibit III "Cumulative change, prior years are not available."

i. Information was not included in the #230615 submissions to OIC that provided a justification or explanation as to why the records of the reserve changes for each of the years 1991 to 2005 "are not available", as represented.

j. Information was not included in the #230615 submissions to OIC that the actual loss ratio for the series LTC.04(WA) form was greater than 70% as anticipated for such form as represented in the initial rate filing form as disclosed in OIC Tracker file #141617 (which I also reviewed)

3.4 Paragraph 18 of Mr. Fitzpatrick's declaration ***[OIC Exhibit 4]*** mistakenly states that the applicants' allegations are based on ". . *a mistaken interpretation of how this information is provided to the Office of the Insurance Commissioner. This information is provided as actuarial calculations that are located within the Actuarial Memorandum and not as a written explanation. For example, information alleged to be missing in Petitioners' paragraphs 1.32, 1.33, 1.34, 1.36, 1.37 are found on pages 12 through 15 of the Actuarial Memorandum and details missing in paragraph 1.35 can be found in the Actuarial Memorandum at page 10."* [N.B.: The Actuarial Memorandum that Mr. Fitzpatrick references isa ***OIC Exhibit 2***.]

3.5 Pages 12 to 15 of ***OIC Exhibit 12*** generally correspond to Exhibits I, II, and III of the June 6, 2011 Actuarial Memorandum; inexplicably however, pages 12 and 13 of ***OIC Exhibit 2*** are largely illegible and cannot be read or understood in printed form or electronically. I have attempted to gain a legible view of the content of those pages by adjusting the "Zoom" control on my windows computer, without successful results. Nonetheless, I have compared pages 12 and 13 of *OIC Exhibit 1* to their counterparts in Exhibits I of the June 6, 2011 Actuarial

Memorandum that I earlier printed by accessing OIC state tracker #230516 and` conclude that they are the same documents.

3.6 ***Applicants Ex.4*** submitted herewith consists of true and legible copies of Exhibits I, II, and III of the June 6, 2011 Actuarial Memorandum. My initial review of those Exhibits (and my more recent review thereof) enabled me to understand the content, meaning, and intent of those pages; they are not so complex and/or opaque as to defy accurate understanding by a reviewer of average intelligence and learning who will make the effort to review and comprehend what is disclosed by such Exhibits.

3.7 The first page (unnumbered) of Exhibit I of the June 6, 2011 Actuarial Memorandum is entitled "**Exhibit 1 Metropolitan Life Insurance Company Nationwide Experience Projections with No Increase Policy Forms LTC ,02, LTC.03, LTC.04**" The second unnumbered page of that exhibit is entitled "**Exhibit 1 Metropolitan Life Insurance Company Nationwide Experience Projections with 41% Increase LTC.02, LTC.03, LTC.04** "

3.8 Exhibit II of the June 6 Actuarial Memorandum is entitled "**Exhibit II Metropolitan Life Insurance Company Nationwide Calendar Year Experience with No Increase Actual to Expected Ratios Policy Forms: LTC.02, LTC.03, LTC.04**" Exhibit III of the June 6, 2011 Actuarial Memorandum is entitled "**Exhibit III Metropolitan Life Insurance Company Historical Loss Ratio with Active Life Reserves Nationwide Experience, without interest Policy Forms: LTC.02, LTC.03, LTC.04**"

3.9 Those Exhibits I, II, and III solely address and report "**Nationwide**" aggregated experience of the combined three forms issued by the two (2) companies; none of them report or provide calculations of past or projected **Washington** experience of the two companies, the subject matter of RCW 48.19.030(3) (a). The materials in OIC Tracking file #230615 do not include information stating why information as to the past or projected **Washington** experience of either or both of the two companies.

3.10 Mr. Fitzpatrick is mistaken in stating in his declaration that *"the information alleged to be missing in Petitioner's paragraphs 1.32,1.33, 1.34, 1.36,1,37 are found at pages 12 through 15 of the Actuarial Memorandum * * ** [i. e., Exhibits I, II, and III of the Actuarial Memorandum]. My re-review of those materials discloses that:

a. Paragraph 1.32 and 1.33 of the application include only general allegations of insufficient information provided to OIC, the facts of which are detailed in succeeding allegations.

b. Paragraph 1.34 of the application includes only allegations that the MetLife submissions to OIC *"did not address past and prospective loss experience of the series LTC.04(WA) forms singularly and within the state"* and quote of the language in RCW 48.19.030(3)(a) that requires that due consideration be given to that in-state experience information.

c. Paragraph 1.36 of the application includes nothing more of substance that the Actuarial Memorandum "did not identify or use loss experience limited to *'those states which are likely to produce loss experience similar to that in this state"* ,as conditionally permitted by RCW 48.19.030(3)",

d. Paragraph1.37 of the application includes nothing more of relevant substance than that the "submissions to OIC in support of the request did not show that insurers of the series LTC.04(WA) policy form singularly, and the series LTC.04 form nationally, had insufficient loss experience to support the proposed increase for those forms, and thus the submissions to OIC did not qualify to meet the requirements of RCW 48.19.040(3), , , ".

3.13 My review of **Exhibits I, II, and III** of the Actuarial Memorandum reveals that those Exhibits do not address the subject matters of application paragraphs 1.34, 1.36 and/or 1.37; rather, my review of those Exhibits discloses that they report the nationwide experience for the three forms combined and aggregated for the two companies and nothing more than that.

3.11 Paragraph 1.35 of the application alleges: "The 6/06/11 Actuarial Memorandum did not include information to OICs as to the *"past and prospective loss experience within the state"* of any of the three forms singularly and made no showing that the omitted information as to the LTC.04(WA) policy form within the state *"is not available or is not statistically credible",* as required by RCW 48.19.030(3)(a)".

3.12 Paragraph 18. Lines 19 to 21 of the Fitzpatrick declaration states that " . *details alleged to be missing in paragraph 1.35 can be found in the Actuarial Memorandum at page10."* However, my review of the referenced page discloses that it contains nothing of relevance other than (a) the number of insured policyholders in WA and nationwide in 2010, and (b) the annualized premiums of the WA policies and the annualized premiums nationwide in 2010.

3.13 My review of the information in OIC Tracker file #230615 disclosed no information as to the past or projected loss ratio of any of the three policy forms in **Washington** either singularly or in the aggregate. My review of that file disclosed the lack of "*all information required under the applicable insurance statutes and rules*", contrary to paragraph 11 of Mr. Fitzpatrick's declaration.

3.14 My review of the information in OIC Tracker file #230615 disclosed a lack of information therein showing that *"The rate filing was accurately determined to be supported by the calculations"*, contrary to paragraph 19 of Mr. Fitzpatrick declaration.

3.15 My online search shows that in proceedings before the Insurance Commissioner of Connecticut, MetLife provided information to that office as to the past and projected Connecticut in-state loss ratio experience to justify the same 41% rate increase for the same three policy forms under review here, See "Proposed Final Order" of the Hearing Office, dated January 24, 2012, in the following administrative proceeding:

In the Matter of:
THE PROPOSED LTC RATE INCREASES SUBMITTED BY METROPOLITAN LIFE INSURANCE COMPANY Docket No. LH11 -153

http://www.ct.gov/cid/lib/cid/Order_and_Decision_Docket_Number_LH_11-153_Long-Term_Rate_by_Metropolitan_Life.pdf

Paragraphs 21 and 22 of the Proposed Final Order sets forth the specifics of the information provided by MetLIfe as to the Connecticut in-state and nationwide actual and expected loss ratio projections, including

Connecticut specific experience:		Nationwide experience:	
Actual Loss Ratio	61.52%	Actual Loss Ratio	43.41%
Expected Loss Ratio	31.03%	Expected Loss Ratio	25.73%

3.18 The above reflects that there can be wide variations in experience of states with respect to the subject forms and illustrates why the Washington legislature requires that insurers prioritize **Washington** in-state experience in making rates. RCW 48.19.030(3)(a), unmentioned in Mr. Fitzpatrick's declaration, provides:

"(3) Due consideration in making rates for all insurances shall be given to:

(a) Past and prospective loss experience within this state for experience periods

acceptable to the commissioner. If the information is not available or is not statistically credible, an insurer may use loss experience in those states which are likely to produce loss experience similar to that in this state."

3.16 ***Applicants Exhibit 2*** submitted herewith includes: (1) a true copy of my public records requests to OIC dated July 7, 2014 and July 25 , 2014; and (2) OIC's e-mail responses to those requests. The OIC responses do not include any notification by OIC to MetLife or T-C Life advising of OIC's need for an extension of time in which to approve or disapprove of the subject rate increase request that was submitted to OIC on June 10, 2011.

3.17 Paragraph 19 of Mr. Fitzgerald's declaration contends that the MetLife filing was "no different than any other typical rate filing. The rate filing was accurately determined to be supported by the calculations." However, my review of the MetLife June 10, 2011 submissions to OIC appearing in OIC Tracker file #230615, clearly discloses that (a) those submissions did not include information as to past or expected loss ratio of each of the three forms singularly in WA and or singularly nationwide, and (b) omitted disclosure of factors which WAC 284-60-040(1) requires be considered for purposes of grouping policies for rate increase purposes, as further specified in paragraphs 1.31c) and (d) of the application.

3.18 OiC's response to my first (July 7, 2014) public records request, **Applicant Exhibit 2,** did not include any *"writing, note, report, memorandum, and or record of any kind"* by Mr. Michelson or other OIC representative made in the course of the review of the subject rate increase request other than the 17 OIC e-mails that are included in **Applicants Exhibit 1**

3.19 My review of Mr. Michelson's e-mails (#1, #3, #6, #8. #10. #12, #14, #15, and #17 of ***Applicants Exhibit 1***) reveals that none of them mentioned or addressed the requirement of RCW 48.19.030(3) that calls for prioritizing **Washington** experience of the issuer and/or its' requirement of limiting use of "loss experience" to the "*loss experience in those states which are likely to produce loss experience similar to that in this state*".

3.20 None of those e-mails mentioned or alluded to the requirements or subject matters of WAC 284-60-040(1), WAC 284-60-050, or WAC 284-60-070.

4. Matters relating to grouping of similar forms for rate increase purposes

4.1 WAC 284-60-040 authorizes grouping of similar forms for rate increase purposes. The issue of similarity or dissimilarity of the three forms, and the failure of MetLife to provide sufficient information to policyholders as to the similarity of those forms, is the subject of the allegations made in paragraphs 1.83.1 to 1.83 9 inclusive and

1.84 of the application,. I re-affirm that I have personal knowledge of the matters stated in 1.83. I have personal knowledge of the matters alleged in 1.83.4 to 1.83.9 inclusive, all of which allegations are true and correct.

4.2 I have personal knowledge that the allegations of 1.83.1 of the application are true insofar as they apply to the failure of Met Life and T-C Life to provide the referenced information to applicants and the stated effects thereof upon us.

4.3 My allegations made in the second sentence of paragraph 1.83.2 of the application that the referenced information not be made public are based on my personal knowledge derived from (a) my review of correspondence dated September 25, 1999 , submitted to OIC by TIAA in respect to the series LTC .03(WA) forms, appearing in OIC Tracker Id. file # 98994 (see ***Applicants Exhibit 3)***, and (b) my review of correspondence dated May 30, 2000 submitted to OIC by TIAA for and on behalf of T-C Life in respect to the series LTC.04(WA) forms appearing in OIC State Tracker file #141617:

4.4 My allegations in the third sentence of 1.83.2 that "*Such requests were honored by OIC*" is based on my thorough review of those two (2) files, which reviews disclosed that neither file included the items that the filing insurer had by writings in such files requested be excepted from public disclosure.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed by me on December 15, 2014, in Spokane County, Washington.

Leo J. Driscoll

STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER
Docket No. 14-0187

LJD DECLARATION #2

The undersigned Leo J. Driscoll declares as follows:

I am over the age of 18 years and make this declaration on my personal knowledge. I am competent to testify to the matters stated herein. This declaration relates to the subject matter of the application dated September 15, 2014 (received by the Hearings Unit September 19, 2014) that I submitted to the Washington State Insurance Commissioner seeking adjudicative proceedings as to four (4) related counts, now pending in the Hearings Unit, Docket No. 14-0187.

1. APPLICANTS EXHIBIT 1 submitted herewith consists of true copies of 17 e-mails provided to me by OIC in response to my public records request of OIC and that are also included in ***OIC Exhibit 3*** that has been submitted in these proceedings. I have labelled them #1 to # 17, in the sequence in which they were sent by OIC personnel on June 13, 2011 (e-mails #1 to #8), June 22, 2011 (e-mails #9 and #10), and August 22, 2011 (e-mails #11 to #17).

2. APPLICANTS EXHIBIT 2 submitted herewith consists of my public records requests made to OIC July 7, 2014 and July 25,2014.

3. [Deleted]

4. APPLICANTS EXHIBIT 4 submitted herewith consists of legible copies of Schedules I, II, & III that are attached to and are part of of the June 6.2011 Actuarial Memorandum submitted to OIC in support of the rate increase for the series LTC,04(WA) Policy forms.

5. APPLICANTS EXHIBIT 5 submitted herewith consists of true copies of each and all of the written correspondences that are referenced and described in Count 2 of the application.

6. APPLICANTS EXHIBIT 6 submitted herewith consists of the first seven pages of materials in OIC Tracker file #230615.

7. APPLICANTS EXHIBIT 7 submitted herewith consists of a copy of letter dated 9/25/1999 from actuary Larry Scheinson to OIC pertaining to rate filing for the series LTC.03(WA) policy forms issued by TIAA.

8. APPLICANTS EXHIBIT 8 submitted herewith consists of a copy of a letter dated May 30, 2000, from actuary Larry Scheinson to OIC pertaining to rate filing for the series LTC.04(WA) policy forms issued by T-C Life.

9. [Deleted]

10. APPLICANTS EXHIBIT 10 submitted herewith consists of a copy of the changed "Policy Schedule" form delivered by MetLife for the policy of Leo J. Driscoll issued in 2002 that identifies the new, changed "Effective Date of this Schedule" as August 1, 2012. The form is identical the to a form which was delivered by MetLife for the policy of Mary T. Driscoll, except for name

11.. Nether form identifies the name of the Insurer or the policy number.

12. APPLICANTS EXHIBIT 11 submitted herewith consists of copies of excerpts from the February 2002 study report commissioned by AARP and conducted by The Lewin Group, entitled "Long-Term Care Insurance: An Assessment of States' Capacity to Review and Regulate Rates".

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed by me on December 15, 2014, in Spokane County, Washington.

Leo J. Driscoll

APPLICANTS EXHIBIT 1

DOCKET # 14-0187

(Copies of OIC e-mails #1 to #17)

APPLICANTS EXHIBIT 1
OIC E-Mail in Chronological Order and numbered #1 to #17

(Cut and Paste Transfers from OIC Exhibit 3, Docket No. 14-0187)

#1

From: Michelson, Lee (OIC)
Sent: Monday, June 13, 2011 1:27 PM
To: Barclay, Lee (OIC
Subject: LTQ Rate Increase Requests: Teachers Insurance and Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company

We have received three related LTCI rate increase filings, which the filing company wants us to consider together. The supporting exhibits are the same aggregate exhibits in all the filings. The policies are similar, and the actuary considers the aggregation appropriate. The filing company is Metropolitan Life Insurance Company. It reinsures a block of policies issued by the sister companies

.

Some of the policies have actually been assumed by Met. For those it is filing in its own name. For the other policies, Met is filing for the issuing companies, with authorization letters.

Teachers issued policies over the period 1992-2002. TIAA-CREF issued policies over the period 2001-2004. There are 28,293 Teachers policies and 10,821 TIAA-CREF policies in force nationwide. There are a total of 983 policies in force in Washington. The filings do not break down the Washington number by issuing company. Nor do they say how much of the business has been assumed by Met. The policies have had no prior rate increases. The pending request is for a 41% rate increase.

The aggregate experience exhibit supports the requested rate increase. I am willing to file the rate increase unless you think that we need some more detailed information.

#2

From: Barclay, Lee (OIC)
Sent: Monday, June 13, 2011 2:34 PM
To: Michelson, Lee (OIC)
Subject: RE: LTCI Rate Increase Requests: Teachers Insurance and Annuity Association of America, TIAA-Cref Ufe Insurance Company, and Metropolitan Life Insurance Company

Do you consider the aggregation appropriate?

3

From: Michelson, Lee (OCI)
To: Barclay, Lee (OCI)
Subject R£: LTCI Rate Increase Requests: Teachers Insurance arid Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company
Date: Monday, June 13, 2011 2:57:09 PM

Yes, they are successive policy forms with only minor changes. WAC 284-60-040(10 supports aggregating them.

From: Barclay, Lee (OIC) #4
Sent: Monday, June 13, 2011 3:01 PM
To: Berendt, Beth (OIC)
Subject: FW: LTCI Rate Increase Requests: Teachers Insurance and Annuity Association of America, TtAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company

Here's another one on which we'd appreciate your guidance.

From: Berendt, Beth (OIC) #5
Sent: Monday, June 13, 2011 3:07 PM
To: Michelson, Lee (OIC); Barclay, Lee (OIC)
Subject: RE: LTC! Rate Increase Requests: Teachers Insurance and Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company

Are they combining experience across different companies and submitting one exhibit? This isn't clear to me.

If so how is this acceptable?

From: Michelson, Lee (OIC) #6
Sent: Monday, June 13, 2011 3:11 PM
To: Berendt, Beth (OIC); Barclay, Lee (OiC)
Subject: RE: LTCI Rate Increase Requests; Teachers Insurance and Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company

Yes, the experience is across different companies. We have seen that in a few other cases in which sister companies issued similar policies. The combination is to increase credibility. If we want a breakdown by company, we can ask for one.

From: Berendt, Beth (OIC) #7
Sent: Monday, June 13, 2011 3:17 PM
To: Michelson, Lee (OIC); Barclay, Lee (OIC)
Subject: RE: LTQ Rate Increase Requests: Teachers Insurance and Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company

But how do we justify the combination or experience across companies? This makes me very uncomfortable - so what am I missing?

From: Michelson Lee (OIC) #8
To: Berendt, Beth (OIC); Barclay, Lee (OIC)
Subject: RE: LTCI Rate Increase Requests: Teachers Insurance and Annuity Association of Amenca, TlAA-Cref Life Insurance Company, and Metropolitan Ufe Insurance Company
Date: Monday, June 13, 2011 3:42:03 PM

That is what credibility theory is about: using experience of a broader block than the one being priced if doing so is expected to result in a more reliable projection. Sometimes some assumptions are based on industry studies. Experience of similar policies of sister companies is likely to be more relevant. Of course, if we think that there may be nonrandom differences that will show up in the experience, we may ask for company experience. 1 don't see any point in separating policies by whether Met is an assumption reinsurer or just an indemnity reinsurer and administrator. We may want to see a breakdown by issuing company, but I don't think that we actually want to treat the companies differently. TIAA-CREF is a subsidiary of Teachers. I don't think that we want to let a company avoid the requirement under WAC 2S4-60-040(4)] to combine successive generations of similar policy forms by putting new business in a subsidiary.

From: Berendt, Beth (OIC) #9
TO: Barclay, Lee (OIC)
Cc: Michelson. Lee (OIC)
Subject: RE: LTCI Rate Increase Requests: Teachers Insurance and Annuity Association of America, TlAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company
Date: Wednesday, June 22, 2011 1:17:22 PM

OK to proceed

From: Michelson Lee (OIC) #10
To: BerendL Beth (OIC): Barclay Lee (OIC)
Subject: RE: LTCI Rate Increase Requests; Teachers Insurance and Annuity Association of America, TIAA-Cref Life Insurance Company, and Metropolitan Life Insurance Company
Date: Wednesday, June 22, 2011 1:57:39 PM

I have referred these filings to Mike Bryant for review of the nonforfeiture endorsement.

From: Bryant, Mike (OIC) #11
Sent: Wednesday, August 17, 2011 8:25 AM
To: Michelson, Lee (OIC)
Subject: Metropolitan Life LTC Rate Increase Fling

Lee-
This morning, I notified Metropolitan Life Insurance Company of our approval of their LTC form filing, SERFF # META-127151671, related to their proposed rate increase. In SIMBA, I note that you were prepared to approve the corresponding rate increase filing, SERFF #META-127151572. Please contact me if you have any questions - thank you.

Michael Bryant, JD
Insurance Policy & Compliance Analyst
Washington State Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 93504-0255
Phone: (350) 725-7123
Email: MikeBr@oic. wa.gov

From: Mickelson, Lee (OIC) #12
Sent: Wednesday, August 17, 2011 8:29 AM
To: Bryant. Mike (OIC)
Subject RE: Metropolitan Life LTC Rate Increase Filing

What about the Teachers and TIAA-CREF filings administered by Metropolitan?

From: Bryant, Mike (OIC) #13
Sent: Wednesday, August 17, 2011 8:39 AM
To: Michelson, Lee (OIC)
Subject: RE: Metropolitan Life LTC Rate Increase Filing

Are those rate filings ready to go? If so, I will approve the forms.

From: Michelson, Lee #14
To: Bryant, Mike
Subject: RE; Metropolitan Life LTC Rate Increase Filing
Date: Wednesday, August 17. 2011 8:38:52 AM

Yes.

From: Michelson, Lee (OIC) #15
Sent: Wednesday, August 17, 2011 9:11 AM
To: Barclay, Lee (OIC)
Subject: LTCI Rate Increase Requests: Metropolitan Life Insurance Company, Teachers Insurance and Annuity Association of America, and TIAA-CREF Life Insurance Company

The 41% rate increase requests for LTCI policies issued by Teachers Insurance and Annuity Association of America and TIAA-C REF Life Insurance Company, administered and in some cases assumed by Metropolitan Life Insurance Company, Have already been referred to Mike Bryant f or review of the contingent nonforfeiture forms; there were no outstanding rates issues. Today Mike is approving the forms. Unless you object, I am going to file the rates. The rates should be filed promptly to keep the forms and rates actions in synch.

From: Barclay, Lee (OIC) #16
To: Michelson. Lee (OIC)
Subject RE: LTCl Rate Increase Requests: Metropolitan Life Insurance Company, Teachers Insurance and Annuity Association of America,, and TIAA-CREF Life Insurance Company
Date: Wednesday, August 17, 2011 9:25:48 AM

OK

From: Michelson. Lee (OIC) #17
To: Hinrich Jula OlC); Childers Mary (OlC); Holland Marnean (OIO: Bryant, Mike (OIC) Stoner. Bianca (OIC)
Subject: LTCI Rate Increase: Teachers Insurance and Annuity Association of America, TTAA-CREF Life Insurance Company, and Metropolitan Life Insurance Company
Date: Wednesday, August 17, 2011 10.03.43 AM
Attachments; (illegible)

We are allowing a 41% rate increase on policy series LTC.02 and LTC.03, issued by Teachers Insurance and Annuity Association of America, and LTC.04, issued by TIAA-CREF Life Insurance Company. Metropolitan Life Insurance Company administers the policies and has assumed some of them.

The rate increase will be effective on the policy anniversary following 60 days" notice.

The company will offer several benefit reduction options in lieu of the rate increase, as well as a contingent nonforfeiture benefit on lapse.

My spreadsheet listing LTCI rate increases since its inception is attached.

APPLICANTS EXHIBIT 2

DOCKET # 14-0187

(Public Records Requests made of OIC by Leo Driscoll)

July 7, 2014

Office of the Insurance Commissioner
Public Records
PO Box 40255
Olympia, WA 98504-0255

Ladies and Gentlemen:

This is request made under the Washington Public Records Act for disclosure of OIC records as to processing and disposition made by OIC of a premium rate-increase request submitted to OIC in 2011 pertaining to a specified individual long-term care insurance policy form issued in WA during 2001 to 2004.,

My name is Leo Driscoll.
My residence and mailing address: 4511 E. North Glenngrae Ln., Spokane, WA 99223.
My E-Mail address: oleod1@msn.com
My Telephone number: (509) 747 7468

Explanation of Enclosures: Enclosed are photocopies of two pages of a seven page *SERFF* generated record, i.e., the OIC State Tracking Number 230615 record, relating to OIC processing and disposition of a premium rate increase request for the subject individual long-term care insurance policy form. The OIC records which I seek from OIC, if any such records exist, relate to matters appearing on either one or the other of those two enclosed pages.

For ease of reference, I have marked the first enclosed page with the letter "A". Information on that page identifies the insurer, "TIAA-CREF Life Insurance Company", and the "Project Name/Number" of the record. The **"Filing at a Glance"** portion of that page presents information in three columns. The following items appear sequentially in the third column:

"State: Washington"; "State Tr Num: 230615"; "State Status: Filed";
"Reviewer: Lee Michelson"; "Disposition Date: 08/17/2011"
"Disposition Date: 10/16/2011".

I have marked the second enclosed page of the 230615 record with the letter "B". The **"Correspondence Summary"** portion of that page includes these items and entries under the heading **"Dispositions"**

Status	Created By	Created On	Date Submitted
Filed	Lee Michelson	08/17/2011	08/17/2011

Description of Public Records Sought by this request: I request disclosure and production of a true and complete copy of the following records if any such exist:

A. Each and every writing, note, report, memorandum, and/or record of any kind, if any, made by any OIC representative in the course of OIC review, and/or as a result of OIC review, of the premium rate-increase request that was submitted to OIC June 10, 2011 and that is the subject matter of the enclosed **"Filing at a Glance"** segment of the *SERFF* Washington State Tracking Number 230615 record, including any pertaining to review thereof made by OIC's Lee Michelson who is listed in that segment (see the enclosed page that I have marked "A").

B. Any writing, report, and/or communication, if any, authored by or authorized by OIC representative Lee Michelson, that was submitted to OIC personnel or to any other party by OIC representative Lee Michelson (or was filed in OIC's records) on or about August 17, 2011, as is or as may be referenced in or by the **"Correspondence Summary"** segment of the *SERFF* Washington State Tracking Number 230615 record (see the enclosed page that I have marked "B").

I look forward to your reply and advice.

Leo Driscoll

A

Filing at a Glance

Company: TIAA-CREF Life Insurance Company
Product Name: Long Term Care Insurance
TOI: LTC06 Long Term Care - Other
Sub-TOI: LTC06.000 Long Term Care - Other

SERFF Tr Num: META-127150316
SERFF Status: Closed-Filed
Co Tr Num: W11-27 TL (TC-LIFE - RATES) CC

State: Washington
State Tr Num: 230615
State Status: Filed

Filing Type: Rate

Reviewer(s): Lee Michelson

Authors: Sandra Bennett, Ruth Rivera, Linda Williams, Cherise Crittenden
Date Submitted: 06/10/2011

Disposition Date: 08/17/2011

Disposition Status: Filed
Implementation Date: 10/16/2011

Implementation Date Requested:
State Filing Description:

General Information

Project Name: LCUL.04-TCL
Project Number: W11-27 TL (T-C LIFE)
Requested Filing Mode: Review & Approval
Explanation for Combination/Other:
Submission Type: New Submission
Overall Rate Impact:

Deemer Date:
Submitted By: Cherise Crittenden
Filing Description:

Status of Filing in Domicile: Pending
Date Approved in Domicile:
Domicile Status Comments:
Market Type: Individual
Individual Market Type:
Filing Status Changed: 08/17/2011
State Status Changed: 08/17/2011
Created By: Ruth Rivera
Corresponding Filing Tracking Number:

This is a premium rate schedule increase filing for individual long-term care insurance policies. Please see our filing letter for details.

Company and Contact

Filing Contact Information

William D. Wilson, Staff Analyst
501 Route 22 908-253-2290 [Phone]

B

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230615*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LCUL.04-TCL/W11-27 TL (T-C LIFE)*		

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Filed	Lee Michelson	08/17/2011	08/17/2011

Leo Driscoll

From: "Leo Driscoll" <oleod1@msn.com>
Date: Friday, July 25, 2014 11:28 AM
To: "Ferrell, Stephanie (OIC)" <StephanieF@OIC.WA.GOV>
Subject: Re: Public records request

Thank you for your July 24, 2014 response to my Public Records Act Disclosure Request dated July 7, 2014.

I now respectfully request that OIC disclose and provide to me a copy of the following described additional writings and records, if any exist, that are now in the possession, custody, and/or control of OIC:

Each and every notice, writing and or item of correspondence and/or communication in whatever form, and copy and/or record thereof, that was communicated by the Insurance Commissioner, or by any employee, representative, or designate of the Commissioner, to Metropolitan Life Insurance Company and/or to TIAA-CREF Life Insurance Company , that in substance and effect advised and/or gave notice that an extension of time was needed for consideration of the request for the 41% increase in premium rates that was submitted to OIC June 10, 2011, and that is the subject of *SERFF* Tracking Number 127150316, State Tracking Number 230615, together with any reply or response thereto received by OIC from either or both of those companies.

Thank you for your courtesy and assistance

Leo Driscoll

From: Ferrell, Stephanie (OIC)
Sent: Thursday, July 24, 2014 8:37 AM
To: 'Leo Driscoll'
Subject: RE: Public records request

Good morning,

Attached please find filing tracker number 230615, including all related documents associated with this filing.

With this response your request is considered complete.
If you have any questions or require additional assistance, please let me know.

Stephanie Ferrell
Forms and Records Analyst 3
Public Records
Washington State Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255
360.725.7005 | StephanieF@oic.wa.gov | www.insurance.wa.gov

APPLICANTS EXHIBIT 4

DOCKET NO. 14-0187

(Legible copies of Exhibits I, II, & III

of Actuarial Memorandum dated June 6, 2011)

Exhibit I
Metropolitan Life Insurance Company
Nationwide Experience Projections with No Increase
Policy Forms LTC-92, LTC-03, LTC-04

		Loss Ratio Demonstration							Factors Derived from Projected Values for Illustrative Purposes Only							Interest Rate Factors	
		Without Interest				With Interest			Premium	Mortality Factors		Persistency Factors					
	Calendar Year	Earned Premium	Incurred Claims	Loss Ratio	Life Years	Earned Premium	Incurred Claims	Loss Ratio	Rate Increase Factor	Claim Factor	Adverse Selection	Policy Lapse & Mortality	Policy Shock Lapse	Policy Persistency	Premium Persistency	Calendar Year Effective Int Rate	100-Year Disc./Accum. Factor
Historical Experience	1991	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1992	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1993	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1994	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1995	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1996	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1997	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1998	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	1999	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2000	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2001	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2002	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2003	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2004	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2005	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2006	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2007	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2008	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2009	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
	2010	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]								[illegible]	[illegible]
Projected Future Experience (60 Years)	2011	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2012	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2013	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2014	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2015	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2016	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2017	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2018	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2019	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2020	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2021	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2022	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2023	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2024	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2025	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2026	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2027	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2028	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2029	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2030	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2031	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2032	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2033	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2034	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2035	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2036	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2037	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2038	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2039	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2040	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2041	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2042	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2043	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2044	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2045	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2046	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2047	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2048	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2049	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2050	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2051	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2052	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2053	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2054	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2055	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2056	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2057	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2058	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2059	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2060	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2061	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2062	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2063	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2064	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2065	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2066	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2067	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2068	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2069	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	2070	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
	Past	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]									
	Future	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]									
	Lifetime	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]									

Exhibit I
Metropolitan Life Insurance Company
Nationwide Experience Projections with 41% Increase
Policy Forms: LTC.02, LTC.03, LTC.04

	Calendar Year	Loss Ratio Demonstration: Without Interest: Earned Premium	Without Interest: Incurred Claims	Without Interest: Loss Ratio	Life Years	With Interest: Earned Premium	With Interest: Incurred Claims	With Interest: Loss Ratio	Factors Derived from Projected Values for Illustrative Purposes Only: Premium Rate Increase Factor	Morbidity Factors: Claim Factor	Morbidity Factors: Adverse Selection	Persistency Factors: Policy Lapse & Mortality	Persistency Factors: Policy Shock Lapse	Persistency Factors: Policy Persistency	Persistency Factors: Premium Persistency	Interest Rate Factors: Calendar Year Effective Int Rate	Interest Rate Factors: Mid-Year Disc / Accum Factor
Historical Experience	1991	287,273	0	0.0%	332	549,728	0	0.0%								4.51%	2.3121
	1992	1,004,476	16,244	1.6%	893	2,222,383	19,935	1.0%								4.51%	2.2123
	1993	1,641,034	548	0.0%	2,217	3,397,333	1,156	0.0%								4.51%	2.1168
	1994	2,589,872	85,222	3.3%	3,778	5,238,755	172,625	3.3%								4.51%	2.0255
	1995	4,007,941	206,205	5.1%	5,527	7,266,476	398,494	5.1%								4.51%	1.9381
	1996	8,018,304	272,877	3.4%	6,612	14,900,885	506,082	3.4%								4.51%	1.8544
	1997	12,474,751	598,183	4.8%	7,789	20,560,420	1,082,438	5.2%								4.51%	1.7744
	1998	16,308,446	914,595	5.6%	11,682	28,596,174	1,589,703	5.6%								4.51%	1.6978
	1999	28,623,836	1,576,549	5.5%	20,138	46,206,713	2,540,877	5.5%								4.51%	1.6246
	2000	38,554,751	2,820,175	7.3%	31,658	59,981,670	4,387,825	7.2%								4.51%	1.5546
	2001	48,578,506	4,219,385	8.7%	37,537	72,689,948	6,275,858	8.6%								4.51%	1.4874
	2002	55,793,045	6,361,383	11.4%	40,613	79,824,088	9,058,742	11.4%								4.51%	1.4232
	2003	61,858,460	10,459,303	17.0%	43,390	84,615,338	14,243,204	17.0%								4.51%	1.3618
	2004	64,818,894	14,413,985	22.3%	43,303	84,460,571	18,785,780	22.2%								4.51%	1.3030
	2005	64,028,203	21,592,899	33.7%	42,752	79,838,307	27,046,236	33.8%								4.51%	1.2468
	2006	68,322,804	28,776,556	42.3%	42,331	75,542,580	31,943,765	42.3%								4.51%	1.1930
	2007	62,998,245	35,295,842	56.0%	42,066	71,912,469	40,289,983	56.0%								4.51%	1.1415
	2008	62,720,535	55,524,343	88.5%	40,247	68,505,489	60,645,357	88.5%								4.51%	1.0922
	2009	62,363,806	72,511,212	116.4%	39,291	65,077,892	75,761,486	116.4%								4.52%	1.0451
	2010	31,234,758	40,868,122	131.3%	39,112	31,660,027	41,321,326	131.3%								4.51%	1.0111
Projected Future Experience (60 Years)	2010	29,285,795	22,791,051	77.8%	38,474	28,064,435	21,828,138	77.8%	1.0000	0.5479	1.0000	0.0208	1.0000	0.979	0.844	4.51%	0.9892
	2011	56,845,380	66,505,663	117.0%	37,160	54,592,288	63,655,684	117.0%	1.0000	1.0699	1.0000	0.0490	1.0000	0.950	0.938	4.51%	0.9508
	2012	60,820,407	66,082,782	108.0%	35,514	55,550,528	60,500,572	108.0%	1.1367	0.9816	1.0000	0.0446	0.5833	0.956	1.067	4.51%	0.9136
	2013	68,288,843	65,270,893	96.4%	33,709	58,130,682	57,230,244	98.4%	1.3427	0.9028	1.0000	0.0506	0.9583	0.949	1.084	4.51%	0.8780
	2014	65,550,187	65,606,615	100.5%	32,155	54,946,776	55,244,752	100.5%	1.4130	1.0221	1.0000	0.0453	0.9500	0.955	0.933	4.51%	0.8382
	2015	61,950,034	66,366,289	104.1%	30,785	49,883,307	53,712,448	108.1%	1.4150	1.0752	1.0000	0.0455	0.9500	0.956	0.946	4.51%	0.8021
	2016	58,316,654	67,815,548	116.3%	29,257	44,757,709	52,049,330	116.3%	1.4150	1.0757	1.0000	0.0459	0.9500	0.954	0.943	4.51%	0.7675
	2017	54,676,510	68,531,997	125.3%	27,837	40,132,275	50,326,276	125.3%	1.4160	1.0779	1.0000	0.0490	0.9500	0.951	0.938	4.51%	0.7343
	2018	51,057,334	69,014,603	135.2%	26,468	35,873,284	48,482,907	135.2%	1.4100	1.0784	1.0000	0.0519	0.9500	0.944	0.934	4.51%	0.7026
	2019	47,476,157	69,301,134	146.0%	25,015	31,919,425	46,554,241	146.0%	1.4150	1.0755	1.0000	0.0548	0.9500	0.949	0.930	4.51%	0.6723
	2020	43,897,726	69,405,527	157.9%	23,364	28,272,324	44,649,379	157.9%	1.4100	1.0816	1.0000	0.0630	0.9500	0.941	0.926	4.51%	0.6433
	2021	40,520,886	69,089,689	170.4%	22,121	24,946,125	42,505,386	170.4%	1.4100	1.0794	1.0000	0.0632	0.9500	0.939	0.922	4.51%	0.6156
	2022	37,200,496	68,258,587	183.6%	20,692	21,910,610	40,225,615	183.6%	1.4100	1.0771	1.0000	0.0648	0.9500	0.935	0.918	4.51%	0.5890
	2023	33,691,327	67,221,114	197.7%	19,285	19,156,685	37,865,823	197.7%	1.4100	1.0771	1.0000	0.0682	0.9500	0.932	0.914	4.51%	0.5636
	2024	30,925,582	65,941,848	213.2%	17,905	16,676,592	35,559,291	213.2%	1.4100	1.0768	1.0000	0.0718	0.9500	0.928	0.910	4.51%	0.5393
	2025	28,202,133	64,457,851	230.2%	16,559	14,449,522	33,258,917	230.2%	1.4100	1.0785	1.0000	0.0752	0.9500	0.925	0.905	4.51%	0.5160
	2026	25,253,107	62,415,952	247.4%	15,251	12,457,909	30,837,528	247.4%	1.4100	1.0747	1.0000	0.0790	0.9500	0.922	0.901	4.51%	0.4937
	2027	22,626,543	59,844,408	264.0%	13,988	10,682,344	28,235,175	264.0%	1.4100	1.0710	1.0000	0.0828	0.9500	0.917	0.897	4.51%	0.4724
	2028	20,184,262	57,238,478	283.6%	12,775	9,123,258	25,871,646	283.6%	1.4100	1.0708	1.0000	0.0867	0.9500	0.913	0.892	4.51%	0.4520
	2029	17,914,643	54,417,579	303.7%	11,615	7,768,967	23,594,414	303.7%	1.4100	1.0711	1.0000	0.0909	0.9500	0.908	0.888	4.51%	0.4325
	2030	15,820,082	51,613,195	326.3%	10,524	6,547,342	21,362,326	326.3%	1.4100	1.0723	1.0000	0.0945	0.9500	0.905	0.883	4.51%	0.4138
	2031	13,896,095	48,640,549	350.0%	9,470	5,502,727	19,261,254	350.0%	1.4100	1.0790	1.0000	0.0991	0.9500	0.901	0.878	4.51%	0.3960
	2032	12,140,573	45,975,689	378.7%	8,491	4,606,018	17,420,495	378.7%	1.4100	1.0819	1.0000	0.1035	0.9500	0.897	0.874	4.51%	0.3789
	2033	10,548,257	43,483,725	412.2%	7,578	3,824,561	15,765,082	412.2%	1.4100	1.0855	1.0000	0.1076	0.9500	0.892	0.869	4.51%	0.3626
	2034	9,118,562	41,336,838	453.2%	6,736	3,162,569	14,330,521	453.2%	1.4100	1.0947	1.0000	0.1121	0.9500	0.888	0.864	4.51%	0.3469
	2035	7,834,386	39,016,345	498.0%	5,846	2,602,554	12,960,918	498.0%	1.4100	1.1067	1.0000	0.1168	0.9500	0.883	0.859	4.51%	0.3319
	2036	6,694,300	37,100,688	554.2%	5,239	2,128,228	11,743,664	554.2%	1.4100	1.1129	1.0000	0.1213	0.9500	0.879	0.854	4.51%	0.3176
	2037	5,667,044	35,295,443	622.8%	4,591	1,728,522	10,720,542	622.8%	1.4100	1.1191	1.0000	0.1256	0.9500	0.874	0.850	4.51%	0.3038
	2038	4,809,464	33,389,936	695.1%	3,998	1,396,822	9,708,477	695.1%	1.4100	1.1206	1.0000	0.1308	0.9500	0.870	0.845	4.51%	0.2908
	2039	4,054,221	32,000,256	786.4%	3,430	1,122,429	8,825,566	786.4%	1.4100	1.1225	1.0000	0.1359	0.9500	0.865	0.840	4.51%	0.2782
	2040	3,358,130	28,248,682	836.4%	2,850	896,718	7,498,245	836.4%	1.4100	1.0834	1.0000	0.1402	0.9500	0.860	0.835	4.51%	0.2662
	2041	2,792,972	25,615,056	915.1%	2,523	712,267	6,534,816	915.1%	1.4100	1.0553	1.0000	0.1467	0.9500	0.855	0.830	4.51%	0.2547
	2042	2,306,315	22,787,489	988.0%	2,144	552,222	5,354,507	988.0%	1.4100	1.0745	1.0000	0.1504	0.9500	0.851	0.825	4.51%	0.2436
	2043	1,891,449	19,597,535	1036.1%	1,815	441,549	4,570,503	1036.1%	1.4100	1.0467	1.0000	0.1542	0.9500	0.846	0.820	4.51%	0.2332
	2044	1,543,190	16,607,589	1080.1%	1,527	344,168	3,717,480	1080.1%	1.4100	1.0456	1.0000	0.1587	0.9500	0.841	0.815	4.51%	0.2231
	2045	1,249,413	14,079,978	1126.9%	1,337	266,757	3,006,612	1126.9%	1.4100	1.0493	1.0000	0.1640	0.9500	0.836	0.810	4.51%	0.2135
	2046	1,008,213	11,789,161	1168.7%	1,062	206,593	2,402,658	1168.7%	1.4100	1.0370	1.0000	0.1694	0.9500	0.832	0.805	4.51%	0.2043
	2047	805,351	9,702,642	1204.9%	877	152,481	1,837,318	1204.9%	1.4100	1.0510	1.0000	0.1757	0.9500	0.825	0.800	4.51%	0.1955
	2048	640,487	7,905,058	1234.0%	722	119,208	1,470,417	1234.0%	1.4100	1.0242	1.0000	0.1782	0.9500	0.822	0.795	4.51%	0.1871
	2049	506,388	6,443,425	1272.5%	589	90,655	1,152,691	1272.1%	1.4100	1.0308	1.0000	0.1825	0.9500	0.816	0.790	4.51%	0.1790
	2050	397,946	5,202,555	1307.4%	479	65,137	851,652	1307.4%	1.4100	1.0277	1.0000	0.1873	0.9500	0.814	0.786	4.51%	0.1713
	2051	310,897	4,175,705	1343.4%	387	50,950	684,483	1343.4%	1.4100	1.0278	1.0000	0.1913	0.9500	0.808	0.781	4.51%	0.1639
	2052	244,574	3,341,373	1366.5%	311	37,650	514,036	1366.5%	1.4100	1.0306	1.0000	0.1976	0.9500	0.803	0.776	4.51%	0.1568
	2053	186,198	2,676,925	1437.8%	248	27,934	401,650	1437.8%	1.4100	1.0285	1.0000	0.2013	0.9500	0.798	0.771	4.51%	0.1500
	2054	143,032	2,106,482	1472.3%	198	20,541	302,425	1472.3%	1.4100	1.0240	1.0000	0.2026	0.9500	0.797	0.768	4.51%	0.1436
	2055	109,586	1,666,315	1520.4%	157	15,054	228,877	1520.4%	1.4100	1.0336	1.0000	0.2051	0.9500	0.794	0.766	4.51%	0.1374
	2056	83,698	1,331,899	1593.3%	124	10,988	175,068	1593.3%	1.4100	1.0480	1.0000	0.2099	0.9500	0.790	0.763	4.51%	0.1314
	2057	63,444	1,034,277	1630.4%	97	7,879	130,095	1630.4%	1.4100	1.0233	1.0000	0.2161	0.9500	0.784	0.759	4.51%	0.1258
	2058	47,826	796,570	1682.0%	76	6,768	95,862	1682.5%	1.4100	1.0464	1.0000	0.2190	0.9500	0.785	0.755	4.51%	0.1203
	2059	36,380	609,988	1686.0%	60	4,468	70,240	1686.0%	1.4100	1.0344	1.0000	0.2176	0.9500	0.782	0.755	4.51%	0.1152
	2060	27,258	464,827	1706.5%	46	3,001	51,215	1706.5%	1.4100	1.0121	1.0000	0.2237	0.9500	0.775	0.753	4.51%	0.1102
	2061	20,463	350,855	1714.6%	35	2,158	36,995	1714.6%	1.4100	1.0047	1.0000	0.2204	0.9500	0.780	0.751	4.51%	0.1054
	2062	15,331	264,524	1725.5%	28	1,547	26,684	1725.5%	1.4100	1.0088	1.0000	0.2251	0.9500	0.775	0.749	4.51%	0.1009
	2063	11,470	197,303	1722.2%	22	1,107	19,088	1722.2%	1.4100	0.9989	1.0000	0.2284	0.9500	0.774	0.748	4.51%	0.0965
	2064	8,575	147,628	1721.5%	17	792	13,632	1721.5%	1.4100	0.9986	1.0000	0.2324	0.9500	0.768	0.746	4.51%	0.0924
	2065	6,382	110,501	1728.7%	13	565	9,765	1728.7%	1.4100	1.0042	1.0000	0.2320	0.9500	0.768	0.745	4.51%	0.0884
	2066	4,790	82,129	1714.7%	10	405	6,944	1714.7%	1.4100	0.9919	1.0000	0.2288	0.9500	0.771	0.749	4.51%	0.0846
	2067	3,597	60,906	1693.3%	8	291	4,928	1693.3%	1.4100	0.9875	1.0000	0.2375	0.9500	0.773	0.751	4.51%	0.0809
	2068	2,705	46,114	1704.8%	6	209	3,570	1704.8%	1.4100	1.0068	1.0000	0.2425	0.9500	0.757	0.752	4.51%	0.0774
	2069	2,036	34,472	1690.5%	5	151	2,557	1690.6%	1.4100	0.9915	1.0000	0.2149	0.9500	0.765	0.754	4.51%	0.0742
	2070	1,548	25,936	1674.2%	3	110	1,836	1674.2%	1.4100	0.9904	1.0000	0.2325	0.9500	0.767	0.760	4.51%	0.0709
	Past	690,920,470	294,654,675	42.5%	496,739	902,582,052	336,090,369	37.2%									
	Future	961,228,400	1,963,565,439	193.9%	574,045	656,543,429	1,039,135,823	158.3%									
	Lifetime	1,652,148,870	2,258,200,414	136.6%	1,070,785	1,559,125,481	1,375,226,192	88.2%									

Exhibit II
Metropolitan Life Insurance Company
Nationwide Calendar Year Experience with No Increase
Actual to Expected Ratios
Policy Format LTC.02, LTC.03 ,LTC.04

		Actual or Projected Experience			Expected Pricing Experience				Accumulative Loss Ratio		
		A	B	C=B/A	D	E	F=E/D	G=C/F	H	I	J=H/I
	Calendar Year	Earned Premium	Incurred Claims	Loss Ratio	Earned Premium	Incurred Claims	Loss Ratio	Actual to Expected Ratio	Actual/Projected at 4.51% (on C)	Expected at 5.75% (on F)	Actual to Expected Ratio
Historical Experience*	1991	237,770	0	0.0%	298,162	1,010	0.4%	0.00	0.0%	0.4%	0.00
	1992	1,004,476	18,244	1.8%	837,208	18,288	2.2%	0.74	1.3%	1.7%	0.76
	1993	1,841,034	649	0.0%	1,629,540	80,080	3.9%	0.01	0.8%	3.0%	0.19
	1994	2,583,972	85,227	3.3%	2,261,508	123,957	5.5%	0.60	1.8%	4.1%	0.43
	1995	4,007,341	206,203	5.1%	3,813,030	213,189	5.6%	0.92	3.1%	4.7%	0.66
	1996	8,038,304	272,877	3.4%	7,069,396	378,479	5.3%	0.64	3.2%	5.0%	0.65
	1997	11,474,751	696,185	6.2%	9,922,362	699,952	7.0%	0.78	4.0%	5.7%	0.70
	1998	16,903,445	924,535	5.5%	14,301,161	1,086,231	7.6%	0.72	4.5%	6.3%	0.71
	1999	28,823,838	1,578,340	5.5%	25,614,585	1,702,187	6.6%	0.83	4.8%	6.4%	0.75
	2000	38,564,751	2,829,175	7.3%	44,466,616	2,894,579	6.5%	1.13	5.6%	6.5%	0.87
	2001	46,675,000	4,219,109	9.0%	39,932,084	4,850,487	9.1%	1.06	6.8%	7.0%	0.93
	2002	55,793,045	6,361,585	11.4%	66,214,233	7,201,172	10.9%	1.05	7.6%	8.0%	0.96
	2003	61,698,460	10,459,303	17.0%	70,316,630	9,686,469	13.8%	1.24	9.5%	9.1%	1.04
	2004	64,819,904	14,416,865	22.2%	71,443,616	12,267,162	17.2%	1.29	11.6%	10.4%	1.11
	2005	64,016,203	21,692,599	33.9%	67,809,626	15,226,037	22.5%	1.50	14.6%	11.9%	1.22
	2006	63,322,804	26,776,558	42.5%	63,068,233	18,455,250	29.9%	1.47	17.7%	13.7%	1.30
	2007	62,998,740	35,285,842	56.0%	60,452,208	22,128,448	36.6%	1.53	21.9%	15.6%	1.36
	2008	62,720,531	55,624,143	88.7%	58,982,678	26,147,852	45.9%	1.93	27.2%	17.7%	1.54
	2009	62,289,836	72,511,212	116.4%	53,539,948	30,384,717	56.7%	2.05	33.8%	19.9%	1.70
	2010	31,134,788	40,858,122	131.3%	25,081,898	17,251,171	68.8%	1.91	37.2%	21.2%	1.76

* Historical experience through June 30, 2010

Exhibit III
Metropolitan Life Insurance Company
Historical Loss Ratio with Active Life Reserves
Nationwide Experience, without Interest
Policy Forms: LTC.02, LTC.03, LTC.04

	Calendar Year	Earned Premium	Incurred Claims	Change in Active Life Reserve	Loss Ratio
Historical Experience	1991	237,773	*		0.0%
	1992	1,004,476	16,244		1.6%
	1993	1,841,034	546		0.0%
	1994	2,583,972	85,227		3.3%
	1995	4,007,341	206,203		5.1%
	1996	8,035,304	272,877		3.4%
	1997	11,474,751	598,185		5.2%
	1998	16,903,445	924,535		5.5%
	1999	28,623,536	1,576,349		5.5%
	2000	38,554,751	2,829,175		7.3%
	2001	48,878,098	4,219,109		8.6%
	2002	55,793,045	6,361,585		11.4%
	2003	61,598,460	10,459,303		17.0%
	2004	64,819,994	14,416,865		22.2%
	2005	64,018,203	21,692,899	296,708,102*	497.4%
	2006	63,322,804	26,776,556	94,966,921	192.3%
	2007	62,998,740	35,295,842	54,171,369	142.0%
	2008	62,720,531	55,524,143	52,824,213	172.7%
	2009	62,269,536	72,511,212	61,733,795	215.6%
	2010	31,134,768	40,868,122	24,432,535	209.7%
	Total	690,920,470	294,634,975	584,836,835	127.3%

* Cumulative change, prior years are not available

APPLICANTS EXHIBIT 5

DOCKET # 14-0187

(Correspondences pertaining to request for documentary information requested of T-C Life by Leo and Mary Driscoll)

Mailed 10-1-12

Leo and Mary Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

September 29, 2012

TIAA-CREF Life Insurance Company
Long-Term Care Department
730 Third Avenue
New York, NY 10017-3206

Metropolitan Life Insurance Company
Administrator for TIAA-CREF Life Insurance Company
P.O. Box 737
Westport CT 06881-0937

Re: TIAA-CREF Life Insurance Company Long-Term Care Insurance Policies Nos. 09852450 and 09852468 issued to Leo J. Driscoll and Mary T. Driscoll, respectively

Ladies and Gentlemen:

As insureds, we are affected by the premium rates for our above-identified policies, increases of which were made in 2011 by TIAA-CREF Life Insurance Company ("T-C Life") and by its' Administrator for such polices, Metropolitan Life Insurance Company ("MetLife").

Pursuant to the provisions of RCW 48.19.300, we request that T-C Life furnish (or cause to be furnished) to us a single copy of each of the items that are listed in the attachment, each of which items are pertinent to the rates that affect us. We also address this letter to MetLife for informational purposes and coordination appropriate to responding to this request

Please inform us whether the items requested are available in electronic form. If so, please e-mail a copy of each requested item to the undersigned Leo Driscoll at oleod1@msn.com

If any items are not available in electronic form, please mail paper copies to us by U.S. mail at our above listed residence address. We will make payment by check of your reasonable charges for furnishing the information. Please inform us as to that amount.

Thank you for your courtesy and cooperation in responding to this request.

Leo J. Driscoll

Mary T. Driscoll

Two - page Attachment to Driscoll letter dated September 29, 2012 to T-C Life and MetLife

Alll items listed below were filed with the Office of the Insurance Commissioner ("OIC") of the state of Washington but are not available to us there. The actuarial memorandum dated June 6, 2011 filed by MetLife in support of the 41% rate increase that has been implemented for our policies makes it evident that the items listed below include information that is pertinent to our rates, as follows:

The first two items listed below seek information as to our policy forms, the LTC.04 Policy Form Series which T-C Life issued from 2001 to 2004. The remaining items seek information pertaining to two (2) earlier series of policy forms, i.e., the LTC.02 and LTC.03 Policy Form Series that were issued by a different insurer than ours, reportedly the parent company of T-C Life. The June 6, 2011 actuarial statement says in substance and effect that MetLife and T-C Life have bundled the three series of forms together "as one block of business" for purposes of implementing the 41% rate increase, each of the three having been deemed by them to be within the same "premium class" for such purpose Thus all three of those series of forms affect the rates of our policies and each item of information listed below is information that is relevant and pertinent to those rates within the meaning of RCW 48.19.300.

The items of information that we request our insurer to furnish to us are these:

1. Application(s) and actuarial memoranda that were submitted to OIC in gaining approval of the initial rates of the LTC.04 Policy Form Series (including TCL-LTC.04 (WA) Ed.4/00 Policy Form including any riders or endorsements approved for issue with that policy form.

2. Application(s), forms, and other writings submitted to OIC for purposes of gaining approval of the form of the LTC.04 Policy Form Series.

3. Applications, Rate Filing materials, and actuarial memoranda that were submitted to OIC in relation to and in support of the initial rates of the LTC.02 Policy Form Series, including those for each of the following policy forms:

LTC-WA.02 Ed 2-94	LTC-E-WA.02 Ed. 4-97
LTC-E-WA.02 Ed. 2-94	QLTC-WA.02 Ed. 4-97
LTC-WA.02 Ed. 4-97	QLTC-E-WA.02 Ed. 4-97

Including any riders or endorsements approved for issue with any of those.

4. Application(s), forms, and other writings submitted to OIC for purposes of gaining approval of the form(s) of the LTC.02 Policy Form Series,

5. Application(s), Rate Filing materials, and actuarial memoranda submitted to OIC in relation to and in support of the initial rates of the LTC.03 Policy Form Series, including for the following policy form(s): LTC.03 (WA) including any riders or endorsements approved for issue with that policy.

6. Application(s), forms, and other writings submitted to OIC for purposes of gaining approval of the form of the LTC.02 Policy Form Series.

7. Application(s), Rate Filing materials, and actuarial memoranda submitted to OIC in relation to and in support of the rate reduction for Policy form series LTC.02 (as referenced at paragraph no. 16, page 6 of the June 6, 2011 actuarial memorandum).

Leo J. Driscoll Mary T. Driscoll

Rec'd 11/20/12

MetLife®

Metropolitan Life Insurance Company
as insurer or administrator* for TIAA-CREF Life
Insurance Company and Teachers Insurance and
Annuity Association of America
Long-Term Care
P.O. Box 990028
Hartford, CT 06199-0028

November 14, 2012

Leo J. Driscoll
Mary T. Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

Re: Policy Number: 09852450 for Leo J. Driscoll
Policy Number: 09852468 for Mary T. Driscoll

Dear Mr. and Mrs. Driscoll:

We are writing in response to your letter dated 9/29/2012 that is addressed to Metropolitan Life Insurance Company ("MetLife") and TIAA-CREF Life Insurance Company ("T-C Life"). In your letter you requested copies of the applications, actuarial memoranda, and forms involving the approval of the initial rates and forms for the T-C Life Long-Term Care policies currently administered by MetLife.

Per your request, we have enclosed the following documents for your review:

LTC.04 Policy Form Series

1. **Washington 04 Forms, Rates, and Approval**
2. **Washington 04 Amendments, Correspondence**

We note that you have requested that T-C Life provide you the documents listed in your letter pursuant to RCW 48.19.300. This statute, though, does not apply to disability insurance as stated in RCW 48.19.010. Under Washington law, long-term care insurance is a form of disability insurance as prescribed in RCW 48.11.030. Accordingly, the statute cited in your letter is inapplicable here, and as such, T-C Life is not required under Washington law to send you the documents requested in your letter.

We appreciate the opportunity to address your concerns. For assistance with any questions about your coverage you may contact MetLife Customer Service at 1-888-748-4824. Our Customer Service Representatives are available Monday through Friday 8:00 a.m. to 11:00 p.m. EST.

Sincerely,

Laura H. Gilbertson

Laura H. Gilbertson
Client Liaison
MetLife Long-Term Care

* Metropolitan Life Insurance Company ("MetLife") is the insurer only for those TIAA-CREF Life Insurance Company ("T-C Life") and Teachers Insurance and Annuity Association of America ("TIAA") policyholders who have accepted the transfer of their Long-Term Care coverage to MetLife. MetLife is the administrator for all other T-C Life and TIAA policyholders.

Signed + mailed 1/8/13

Leo and Mary Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

January 8, 2013

TIAA-CREF Life Insurance Company
730 Third Avenue
New York, NY 10017-3206

Atten: Long-Term Care Insurance

Metropolitan Life Insurance Company
Administrator for TIAA-CREF Life Insurance Company
P.O. Box 737
Westport, CT 06881-0937

Atten: Laura H. Gilbertson, Long-Term Care

Re: TIAA-CREF Life Insurance Company Long-Term Care Insurance (LTCI) Policies Nos. 09852450 and 09852468 issued to Leo J. Driscoll and Mary T. Driscoll, respectively

Ladies and Gentlemen:

This letter relates to the MetLife 11/14/12 letter response (with enclosures) to our 9/29/12 letter request for information from T-C Life (with attachment) that is pertinent to the rates of our above-referenced LTCI policies. Our request was made pursuant to RCW 48.19.300. No separate response to or acknowledgement of our 9/29/12 letter was received by us from T-C Life. The response provided certain documents for which we thank you.

We here address three (3) aspects of the MetLife 11/14/12 response:

FIRST: MetLife's erroneous assertion that T-C Life is not required to provide the requested documents, claiming that LTCI allegedly "*. . .is a form of disability insurance as prescribed by RCW 48.11.030*" and, that *accordingly*, RCW 48.19.300 is inapplicable here.

Apart from the statutes that it cited, the MetLife 11/14/12 response did not cite any authority to support its contention that *"Under Washington law, long-term care insurance is a form of disability insurance"* and/or its' assertion that RCW 48.19.300 is inapplicable here.

"Insurance" is defined by RCW 48.01.040: "Insurance is a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies".

RCW 48.11.030 defines "disability insurance" as follows: "Disability insurance" is insurance **against bodily injury, disablement or death by accident, against disablement resulting from sickness**, and every insurance appertaining thereto including stop loss insurance. "Stop loss insurance" is insurance against the risk of economic loss assumed under a self-funded employee disability benefit plan." [Note: the bold print emphasis and underlining emphasis are ours. In bold print are the determinable contingencies insured against; the underlined words both extend and limit what is meant by 'disability insurance',

RCW 48.84.020 defines LTCI : "Long-term care insurance" or "long-term care benefit contract" means any insurance policy or benefit contract primarily advertised, marketed, offered, or designed to provide **coverage or services for either institutional or community-based convalescent, custodial, chronic, or terminally ill care** * * *". Again, we have used bold print to identify the 'determinable contingencies' insured against by that form of insurance.

Clearly, the determinable contingencies insured against by 'disability insurance', as defined by RCW 48.11.030, do not include any requisite element that the insured incur need for *care* -- *care* of any kind whatsoever. As to disability insurance, as so defined, the incurrence of *care* is a non-issue. And not every disablement is embraced within the statutory definition of 'disability insurance'. It does not include naturally-occurring enfeeblement or disablement, It includes only those caused by accident or sickness.

Conversely, the determinable contingencies insured against by LTCI as defined by RCW 48.84.020 do not include any requisite element of injury, accident, or sickness. Those are non-issues as to LTCI. Indeed, the need for long-term care often arises from natural aging or undetermined causes which cannot be linked to injury, accident, or sickness.

Thus, the determinable contingencies -- the essential, requisite elements -- of disability insurance, as per RCW 48.11.030, and of LTCI, as per RCW 48.84.020, are distinctly-different. They have different purposes and functions. As we understand it, disability insurance is principally designed and touted to insure against the risk of loss of one's expected paycheck or earning power resulting from injury, accident, or sickness during one's working years whereas LTCI is principally designed and touted to insure against the risk of loss of accumulated assets by the devastating costs of LTC that may arise in elder, retirement years.

Obviously, the words in RCW 48.11.030 "and every insurance appertaining thereto" somewhat *extends* the scope of the description of 'disability insurance' appearing in that statute yet those same words likewise *limit* that extension. The ordinary, accepted meaning

of the word *appertaining* is: *belonging to, a part of, or an adjunct of.* The statute logically identifies 'stop loss' insurance (i.e., insurance against risk of loss "under a self-funded employee disability benefit plan.") as being within the limits of the extension. That insurance appropriately and logically *belongs to,* is *parts of,* is an *adjunct of* the 'disability' species of insurance within the intent of RCW 48.11.030. LTCI, so differently defined by RCW 48.84.020, does not appropriately or logically belong to that species.

SECOND: The MetLife 11/14/12 response did not provide to us a key actuarial memorandum requested by item #1 of our attachment to our 9/29/12 letter relative to the LTC.04(WA) base policy form.

A document that was provided relates to optional riders being offered for the base policy form WTC.04 policy form. It is entitled "Amendment to Actuarial Memorandum and Rate Filing" and was submitted to OIC in July, 2001. At page numbered 2, it includes a section entitled "Premium Rate Development" that references the missing actuarial form. It reads in part as follows:

> *"The rates for these riders were developed using a simulation model, and the actuarial assumptions (incidence rates, mortality rates, lapse rates, termination rates, underwriting savings, interest rate and expenses) as described in the Actuarial Memorandum that is currently on file with your department. * * * "*

The 11/14/12 response to our 9/29/12 response did not include a copy of that actuarial memorandum which addresses pricing of the initial rates for WTC.04 policies.

THIRD: The 11/14/12 response from MetLife did not include any of the information relative to the LTC.02 or LTC.03 policy forms that was requested by items #3 to #7 of our attachment to our 9/29/12 letter.

That attachment to our 9/20/12 letter explained the pertinence of the requested LTC.02 and/ LTC.03 information to the rates of our policies. We now supplement that explanation by noting that we and our LTC.04(WA) policies were and are affected by the rates of the LTC.02 and LTC.03 form policies as initially approved, and by any changes made to those rates. That is evident from the June 6, 2011 actuarial memorandum filed with OIC in support of the 41% increase in rates, including without limitation its' references at pages 6 to 8 as to the initial premium schedule and pricing assumptions for the bundled LTC.02, LTC.03, and LTC.04 policy forms

Concluding Requests. We ask that you consider this letter and, as to the FIRST matter above, we ask that you reconsider and promptly withdraw the contentions made in the MetLife 11/14/12 response that RCW 48.19.300 is inapplicable here. As to the SECOND

matter above, we ask that you promptly provide us with a copy of the missing actuarial memorandum as to the LTC.04 policy form that is specifically referenced in the July 2001 "Amendment to Actuarial Memorandum". As to the THIRD matter above, we reiterate our requests for pertinent information as requested by items #3 to #7 of our attachment to our 9/29/12 letter.

Respectfully submitted,

Leo J. Driscoll Mary T. Driscoll

Rec'd 2/13/13

MetLife®

Metropolitan Life Insurance Company
as insurer or administrator* for TIAA-CREF Life
Insurance Company and Teachers Insurance and
Annuity Association of America
Long-Term Care
P.O. Box 990028
Hartford, CT 06199-0028

February 6, 2013

Mr. Leo J. Driscoll
Mrs. Mary T. Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

Re: Policy Number: 09852450 for Leo J. Driscoll
Policy Number: 09852468 for Mary T. Driscoll

Dear Mr. and Mrs. Driscoll:

We are writing in response to your letter dated 1/08/13 that is addressed to Metropolitan Life Insurance Company ("MetLife") and TIAA-CREF Life Insurance Company ("T-C Life"). We note that you issued an earlier letter to MetLife and T-C Life dated 9/29/12, where you requested copies of the applications, actuarial memoranda, and forms involving the approval of the initial rates and forms for the T-C Life Long-Term Care policies currently administered by MetLife. We also note that on 11/14/12 MetLife issued a response to your earlier letter, where we indicated that MetLife was under no legal obligation to provide you with the foregoing documents. In your latest letter dated 1/08/13, you state that you disagree with MetLife's interpretation of the law, and as such, you reiterate your request for the foregoing documents.

We have thoroughly reviewed the arguments raised in your latest letter, however, MetLife's position remains unchanged. As stated in our letter dated 11/14/12, under Washington law, long-term care insurance is a form of disability insurance as prescribed in RCW 48.11.030. While it is your position that you are entitled to documents pursuant to RCW 48.19.300, this statute does not apply to disability insurance as stated in RCW 48.19.010. Accordingly, it remains MetLife's position that T-C Life is not required under Washington law to provide you with the documents requested in your letter dated 9/29/12.

We appreciate the opportunity to address your concerns. For assistance with any questions about your coverage you may contact MetLife Customer Service at 1-888-748-4824. Our Customer Service Representatives are available Monday through Friday 8:00 a.m. to 11:00 p.m. EST.

Sincerely,

Laura H. Gilbertson

Laura H. Gilbertson
Client Liaison
MetLife Long-Term Care

Leo and Mary Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

March 5, 2013

TIAA-CREF Life Insurance Company
730 Third Avenue
New York, NY 10017-3206

Atten: Long-Term Care Insurance

Metropolitan Life Insurance Company
Administrator for TIAA-CREF Life Insurance Company
P.O. Box 737
Westport, CT 06881-0937

Atten: Laura H. Gilbertson, Long-Term Care

Re: TIAA-CREF Life Insurance Company Long-Term Care Insurance (LTCI) Policies Nos. 09852450 and 09852468 issued to Leo J. Driscoll and Mary T. Driscoll, respectively

Ladies and Gentlemen:

We have received Ms. Gilbertson's letter of 2/06/13 in response to ours of 1/08/13 that identifies requested items of information that you have not provided to us.

Unfortunately, it appears that you and we are at an impasse as to whether RCW 48.19.300 is or is not applicable here.

Without waiving or prejudicing either your position or our position on that issue we respectfully request that, in keeping with good faith and fairness in relation to the imposition of the 41% premium increase and the bundling of policy forms for purposes of that increase, the insurer promptly provide to us (or cause to be provided to us) the items of information described in the attachment to this letter. We request that information so that we may better assess and understand the reasons and justification for the premium increase. All of that information was previously requested in our earlier letters of 9/29/12 and/or 1/08/13.

We will pay your reasonable costs incurred in providing the information. Please advise as to the amount. Respectfully yours,

Leo J. Driscoll

Mary T. Driscoll

Attachment to letter dated March 5, 2013 from Leo and Mary Driscoll to TIAA-CREF Life Insurance Company and Metropolitan Life Insurance Company, Administrator for TIAA-CREF Life Insurance Company

List of items of information requested:

1. All actuarial memoranda submitted to the WA OIC relating to LTC.04(WA) policy form that you have not provided to us, including without limitation the "Actuarial Memorandum" that is described in the following excerpt from page 2 of the "Amendment to Actuarial Memorandum and Rate Filing", under the section entitled "Premium Rate Development", that was filed wit the WA OIC in July, 2001, relating to the LTC.04(WA) base policy form:

   *"The rates for these riders were developed using a simulation model, and the actuarial assumptions (incidence rates, mortality rates, lapse rates, termination rates, underwriting savings, interest rate and expenses) as described in the Actuarial Memorandum that is currently on file with your department. * * * "*

2. Applications, Rate Filing materials, and all actuarial memoranda that were submitted to the WA OIC in relation to and in support of the initial rates of the LTC.02(WA) Policy Form Series, including those for each of the following policy forms:

LTC-WA.02 Ed 2-94	LTC-E-WA.02 Ed. 4-97
LTC-E-WA.02 Ed. 2-94	QLTC-WA.02 Ed. 4-97
LTC-WA.02 Ed. 4-97	QLTC-E-WA.02 Ed. 4-97

   Including any riders or endorsements approved for issue with any of those.

3. Application(s), forms, and other writings submitted to the WA OIC for purposes of gaining approval of the form(s) of the LTC.02(WA) Policy Form Series,

4. All actuarial memoranda submitted to the WA OIC in relation to and in support of the initial rates of the LTC.03 Policy base form and in relation to and in support of any riders or endorsements approved for issue with that policy.

5. Application(s), Rate Filing materials, and actuarial memoranda submitted to the WA OIC in relation to and in support of the rate reduction for Policy form series LTC.02 (as referenced at paragraph no. 16, page 6 of the June 6, 2011 actuarial memorandum)

Rec'd 4/8/13

MetLife®

Metropolitan Life Insurance Company
as insurer or administrator* for TIAA-CREF Life Insurance Company and Teachers Insurance and Annuity Association of America
Long-Term Care
P.O. Box 990028
Hartford, CT 06199-0028

April 3, 2013

Mr. Leo J. Driscoll
Mrs. Mary T. Driscoll
4511 E. North Glenngrae Ln.
Spokane, WA 99223

Re: Policy Number: 09852450 for Leo J. Driscoll
Policy Number: 09852468 for Mary T. Driscoll

Dear Mr. and Mrs. Driscoll:

We are writing in response to your letter dated March 5, 2013 that is addressed to MetLife and T-C Life. We note that you issued two previous letters to MetLife and T-C Life dated September 29, 2012 and January 8, 2013, where you requested copies of the applications, actuarial memoranda, and forms involving the approval of the initial rates and forms for the T-C Life Long-Term Care policies currently administered by MetLife. We also note that on November 14, 2012 and February 6, 2013, MetLife issued responses to your previous letters, where we indicated that MetLife was under no legal obligation to provide you with the foregoing documents. In your latest letter dated March 5, 2013, you acknowledge that you and MetLife are at an impasse as to whether the law cited in your letters is applicable to long-term care, and you reiterate your request for the foregoing documents.

As stated in our previous responses, we have carefully reviewed the arguments raised in your previous letters. Your latest letter does not appear to provide any additional information or support that you are entitled to the documents referenced in your letters. Accordingly, MetLife's position that RCW 48.19.300 is inapplicable to long-term care insurance (which is a form of disability insurance) remains unchanged. To that end, it remains MetLife's position that T-C Life is not required under Washington law to provide you with the documents requested in your previous letters.

We appreciate the opportunity to address your concerns. For assistance with any questions about your coverage you may contact MetLife Customer Service at 1-888-748-4824. Our Customer Service Representatives are available Monday through Friday 8:00 a.m. to 11:00 p.m. EST.

Sincerely,

Laura H. Gilbertson

Laura H. Gilbertson
Client Liaison
MetLife Long-Term Care

APPLICANTS EXHIBIT 6

DOCKET # 14-0187

(Seven pages of SERFF generated materials included in

OIC State Tracking file #230615)

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230615*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LCUL.04-TCL/W11-27 TL (T-C LIFE)*		

Filing at a Glance

Company: TIAA-CREF Life Insurance Company

Product Name: Long Term Care Insurance	SERFF Tr Num: META-127150316	State: Washington
TOI: LTC06 Long Term Care - Other	SERFF Status: Closed-Filed	State Tr Num: 230615
Sub-TOI: LTC06.000 Long Term Care - Other	Co Tr Num: W11-27 TL (TC-LIFE - RATES) CC	State Status: Filed
Filing Type: Rate		Reviewer(s): Lee Michelson
	Authors: Sandra Bennett, Ruth Rivera, Linda Williams, Cherise Crittenden	Disposition Date: 08/17/2011
	Date Submitted: 06/10/2011	Disposition Status: Filed
Implementation Date Requested:		Implementation Date: 10/16/2011

State Filing Description:

General Information

Project Name: LCUL.04-TCL	Status of Filing in Domicile: Pending
Project Number: W11-27 TL (T-C LIFE)	Date Approved in Domicile:
Requested Filing Mode: Review & Approval	Domicile Status Comments:
Explanation for Combination/Other:	Market Type: Individual
Submission Type: New Submission	Individual Market Type:
Overall Rate Impact:	Filing Status Changed: 08/17/2011
	State Status Changed: 08/17/2011
Deemer Date:	Created By: Ruth Rivera
Submitted By: Cherise Crittenden	Corresponding Filing Tracking Number:

Filing Description:

This is a premium rate schedule increase filing for individual long-term care insurance policies. Please see our filing letter for details.

Company and Contact

Filing Contact Information

William D. Wilson, Staff Analyst

801 Route 22 908-253-2290 [Phone]

Bridgewater, NJ 08807

Filing Company Information

TIAA-CREF Life Insurance Company	CoCode: 60142	State of Domicile: New York
730 Third Avenue	Group Code:	Company Type:
New York, NY 10017	Group Name:	State ID Number:
(212) 578-2944 ext. 2944[Phone]	FEIN Number: 13-3917848	

Filing Fees

Fee Required?	No
Retaliatory?	No
Fee Explanation:	
Per Company:	No

COMPANY	AMOUNT	DATE PROCESSED	TRANSACTION #
TIAA-CREF Life Insurance Company	$0.00		

State Specific

If you are filing a Healthcare or Disability filing, is the Co Tracking # field populated on the General Information Tab? If no, your filing will be rejected. (yes/no): Yes
Form Tab Only - Are the Form # and Form Description fields populated corresponding to the attached form? (yes/no): No - Not Applicable to this filing
If your are submitting a File and Use product, have you populated the Implementation Date field? (yes/no): No - this is a Review and Approval filing

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230615*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*ICUL.04-TCL/W11-27 TL (T-C LIFE)*		

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Filed	Lee Michelson	08/17/2011	08/17/2011

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230613*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC08 Long Term Care - Other*	*Sub-TOI:*	*LTC08.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LCUL04-TCLAW11-27 TL (T-C LIFE)*		

Disposition

Disposition Date: 08/17/2011
Implementation Date: 10/16/2011
Status: Filed
Comment:
You have been selected to take part in our online customer survey. Please take a minute or two to give us your feedback so we can better serve you. The survey is completely voluntary and confidential.

Take the survey at: http://www.seesrc.wsu.edu/PugetSound/RatesandForms

Company Name:	Overall % Indicated Change:	Overall % Rate Impact:	Written Premium Change for this Program:	# of Policy Holders Affected for this Program:	Written Premium for this Program:	Maximum % Change (where required):	Minimum % Change (where required):
TIAA-CREF Life Insurance Company	41.000%	41.000%	$35,747	55	$87,167	41.000%	41.000%

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230615*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LC(IL,04-TCL/W11-27 TL (T-C LIFE)*		

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Actuarial Memorandum		Yes
Supporting Document	Long Term Care Rates		Yes
Supporting Document	Cover Letter		Yes
Supporting Document	Authorization Letter		Yes
Rate	Generic Rates		Yes

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230615*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LCUL.04-TCL/W11-27 TL (T-C LIFE)*		

Rate Information

Rate data applies to filing.

Filing Method:	SERFF
Rate Change Type:	Increase
Overall Percentage of Last Rate Revision:	%
Effective Date of Last Rate Revision:	
Filing Method of Last Filing:	See section 16 of the Actuarial Memo

Company Rate Information

Company Name:	Overall % Indicated Change:	Overall % Rate Impact:	Written Premium Change for this Program:	# of Policy Holders Affected for this Program:	Written Premium for this Program:	Maximum % Change (where required):	Minimum % Change (where required):
TIAA-CREF Life Insurance Company	41.000%	41.000%	$36,747	55	$87,167	41.000%	41.000%

SERFF Tracking Number:	*META-127150316*	*State:*	*Washington*
Filing Company:	*TIAA-CREF Life Insurance Company*	*State Tracking Number:*	*230613*
Company Tracking Number:	*W11-27 TL (TC-LIFE - RATES) CC*		
TOI:	*LTC06 Long Term Care - Other*	*Sub-TOI:*	*LTC06.000 Long Term Care - Other*
Product Name:	*Long Term Care Insurance*		
Project Name/Number:	*LCUL04-TCL/W11-27 TL (T-C LIFE)*		

Rate/Rule Schedule

Schedule Item Status:	Document Name:	Affected Form Numbers: (Separated with commas)	Rate Action:*	Rate Action Information:		Attachments
	Generic Rates	TCL-LTC.04 (WA) Ed. 4/00	Revised	Previous State Filing Number:		Generic Rates.pdf
				Percent Rate Change Request:	41.000	

APPLICANTS EXHIBIT 7

DOCKET # 14-0187

[Letter 9/25/1998 from actuary Larry Scheinson to OIC re LTC.03(WA) Rate filing,

OIC Tracker ID #98994)

TIAA

Teachers Insurance and
Annuity Association
730 Third Avenue, New York, NY 10017-3206
212 490-9000 1 800 842-2733

Larry Scheinson, F.S.A.
Assistant Actuary
1-800-842-2733 ext.6638

September 25, 1998

RECEIVED

SEP 28 1998

INSURANCE COMMISSIONER
RATES & CONTRACTS

Janis LaFlash
Insurance Commissioner
Washington Office of Insurance Commissioner
Insurance Building
Post Office Box 40255
Olympia, WA 98504-0255

Re: Long-Term Care Form LTC.03(WA) et al
Rate Filing
Actuarial Memorandum

Dear Ms. Janis LaFlash::

Enclosed for your approval please find a Rate Filing and Actuarial Memorandum in support of our new individual long-term care policy form LTC.03(WA). This form is structured in accordance with tax-qualified guidelines under Section 7702B(b) of the Internal Revenue Code. We plan to issue this new policy form beginning January 1, 1999.

Some of the new policy options and features being introduced with this form are:

1. Benefit Period: Unlimited (3 year, 5 year, and 7 year periods are also available)
2. Benefit Waiting Period: 365 days (30 day and 90 day periods are also available)
3. Nonforfeiture Option: Shortened Benefit Period
4. A 10% Spousal Discount (if both spouses are issued a policy under this form)
5. Benefit Trigger: - 2 of 6 Activities of Daily Living
   - use of "standby assistance" language instead of "active one-to-one assistance" language
6. Assisted Living Facility Care Benefits
7. Alzheimer's Facility Care Benefits
8. Hospice Facility Benefits
9. Benefits for Caregiver Training, Emergency Response Systems and Durable Medical Equipment
10. Home and Community-Based Care Benefits
    - 100% Home Health (50% Home Health remains available)
    - Homemaker services
    - Licensed home health care providers not affiliated with an agency

HN • 8LH • 8OUOT

In pricing this new policy form we modified our assumptions for morbidity, mortality, interest, and contribution to contingency reserves. The morbidity assumptions are based both on our pool of experience and the input of our reinsurer.

We have also changed the method used to calculate the level premium. In the past we have assumed premiums are paid while an insured is on claim, and we pay a corresponding waiver of premium benefit. Now we simply assume that premiums are not paid while an insured is on claim, so that a corresponding waiver of premium benefit is not included in the pricing.

The calculation of the 100% Home Health Care option has also changed. We now assume that the full 100% of the Nursing Facility Care Daily Benefit Maximum is utilized, whereas before we assumed less than this would be used. In conjunction with this, the Home Health Care day per week assumption has been lowered.

Except as mentioned above, this filing is substantially based on the prior filings of our current policy forms QLTC-WA.02 and QLTC-E-WA.02, Ed. 4-97 et al, which were most recently placed on file with your Department on December 30, 1997.

Current policyholders will be handled as follows:

Since the premiums for this new form (LTC.03(WA) et al) are in many cases lower than the premiums for our current form (QLTC-WA.02 and QLTC-E-WA.02, Ed. 4-97 et al), we will be instituting a rate reduction on the current form. Most policyholders will receive a rate reduction.

A filing for this rate reduction on forms QLTC-WA.02 and QLTC-E-WA.02, Ed. 4-97 et al was filed on September 16, 1998.

Additionally, we will offer this new form (LTC.03(WA) et al) to all current policyholders who have coverage under forms QLTC-WA.02 and QLTC-E-WA.02, Ed. 4-97 et al. This offer will be available on a guaranteed issue basis if accepted within a limited period of time (i.e. 30 days). Policyholders will be able to switch to the plan most comparable to their current plan (or perform a limited upgrade) without underwriting. If the policyholder is impaired in 2 or more ADL's or is Cognitively Impaired at the time of the offer, the offer must still be accepted within the limited period of time, but the upgrade will not be made effective until after the policyholder has not been impaired in 2 or more ADLs or Cognitively Impaired for 180 days.

The premium for the new form (LTC.03(WA) et al) for policyholders accepting the above offer will be the attained age premium for the new form less a premium credit. The methodology of the premium credit is described in the Rate Filing and Actuarial Memorandum.

We wish to except from disclosure all actuarial information and memoranda as well as any other information deemed proper by the Department.

NOV-03-04 03:04P

We look forward to your assistance in placing these rates on file with the Department. If you have any questions, please contact me at 1-800-842-2733 ext. 6638, or in my absence you can contact Earl Klayman at ext. 2810.

Sincerely,

Larry Scheinson, F.S.A.
Assistant Actuary

JOURNAL • MAIL • BOUND

APPLICANTS EXHIBIT 8

DOCKET # 14-0187

(Letter dated May 30, 2000 from actuary Larry Scheinson to OIC

Re Rate Filing for LTC.04(WA) Policy Forms ,

OIC State Tracker file #141617)

Teachers Insurance and
Annuity Association

730 Third Avenue, New York, NY 10017-3206
212 490-9000 1 800 842-2733

Larry Scheinson, FSA, MAAA.
Associate Actuary
1-800-842-2733 ext. 6638

May 30, 2000

Deborah Senn, Insurance Commissioner
Washington Office of Insurance Commissioner
Insurance Building
Post Office Box 40255
Olympia, WA 98501

Att: Ms. Gail J. Nixon
Policy and Rate Analyst II

Re: TIAA-CREF Life Insurance Company
(TIAA-CREF Life)
NAIC ID#: 60142 FEIN #: 13-3917848
Long-Term Care Form TCL-LTC.04(WA) et al

Rate Filing
Actuarial Memorandum

Dear Ms. Nixon:

Enclosed for your approval, please find in duplicate a Rate Filing and Actuarial Memorandum in support of our individual long-term care policy forms TCL-LTC.04(WA). These forms are being filed on behalf of TIAA-CREF Life Insurance Company ("TIAA-CREF Life"), a subsidiary of Teachers Insurance and Annuity Association. Minimal changes were made to the forms mainly to support the administration of the new subsidiary (i.e., changing TIAA to TIAA-CREF Life).

The forms are structured in accordance with tax-qualified guidelines under Section 7702B(b) of the Internal Revenue Code. We plan to issue these new policy forms in early 2000, depending on the number of state-approvals that we receive.

The Rate Filing and Actuarial Memorandum are virtually identical to the TIAA, LTC.03(WA) material approved by your Department on January 7, 2000.

The only significant changes are:

1. Rates are now level at issue ages 25 and under (for LTC.03(WA), rates are level at issue ages 44 and under).
2. There are changes in the policy change and premium credit discussion.

3. The addition of a simplified underwriting enrollment that is available for certain employees of employer-sponsored institutions endorsing this approach. This simplified underwriting approach is available to employees who on the effective date of their coverage, are actively at work on a full time basis away from their place of residence and who are not above age 74. Such employees can receive a policy without full underwriting within an enrollment period (or within 31 days of employment for new hires) if they certify that they are not currently impaired in any Activities of Daily Living, and have not used LTC services in the past 12 months.

   Employees not meeting the above requirements, retirees, spouses, and other family members would go through full underwriting. The premium rates for this approach would apply to each policy issued through the institution, whether or not simplified underwriting was used for the specific policy.

We wish to except from disclosure all actuarial information and memoranda as well as any other information deemed proper by the Department.

I look forward to your assistance in placing these rates on file with the Department. If you have any questions, please contact me at 1-800-842-2733 ext. 6638.

Sincerely,

Larry Scheinson, FSA, MAAA
Associate Actuary

JUN 04 '04 10:04 AM

APPLICANTS EXHIBIT 10

DOCKET # 14-0187

(Changed "Policy Schedule" form delivered by MetLife for policy of Leo J. Driscoll,
showing "Effective Date of this Schedule, August 1, 2012";
does not identify name of the Insurer or the policy number)

POLICY SCHEDULE

GENERAL POLICY INFORMATION

Name of Insured: LEO J DRISCOLL — SS#: XXX-XX-8482
Date of Birth: 11/14/1926 — Age: 75 Years
Policy Effective Date: August 1, 2002 — Policy Number: 09852450
(Effective 12:01 AM)
Effective Date of this Schedule: August 1, 2012

This Policy was issued in the state of Washington.

BENEFITS

Lifetime Benefit Maximum (as of the Effective Date of this Schedule)	$325,324.50**
**the amount shown does not reflect any claims paid or payable	
Nursing Facility Care Daily Benefit Maximum	$178.26 per day
Home and Community-Based Care Daily Benefit Maximum	$89.13 per day
Benefit Waiting Period	90 days

This policy is sufficient to provide at least 5 years of benefits.

SUPPLEMENTAL BENEFITS

Caregiver Training	Lifetime Maximum of $891.30
Respite Care	Maximum of 24 Days in any 12 Month Period
Durable Medical Equipment	Lifetime Maximum of $8,913.00
Emergency Response System	Maximum of up to $35.00 per Month up to 36 Months
Initial Installation Fee	Maximum of up to $75.00

OPTIONAL BENEFITS

Shared Care Option	Rider is attached to the Policy
Inflation Protection Option	Rider is attached to the Policy

PREMIUM SUMMARY

Basic Benefits	$5,477.51
Optional Benefit(s):	
Shared Care	$31.22
Inflation Protection Option	$138.43
Total Monthly Premium	$468.28
Total Monthly Premium With Spousal Discount	$421.45
Elected Payment Mode	MONTHLY
Total Modal Premium	$421.45

THIS POLICY SCHEDULE REPLACES ANY POLICY SCHEDULE AND ANY SCHEDULE OF ADDITIONAL BENEFITS AND PREMIUMS PREVIOUSLY ISSUED TO YOU

POLICY SCHEDULE

GENERAL POLICY INFORMATION

Name of Insured: LEO J DRISCOLL
Date of Birth: 11/14/1926
Policy Effective Date: August 1, 2002
(Effective 12:01 AM)
Effective Date of this Schedule: August 1, 2012

SS#: XXX-XX-8482
Age: 75 Years
Policy Number: 09852450

This Policy was issued in the state of Washington.

BENEFITS

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**the amount shown does not reflect any claims paid or payable	
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Home and Community-Based Care Daily Benefit Maximum	$89.13 per day
Benefit Waiting Period	90 days

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Respite Care	Maximum of 24 Days in any 12 Month Period
Durable Medical Equipment	Lifetime Maximum of $8,913.00
Emergency Response System	Maximum of up to $35.00 per Month up to 36 Months
Initial Installation Fee	Maximum of up to $75.00

OPTIONAL BENEFITS

Shared Care Option	Rider is attached to the Policy
Inflation Protection Option	Rider is attached to the Policy

PREMIUM SUMMARY

Basic Benefits	$5,477.51
Optional Benefit(s):	
Shared Care	$31.22
Inflation Protection Option	$138.43
Total Monthly Premium	$468.28
Total Monthly Premium With Spousal Discount	$421.45
Elected Payment Mode	MONTHLY
Total Modal Premium	$421.45

THIS POLICY SCHEDULE REPLACES ANY POLICY SCHEDULE AND ANY SCHEDULE OF ADDITIONAL BENEFITS AND PREMIUMS PREVIOUSLY ISSUED TO YOU

APPLICANTS EXHIBIT 11

DOCKET # 14-0187

(Excerpts from The Lewin Group Study)

#2002-02
February 2002

Long-Term Care Insurance: An Assessment of States' Capacity to Review and Regulate Rates

by

Steven Lutzky
Lisa Maria B. Alecxih
Ryan Foreman
The Lewin Group

The AARP Public Policy Institute, formed in 1985, is part of the Policy and Strategy Group at AARP. One of the missions of the Institute is to foster research and analysis on public policy issues of importance to mid-life and older Americans. This publication represents part of that effort.

The views expressed herein are for information, debate, and discussion, and do not necessarily represent official policies of AARP.

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AARP, 601 E Street, N.W., Washington, DC 20049

States primarily use the "loss ratio" to evaluate LTCI premiums (the percentage of claims paid divided by premiums collected from policyholders.) However the loss ratio is an imperfect measure of the extent to which a policy benefits consumers, and is often not enforced. All but one of the states reviewing rates use some sort of loss ratio criteria to evaluate LTCI premiums; the most common requirement is that a policy meet a loss ratio of 60 percent or better. Enforcement of loss ratio requirements, however, is limited – only 17 states evaluate loss ratios at times other than when rate increases are filed. Thus, if a policy is initially overpriced, there may not be an opportunity for the state to step in and correct it. In addition, only 13 states have a criterion for determining whether a new policy is priced too low, meaning that many policies reach the market that will almost certainly experience rate increases in the future. Because of the complexity of LTCI pricing, loss ratios can be manipulated by altering many of the underlying assumptions, such as the lapse rate, mortality tables, and (especially) interest rates. Thus, it is possible for an insurer to create a higher loss ratio to justify a rate increase simply by altering assumptions (e.g., assuming a lower interest rate on reserves) and without changing any substantive elements of a policy or its experience. Most states do not stipulate that specific assumptions be used; for example, only five percent of responding states dictated the interest rate that insurers could use in computing loss ratios.

Loss ratios, which appear to have been adopted for use from health insurance regulation,[13] are an imperfect tool for assessing whether a LTCI policy is appropriately priced, because of the prefunded nature of the product. Most states calculate the present value of premiums paid[14] and interest earned on those premiums when determining loss ratios over time.[15] The loss ratio will tend to be very low when a block of new policies is first sold because very few people will be receiving benefits, while everyone will be paying premiums. As the block of business ages, the

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[11] U.S. House of Representatives, Select Committee on Aging, Subcommittee on Health and Long-Term Care, *Long-Term Care Insurance: State Regulatory Practices Provide Inconsistent Consumer Protection*, Washington, DC: General Accounting Office (April 1989).

[12] AARP, *State Variation in the Regulation of Long-Term Care Insurance Products*, Prepared by Project Hope, Washington, DC: AARP (January 1992); U.S. House of Representatives, Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, *Wishful thinking: A world view of insurance solvency regulation*, Washington, DC: U.S. Government Printing Office (October 1994).

[13] Gordon R. Trapnell. "Loss ratios in long-term care insurance: Industry practices and regulation." Actuarial Research Corporation (June 1990).

[14] The value in today's dollars of the premiums paid over the life of the policy based on some estimate of the discount rate.

[15] Most states allow insurers to use a lower interest rate assumption for loss ratios than for pricing. This means that the assumptions used for calculating loss ratios can be more favorable toward obtaining higher loss ratios. Personal communication with John Wilkes, July, 1995.

number of people filing for benefits should increase, causing the loss ratio to climb. Thus, for a number of years after a group of new policies is sold, loss ratios should be lower than the 60 percent required by the National Association of Insurance Commissioners (NAIC) model and, in later years, loss ratios should be greater than 60 percent. Theoretically, after all the policies in the block are closed, the total amount of benefits paid should equal 60 percent or more of the total premiums collected plus interest earned.

Several actuaries interviewed by The Lewin Group as part of another study noted that variation in the loss ratio over time adds a considerable amount of uncertainty to the process of setting rates and creates the ability to manipulate loss ratios by altering key actuarial pricing assumptions, such as interest rates.[16] These variations can be especially problematic because some states allow insurers to use interest rate assumptions for pricing a policy that are different from those used for meeting loss ratio requirements. Thus, an insurer seeking to justify a rate increase could alter the interest rate assumption used to calculate the loss ratio to make the loss ratio appear artificially high.

From pg 28

The NAIC revisions to the Model Regulation, adopted in August of 2000, require:

- Greater disclosure to consumers about the possibility that their premiums may increase;
- Elimination of initial loss ratios;
- Strict lifetime loss ratio standards for rate increases (58 percent of the initial rate and 85 percent of the rate increase must go to covering claims);
- Enhanced regulatory monitoring and sanctions if rate increases are requested;
- Actuarial certification from insurers regarding adequacy of all rates (i.e., under moderately adverse experience, no further rate increases are expected for the life of the policy);
- Reimbursement of unnecessary rate increases to policyholders; and
- Specific information about the rate increase history of a carrier for the last 10 years.