American Cancer Society ☙ Children's Defense Fund/New York ☙ Community Service Society of New York ☙
Make The Road New York ☙Metro New York Health Care for All Campaign
New Yorkers for Accessible Health Coverage ☙ New York Immigration Coalition
Public Policy and Education Fund of New York/Citizen Action of New York ☙ Raising Women's Voices ☙
Schuyler Center for Analysis and Advocacy

September 6, 2012

Benjamin M. Lawsky
Superintendent of Financial Services
One State Street
New York, NY 10004

RECEIVED
SEP 14 2012
HEALTH BUREAU
N.Y.C. OFFICE

Mr. Charles Lovejoy
Health Bureau
New York State Insurance Department
25 Beaver Street
New York, NY 10004

Re: **Requested Rate Changes – Aetna Health, Inc. (NY)**
Aetna Health Insurance Company

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York ("HCFANY") respectfully objects to the proposed rate increases of up to 17.5 percent posted for Q1 2013 – Q4 2013 for Aetna Health Inc. (NY) (Direct Pay HMO, Direct Pay POS, Healthy NY, and Small Group HMO), and Aetna Health Insurance Company (Small Group POS) (collectively, the "Aetna" products) currently pending before the New York State Department of Financial Services (the "Department").[1]

HCFANY is a coalition of more than 130 consumer and small business health advocacy organizations dedicated to achieving affordable, comprehensive, and high-quality health care for all New York residents. HCFANY joins the objections of Aetna plan members who have filed

[1] These rate increase applications correspond respectively to applications submitted on August 6-24, 2012, SERFF file numbers: AETN-128568461, AETN-128568520, AETN-128566940, AETN-128619160, and AETN-128619230 (hereafter "Rate Applications").

comments on the proposed increases to the Department's website. Individuals and small business owners have raised their voices to object to the Aetna rate increases:

> *Prior to this proposed increase, I was considering placing my dependent daughter under Aetna's Health Program which would have, in itself, been a financial burden. Despite the fact that her health coverage is imperative as she is suffering from a long term health condition, if this increase is approved, I will not be able to even envision making ends meet with my fixed income.*[2]

> *As an employer participating in the Aetna Healthy NY Plan, I oppose their proposed rate increases. Just this month they returned 15% of this past year's premiums according to requirements of the Affordable Care Act. This is strong evidence that not only should they not be allowed to increase rates, they should actually be required to REDUCE their rates since they have been in excess of what the law allows.*[3]

> *I am part of the population that is employed full time but does not have access to health care through that channel and forced to see alternative options. Additionally, my salary does not increase at the rate that these policies have increased over the years and I am very worried about this pending 2013 increase of nearly $80 per month. With a mortgage and other monthly expenses, squeezing out this extra money will be near impossible for me and I fear I will have to stop my plan and be left without coverage.*[4]

HCFANY echoes the concerns described in these personal stories and believes that they clearly and poignantly describe the human cost of Aetna's proposed rate increases.

Before turning to our substantive objections to the Aetna Rate Applications, HCFANY would like to commend the Department on its effort to restore the process to approve health insurance rate increases prior to their adoption for New York's individual, small group, and community-rated large group markets. HCFANY believes that a robust prior approval process is a vital protection against staggering health insurance rate increases—which routinely outpace inflation and wage growth in New York—endured by the sole proprietors, small businesses and their employees, and individuals whose interests we represent. We are particularly gratified by the Department's most recent efforts to increase transparency and public disclosure in the rate filing process. As evidenced by our comments below, the posting of actuarial memoranda and other carrier materials affords New Yorkers an enhanced understanding of the basis for the proposed rate increase in question and improves our capacity to provide meaningful commentary on them.

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[2] Anonymous Comment on AETN-128568461 from Department website, "August 28, 2012," available at https://myportal.dfs.ny.gov/web/prior-approval/aetnahealthinc/ind-dp-adv-hmo-aetn-128568461.
[3] Anonymous Comment on AETN-128566940 from Department website, "August 28, 2012," available at https://myportal.dfs.ny.gov/web/prior-approval/aetnahealthinc/ind-sg-ny-hmo-hdhp-aetn-128566940.
[4] Id.

HCFANY's Objection to Aetna's Proposed Rate Increase

HCFANY objects to Aetna's Rate Applications based upon its review of information available from the National Association of Insurance Commissioners ("NAIC") and the additional actuarial memoranda and supporting documentation posted on the Department's website. Based on the data reviewed, HCFANY urges the Department to reject Aetna's proposed rate changes.

As described in greater detail below, there are four grounds for HCFANY's objection. First, Aetna requests premium increases for its Small Group products despite the fact that these products have experienced significant decreases in trend. Second, Aetna's NAIC filings demonstrate a low Medical Loss Ratio for its Small Group products, which obviates the need for a premium increase. Third, Aetna's requested premium increases for its Healthy NY products exceed both its assumed trends and its experienced trends. Fourth, Aetna bases its premium increases on medical trend assumptions that are inconsistent with studies of national trend data.

HCFANY addresses each of these objections in turn below.

I. Aetna's Small Group Premium Increases are Inconsistent With Significant Decreases in Its Experienced Trends

Aetna requests an increase of 9.67 percent for its Small Group products. As detailed in the chart below, however, these products have realized significant *decreases* in trend in recent experience periods.

AETN-128619160 & AETN-128619230 - Small Group					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	9.67%
1/1/2011	12/31/2011	$234.01	-38.98%	Assumed Trend Data	
1/1/2010	12/31/2010	$383.52	-7.77%	11.20%	2012
1/1/2009	12/31/2009	$415.82		11.20%	2013

Despite experiencing a decrease in trend of 7.77 percent in 2010, and a large decrease in trend of 38.98 percent in 2011, Aetna assumes a positive medical trend of 11.2 percent for 2012 and 2013. According to the Rate Application's Actuarial Memorandum, Aetna bases its medical trend assumptions on "large group and small group experience." This may explain the discrepancy between the Small Group products' experienced trend and Aetna's assumed trend. It is unfair to New York's small businesses, though, to base the assumed trend for the Small Group products on Large Group experience, especially where the Small Group products' specific experience is more

favorable to the consumer. Accordingly, HCFANY asks that the Department reject Aetna's requested premium increases for its Small Group products.

II. Aetna's Small Group Medical Loss Ratio Does Not Support a Premium Increase

HCFANY believes that Aetna's proposed rate increase of 9.67 percent for its Small Group products is further unwarranted in light of Aetna's last reported Small Group Medical Loss Ratios (MLRs). Aetna Health, Inc. (NY) reported an MLR of 70.6 percent for its Small Group products in 2011, and Aetna Health Insurance Company of New York reported a Small Group MLR of 73.5 percent for 2011.[5] These MLRs are substantially below the minimum required by law and indicate that Aetna will have to issue rebates to its customers for failing to adequately spend premium dollars on medical claims. HCFANY believes that these extremely low MLRs of 70.6 and 73.5 percent constitute evidence that Aetna previously may have used overly aggressive medical trend assumptions to justify past rate increases. The low MLRs contradict Aetna's assertion that premium increases are necessary and suggest that decreases in premium might be more appropriate. Accordingly, HCFANY urges the Department to closely scrutinize the basis for Aetna's proposed rate increases, reject any excessive increases, and instate premium reductions where appropriate.

III. Aetna's Requested Increase for Its Healthy NY Products Exceeds Both Its Assumed Trends and Its Experienced Trends

Aetna's requested increase for its Healthy NY products is unsupported by the trend experience submitted by Aetna. As detailed in the chart below, these products experienced a trend of 3.14 percent in 2010, and 15.60 percent in 2011. The requested increase of 17.50 percent exceeds both of these.

AETN-128566940 - Healthy NY					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	17.50%
1/1/2011	12/31/2011	$672.62	15.60%	Assumed Trend Data	
1/1/2010	12/31/2010	$581.86	3.14%	11.2/12.4%	2012
1/1/2009	12/31/2009	$564.15		11.2/17.8%	2013

Further, the requested increase exceeds even the assumed trends, save one. Aetna assumes medical trends of 11.2 percent and 12.4 percent for these products in 2012, and 11.2 percent and 17.8 percent in 2013. The requested increase of 17.5 percent therefore appears to be unsupported, and HCFANY asks the Department to reject it.

[5] 2011 NAIC Filings, Health Annual Statement, Supplemental Health Care Exhibit Part 1, Line 7.

IV. Aetna's Medical Trend Assumptions for Its Direct Pay Products Are Inconsistent with National Trend Studies

HCFANY urges the Department to reject Aetna's proposed rate increases of 7.32 percent for its Direct Pay HMO product and 7.22 percent for its Direct Pay POS product because its projected medical trends are inconsistent with independent analyses of national medical trend data. Though, admittedly, the requested increases are lower than the products' recently experienced trends, they are based on questionable assumed trends.

AETN-128568461 - Direct Pay HMO					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	7.32%
1/1/2011	12/31/2011	$1,778.83	14.67%	Assumed Trend Data	
1/1/2010	12/31/2010	$1,551.32	19.69%	12.40%	2012
1/1/2009	12/31/2009	$1,296.16		17.80%	2013
AETN-128568520 - Direct Pay POS					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	7.22%
1/1/2011	12/31/2011	$3,354.72	35.41%	Assumed Trend Data	
1/1/2010	12/31/2010	$2,477.47	26.49%	12.40%	2012
1/1/2009	12/31/2009	$1,958.57		17.80%	2013

Aetna bases its proposed increases for these two products on an assumed medical trend of 12.4 percent for 2012 and 17.8 percent for 2013. These assumed trends are inconsistent with multiple studies that indicate that the tapering of medical trend is a national phenomenon. PriceWaterhouse Coopers LLP recently issued its annual Behind the Numbers report—based on interviews with insurance carriers—estimating a medical trend no more than 7.5 percent for 2013. The report concludes that since 2009 "[h]ealthcare spending growth in the United States has slowed considerably."[6] And, in its own estimation the Behind the Numbers report has consistently been a conservative predictor of medical trend. In 2010, 2011, and 2012 their predicted trend rates were actually greater than their subsequently revised estimates.[7] Data analyses performed by Sibson Consulting and Milliman are consistent with the Behind the Numbers report. Sibson found declines in medical trend rates from 2010 to 2012.[8] The 2012 medical index from Milliman shows a cost increase of 6.9 percent between 2011 and 2012, the second straight year that their estimated rate of

[6] PwC Health Research Institute, "Medical Cost Trend: Behind the Numbers 2013," 2013 at 2.

[7] *Id.* at 5.

[8] Sibson Consulting, "2012 Segal Health Plan Cost Trend Survey." 2011.

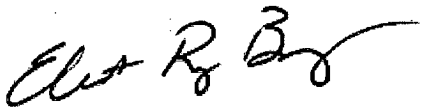
increase has gone down.[9] Aetna's expectations of increased medical trend run contrary to the prediction of these respected national experts.

Despite the indication that medical trend rates are slowing substantially, Aetna still projects inexplicably high medical trends for 2012 and 2013. Pursuant to our review of the application, Aetna has provided neither concrete evidence nor rationale for its relatively high trend projections. Therefore, HCFANY asks that the Department closely scrutinize Aetna's trend projections and reject the proposed rate increases, or in the alternative, lower them to an appropriate level.

Conclusion

HCFANY believes that the Aetna Rate Applications do not reveal adequate evidence to support the proposed rate increases of up to 17.5 percent. Where recent experience periods show sharp declines in trend, Aetna requests premium increases. Further, Aetna's Small Group MLRs do not justify increases. Aetna requests increases for its Healthy NY products that exceed both its assumed medical trends and the products' own experienced trends. Aetna appears to be making assertions that are inconsistent with national studies of medical trend data, and using improper assumed medical trends. HCFANY urges the Department to closely review Aetna's submissions. Absent any additional information in support of their proposals, HCFANY urges the Department to reject Aetna's proposed rate increases.

Very truly yours,



Elisabeth R. Benjamin, MSPH, JD
Health Care For All New York

cc: Troy Oechsner
John Powell

[9] Milliman, "2012 Milliman Medical Index," May 2012.