

DRISCOLL, LEO

OIC NO. 16-0002 / SIMBA NUMBER 1339824

EXHIBIT 4

Prior Declaration of Scott Fitzpatrick

2014 NOV -7 P 1:40

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STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of
LEO J. DRISCOLL and MARY T. DRISCOLL
Application for Hearing.

Docket No. 14-0187
DECLARATION OF SCOTT FITZPATRICK IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, Scott Fitzpatrick, declare as follows:

1. I am over the age of 18 and make this declaration based on my personal knowledge.
2. I am employed by the Washington State Office of Insurance Commissioner as an Actuary 3 with the Company Supervision and Rates and Forms Divisions. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries.
3. Actuaries, like myself, specialize in particular practice areas corresponding to their training and credentials. I am a life actuary, specializing in disability and long-term care insurance.
4. It is part of my primary responsibilities to review companies' rate filings for disability and long-term care insurance to make sure that the companies' proposed rates are justified actuarially and meet statutory requirements. Rate filing review and correspondence with the filers is all

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electronic through the NAIC's System for Electronic Rate and Form Filing (SERFF).

- 5. I am experienced and familiar with the Insurance Code and the Office of the Insurance Commissioner obligation under the statutes and rules pertaining to insurance, especially the statutes and rules governing disability and long-term care insurance.
- 6. I am experienced and familiar with the NAIC's System for Electronic Rate and Form Filing (SERFF).
- 7. I have knowledge of, and access to, the documents 2011 TIAA-Cref (MetLife) rate filing that is the subject of the Demand for Hearing.
- 8. All rate filing materials are reviewed by Office of the Insurance Commissioner staff actuaries who specialize in reviewing particular rating filings that corresponds to their training and credentials.
- 9. I am not the Actuary who conducted the actuarial review of the 2011 MetLife rate filing. Lee Michelson, who approved the MetLife rate filing, left the Office of the Insurance Commissioner for other employment. Lee Michelson, like all Office of the Insurance Commissioner staff actuaries, specialized in reviewing particular rating filings that corresponded to his training and credentials, which were disability and long-term care insurance.
- 10. In order to provide responses to the Demand for Hearing, I conducted a thorough review of the 2011 MetLife rate filing.
- 11. On June 10, 2011, MetLife submitted all information required under the applicable insurance statutes and rules to support the rate filing.
- 12. I have reviewed the MetLife Premium Rate Schedule Increase Filing. A true and correct copy of the MetLife Premium Rate Schedule Increase Filing is attached hereto as OIC Exhibit 1: MetLife Premium Rate Schedule Increase Filing.
- 13. I have reviewed the Actuarial Memorandum in support of the MetLife Premium Rate Schedule Increase Filing. A true and correct copy of the

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Actuarial Memorandum is attached hereto as OIC Exhibit 2: Actuarial Memorandum, 2011.

- 14. As a practical matter, carriers do not deem rate filings approved. Carriers desire approval before implementing changes that could be costly to undo if the Commissioner disapproved the rates afterwards.
- 15. I have reviewed the OIC actuary staff email communications regarding the 2011 MetLife rate filing. A true and correct copy of these emails is attached hereto as OIC Exhibit 3: OIC Actuary Staff Emails Regarding Approval.
- 16. I have reviewed the Disposition provided to MetLife regarding the 2011 rate filing. A true and correct copy of this Disposition is attached hereto as OIC Exhibit 4: Disposition – Approval of Rate Filing.
- 17. No prior rate increase for these long-term care policies had been filed and the rate, to this date, has not increased since 2011.
- 18. Leo and Mary Driscoll (Petitioners) allege in paragraphs 1.31 through 1.57.2 that MetLife failed to provide certain information in the rate filing. *Demand for Hearing*, pgs. 14-18. However, this is 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 alleged to be missing in paragraph 1.35 can be found in the Actuarial Memorandum at page 10.
- 19. The 2011 MetLife rate filing and supporting materials were no different in form or substance than any other typical rate filing. The rate filing was accurately determined to be supported by the calculations.

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20. I have concerns that even with this change in premiums; the products would be presently operating at an 88.2% loss ratio. This loss ratio is higher than most insurance products.

21. However, I affirm the approval of the 2011 MetLife rate filing because the rate filing was not excessive, inadequate or unfairly discriminatory as defined by the relevant insurance statutes and rules.

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

Executed on the 7th day of November, 2014, at Tumwater, Washington.



Scott Fitzpatrick, FSA, MAAA
Analyst 3
Office of the Insurance Commissioner

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**STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of

**LEO J. DRISCOLL and MARY T.
DRISCOLL**

Application for Hearing.

Docket No. 14-0187

SECOND DECLARATION OF
SCOTT FITZPATRICK

I, Scott Fitzpatrick, declare as follows:

1. I am over the age of eighteen (18) and make this declaration based on my personal knowledge.
2. I am employed by the Washington State Office of Insurance Commissioner as an Actuary 3 with the Company Supervision and Rates and Forms Divisions. I am a Fellow of the Society of Actuaries and a Member of the American Academy of Actuaries.
3. Actuaries, like myself, specialize in particular practice areas corresponding to their training and credentials. I am a life actuary, specializing in disability and long-term care insurance.
4. I have twenty-six (26) years of experience as an actuary, and seven (7) years specializing as an actuary in long term care insurance.
5. It is part of my primary responsibilities to review companies' rate filings for disability and long-term care insurance to make sure that the

1 companies' proposed rates are justified actuarially and meet statutory
2 requirements.

3 6. I am experienced and familiar with the NAIC's System for Electronic
4 Rate and Form Filing (SERFF).

5 7. Rate filing review and written correspondence with the filers is all
6 electronic through the NAIC's System for Electronic Rate and Form
7 Filing (SERFF).

8 8. I am experienced and familiar with the Insurance Code and the Office of
9 the Insurance Commissioner obligation under the statutes and rules
10 pertaining to insurance, especially the statutes and rules governing
11 disability and long-term care insurance.

12 9. I have knowledge of, and access to, the 2011 TIAA-Cref (MetLife) rate
13 filing that is the subject of the Demand for Hearing.

14 10. All rate filing materials are reviewed by Office of the Insurance
15 Commissioner staff actuaries who specialize in reviewing particular
16 rating filings that corresponds to their training and credentials.

17 11. I am not the Actuary who conducted the actuarial review of the 2011
18 MetLife rate filing. Lee Michelson, who approved the MetLife rate
19 filing, left the Office of the Insurance Commissioner for other
20 employment. Lee Michelson, like all Office of the Insurance
21 Commissioner staff actuaries, specialized in reviewing particular rate
22 filings that corresponded to his training and credentials, which were
23 disability and long-term care insurance.

24 12. In order to provide responses to the Demand for Hearing, I conducted a
25 thorough review of the 2011 MetLife rate filing.

26 13. I have reviewed the MetLife Premium Rate Schedule Increase Filing.

14. I have reviewed the Actuarial Memorandum in support of the MetLife
Premium Rate Schedule Increase Filing.

15. I have reviewed the OIC actuary staff email communications regarding
the 2011 MetLife rate filing. A true and correct copy of these emails is

OIC EXHIBIT 4 - Page 6 of 8

1 attached as Exhibit 3 to Declaration of Scott Fitzpatrick (previously
2 submitted).

3 16. I have reviewed the Disposition provided to MetLife regarding the 2011
4 rate filing which approved the 2011 rate filing.

5 17. Amongst other arguments, Leo and Mary Driscoll (Petitioners) allege that
6 the filing should not have been approved because the filing did not
7 include Washington specific rates.

8 18. Washington specific rates were not filed with the rate filing because those
9 rates would be statistically inaccurate and misleading. Between all three
10 MetLife policy product lines (series .02, .03 and .04) only fifty-five (55)
11 policies were sold to Washington State consumers.

12 19. Actuaries use the Bayesian Creditability Theory to determine the
13 creditability of long-term care insurance loss-ratios within states. The
14 Bayesian Creditability Theory requires that at least 1,082 claims be
15 currently filed on a policy form within a state to attain statistical
16 creditability for a rate filing and loss ratio analysis. With only a total of
17 fifty-five (55) policies sold in the state of Washington (of which only a
18 fraction are in claim status), creditability cannot be attained, nor could it
19 be attained in combination with a few states.

20 20. Due to the small number of policies sold, in order to attain creditable
21 statistics, the analysis must be performed at a national level.

22 21. RCW 48.19.030 permits an insurer to use loss experience from the
23 combined experiences of other states (including at the national level if
24 needed) that are likely to produce loss experience similar to that in this
25 state when the loss experience in Washington is not statically creditable.

26 22. The Office of the Insurance Commissioner accepted the most statistically
27 creditable loss experience available to the limited MetLife product line,
28 which was nationwide loss experience and issued the Disposition
29 approving of the MetLife rate and form filing on August 17, 2011.

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23. The 2011 MetLife rate filing and supporting materials were no different in form or substance than any other typical rate filing. The rate filing was accurately determined to be supported by the calculations.

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

Executed on the 16th day of January, 2015, at Tumwater, Washington.



Scott L. Fitzpatrick, FSA, MAAA
Actuary 3
Office of the Insurance Commissioner