

**MARKET CONDUCT EXAMINATION REPORT**

**ON**

**GENWORTH LIFE INSURANCE COMPANY**

**As of June 15, 2007**

I, Karen Weldin Stewart, CIR-ML, Insurance Commissioner of the State of Delaware, do hereby certify that the attached REPORT ON MARKET CONDUCT EXAMINATION, made as of June 15, 2007 of the

**GENWORTH LIFE INSURANCE COMPANY**

is a true and correct copy of the document filed with this Department.



ATTEST BY: \_\_\_\_\_

DATE: March 9, 2010



*In Witness Whereof*, I HAVE HEREUNTO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THIS DEPARTMENT AT THE CITY OF DOVER, THIS 9TH DAY OF MARCH 2010.



Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

**REPORT ON MARKET CONDUCT EXAMINATION**  
OF THE  
**GENWORTH LIFE INSURANCE COMPANY**  
AS OF  
**JUNE 15, 2007**

The above captioned Report was completed by examiners of the Delaware Insurance Department.

Consideration has duly been given to the comments, conclusions, and recommendations of the examiners regarding the status of the Company as reflected in the Report.

This Report is hereby accepted, adopted, and filed as an official record of this Department.



*In Witness Whereof*, I HAVE HEREUNTO SET MY HAND  
AND AFFIXED THE OFFICIAL SEAL OF THIS  
DEPARTMENT AT THE CITY OF DOVER, THIS 9TH DAY  
OF MARCH 2010.

A handwritten signature in black ink, appearing to read "Karen Weldin Stewart", is written over a horizontal line.

Karen Weldin Stewart, CIR-ML  
Insurance Commissioner

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## SALUTATION

June 17, 2009

Honorable Karren Weldin Stewart, CIR-ML  
Insurance Commissioner  
State of Delaware  
841 Silver Lake Boulevard  
Dover, Delaware 19904

Dear Commissioner Weldin Stewart:

In compliance with the instructions contained in Certificate of Examination Authority Number 07.716, and pursuant to the statutory authority provided by 18 Del.C. §318-322, a target market conduct examination has been conducted of the affairs and practices of:

### **Genworth Life Insurance Company**

The examination was performed as of June 15, 2007. Genworth Life Insurance Company, hereinafter referred to as the "Company" or as "Genworth," is incorporated under the laws of the State of Delaware. This examination was conducted either at the offices of the Delaware Department of Insurance, hereinafter referred to as the "Department" or as "DDOI," or other appropriate locations.

The report of examination thereon is respectfully submitted.

## FOREWORD

This examination reflects Genworth Life Insurance Company's insurance activities in the State of Delaware. This Market Conduct Examination Report is, in general, a report by exception. As such, some of the information reviewed by the examiners will not be referenced in this written report, since reference to or comments about any practices, procedures or files that did not result in any errors or irregularities is generally not made.

In performing this examination, the Delaware Department of Insurance selected a portion of the Company's operations for review. This report is not a review of all of the practices and activities of the Company.

Where used in the report:

“Company” refers to Genworth Life Insurance Company

“Del. Ch.” refers to the Statutes of Delaware

“DE Reg.” refers to Delaware's Regulations

“DDOI” refers to the Delaware Department of Insurance

“NAIC” refers to the National Association of Insurance Commissioners

“NAIC MCEH” refers to the NAIC's *Market Conduct Examiners' Handbook*

## SCOPE OF EXAMINATION

The Delaware Department of Insurance has authority to perform this examination pursuant to, but not limited to, 18 Del. C. §§318-322.

This Market Conduct Examination of Genworth Life Insurance Company began on November 13, 2007 and covered the period of January 1, 2005 – June 15, 2007, unless otherwise noted.

This examination was performed in accordance with Market Regulation standards established by the Department and examination procedures established by the NAIC. While the examiners report on the errors found in individual files, the examination also focuses on general business practices of the Company.

It is the Department's practice to cite companies for errors or apparent violation of a statute or regulation when the results of a sample review show errors/noncompliance at, or above, the following levels: 0 percent (0%) for Complaints, Sales and Advertising, producers who are not appointed and/or licensed, and the use of forms, rates and rules that are neither filed with nor approved by the Department; seven percent (7%) for claims; and ten percent (10%) for all other areas reviewed. Any operation with an error ratio in excess of these criteria indicates a general business practice.

When errors are detected in a sample yet the error rate is below the applicable threshold for citing an apparent violation, the Department may choose to issue a Management Letter to the company.

This examination includes a review of the Company's Individual Long Term Care business. The Company stated that it did not write Home Health Care or Group Long Term Care business in Delaware during the period under review.

## **EXECUTIVE SUMMARY**

This Market Conduct Examination revealed concerns with Company procedures and practices in the areas of Internal Audit, MGA/Third Party Administrator Oversight, Complaints, Agents Licensing, Agents Commissions, Underwriting and Claims.

The Company generally had adequate practices and procedures for Marketing and Sales.

For each of the cited exceptions in the report, recommendations have been made to address the issues and concerns noted by the examiners.

## **EXPLANATION OF EXAMINATION PROCESS**

### **Forms, Filings and Underwriting Guidelines**

The examiners review the Company's policy forms and underwriting guidelines to determine compliance with filing approval and content requirements. In addition, the examiners review the Company's underwriting guidelines and review those guidelines in comparison with the active files and terminated files, as well as claim files, in order to determine if the Company adheres to its own guidelines.

### **Marketing**

Delaware law limits which companies may sell insurance as well as the type of insurance the company is allowed to market. The department issues a Certificate of Authority to an insurer only after the insurer has completed an application process. Delaware law also requires the insurer to only use individuals or agencies to sell its product that are licensed by the Department. The examiners review the Company's operations to ensure they are in compliance with their Certificate of Authority, the licensing requirements of Delaware and the Advertising laws and regulations.

### **Complaints**

The examiners review the complaints the Company receives directly from consumers and complaints the Department receives to determine the accuracy of handling, the resolution of the complaint and the timeliness of the response.

## Underwriting and Rating

The examiners review the Company's underwriting and rating practices, which includes the use of policy forms and endorsements/riders, adherence to underwriting guidelines and Company manuals, determination and assessment of premium and declination & termination procedures.

## Claims

The examiners review the claims handling practices of the Company in order to determine the efficiency of handling, accuracy of payment, timeliness of investigation, adherence to contract provisions and compliance with Delaware law. A claim is considered to be a request or demand for payment of a loss which may be included within the terms of coverage of an insurance policy or a request or demand for any other payment under the policy, such as for the return of unearned premium or non-forfeiture benefits. The claim may be Paid, Denied or Closed without Payment.

## Sampling of Files

Due to the large number of policy files and claims files, the examiners cannot review every file and conduct the examination efficiently. As such, the examiners review a sample of the Company's files. A policy file as a sampling unit is considered to be one complete premium unit representing the charges provided or restricted by the riders attached, issued or re-rated during the period of the examination. A claim file as a sampling unit is an individual demand/request for payment or action under an insurance contract for benefits which may or may not be payable.

The most appropriate statistic to measure the Company's compliance with the law is the percent of files in error. The types of practices considered to be an error include, but are not limited to, miscalculations of premium based upon the information in the file, improper acceptance or denial of an application, unreasonable delay in the acknowledgement, investigation, payment or denial of a claim, failure to correctly calculate claim benefits, and failure of the Company to comply with Delaware's laws and regulations.

Some files may contain multiple errors which are indicated by category but only considered once in determining the error ratio.

## **EXAMINATION FINDINGS**

### **I. COMPANY OVERVIEW**

#### **A. History**

Genworth Life Insurance Company ("the Company", or "Genworth") was incorporated in the State of Washington on September 28, 1956 under the name United Pacific Life Insurance Company. On May 12, 1992, the Company was re-incorporated and re-domesticated under the corporation and insurance laws of the State of Delaware. The Company's name was changed to General Electric Capital Assurance Company, effective April 1, 1994. The Company changed its name to Genworth Life Insurance Company on May 31, 2005.

Effective October 31, 1994, Federal Home Life Insurance Company and subsidiaries, The Harvest Life Insurance Company and PHF Life Insurance Company, became affiliates of General Electric. Effective June 30, 1996, AMEX Life was merged into the Company. Effective December 1, 1996, First Colony Life Insurance Company and subsidiaries Jamestown Life Insurance Company and American Mayflower Life Insurance Company of New York became affiliated with General Electric.

Effective January 1, 1999, Great Northern Insurance Annuity Corporation merged into General Electric.

## B. Profile

The Company is licensed to transact business in the District of Columbia and all states except New York. The Company writes long-term care insurance, fixed life insurance, single premium and flexible premium fixed deferred annuities and single premium immediate annuities in the structured-settlement and retirement-income markets. Product development, underwriting, policy issue and marketing of the long-term care business are based in Richmond, Virginia. Servicing of this business is done in Lynchburg, Virginia. Claims processing is done in San Rafael, California.

The Company stated it did not issue group long-term care business subject to Delaware jurisdiction.

## C. MGA and Vendor Oversight

The Company identified numerous vendors who assist in performing operational task ranging from underwriting phone interviews to direct marketing vendors. Additionally, the Company has a contract with the MGA, Long Term Care Group.

During the examination period Long Term Care Group (LTCG) performed the following functions: Policy Issue and Underwriting, Policyholder Service and Claims, Premium Collection, Billing and Accounting.

## Company Operations and Management

<p>The Company is adequately monitoring the activities of any entity that contractually assumes a business function or is acting on behalf of the company.</p>
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18 DE Reg 1406

*Findings:* The Company provided all financial audits performed on LTCG for Delaware business during the examination period. According to the financial audits provided, these audits were performed to help evaluate LTCG financial practices. The Company's LTCG audits do not have any reports that are directly related to market conduct or market conduct related activities a violation of 18 DE Reg 1406.

*Recommendations:* It is recommended that the company comply with 18 DE Reg 1406 and that the Company performs LTCG audits that are directly related to market conduct and market conduct related activities.

#### D. Certificates of Authority

The examiners reviewed the Company's operations for compliance with their Certificate of Authority to ensure that only those companies with the appropriate authority are transacting the business of insurance in Delaware. The results of that review indicate that the Company is operating in accordance with state law.

### II. COMPANY OPERATIONS/MANAGEMENT

The review of the Company's Operations and Management included the overall corporate management structure, record retention policies, reinsurance program, and annual shareholder reports. The examiners note there was no prior Market Conduct Examination of the Company by the DDOI.

*Findings:* There were no exceptions noted during the Company's Operations and Management review.

### III. COMPLAINT HANDLING

The examiners reviewed all seven of the complaints received by the Company during the examination period. Of the seven complaints there were two DDOI complaints and two complaints addressed to the Company's president reported for the period. The Company's complaint handling procedures were also reviewed for compliance with state law.

#### Complaint Handling

The Company communicates and responds to complainants formally and timely. 18 Del.Admin Code 907
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*Findings:* There were no exceptions noted during the Company's Complaint Handling review.

### IV. MARKETING and SALES

The examiners reviewed the Company's Sales and Marketing practices. This review included advertising, producer training and suitability.

*Findings:* There were no exceptions noted in the Company's Marketing and Sales practices during the examination period.

### V. PRODUCER LICENSING and TRAINING

For this examination a separate Licensing Review was not conducted. However, during the Underwriting Review the examiners did confirm whether or not the writing agent was properly licensed and appointed at the time the policy was written, and tests were performed to determine if agent commissions were paid according to statute.

#### Producer Licensing & Training

The Company is adequately monitoring to ensure that all agents are properly appointed at policy issuance.

18 Del. C. § 1715(a)

*Finding:* During the review of the agent's appointment dates it was noted that four out of the 50 sampled or 8% were not appointed at the time the policy was issued, which is in violation of 18 Del. C. § 1715(a). The Company disagrees with our findings but did not provide any supporting documentation to show that the four agents in question were indeed appointed at the time the policies were issued.

*Recommendation:* It is recommended that the Company ensure that all policies issued are only sold by properly appointed agents, to fully comply with 18 Del. C. § 1715(a).

## VI. POLICYHOLDER SERVICES

The examiners reviewed the Company's Sales and Marketing practices. This review included advertising, producer training and suitability.

*Findings:* There were no exceptions noted in the Company's Marketing and Sales practices during the examination period.

## VII. UNDERWRITING and RATING

### Newly Issued Policies

The examiners requested listings of all In-force and Newly Issued LTC policies applicable to the examination period. The Company provided a listing of 338 policies which were then sampled and tested.

### LTC Newly Issued Policies

Field Size:	338
Sample Size:	50
Sample Type:	Random
Number of Files with Errors:	8
Found Error Ratio:	16%
Criterion Used:	10%

Canceled Policies

The examiners requested listings of all LTC policies canceled during the examination period. The Company provided a listing of seven (7) policies identified as canceled during this period. All seven (7) canceled policies were reviewed.

LTC Canceled Policies

Field Size:	7
Sample Size:	7
Sample Type:	Census
Number of Files with Errors:	0
Found Error Ratio:	0%
Criterion Used:	10%

*Findings:* The Company appears to have handled canceled policy files without exception.

Replacement Policies

*Findings:* There were no replacements under the scope of the examination.

Free Look Premium Returns

The examiners requested listings of all LTC Free Look Premium Returns during the examination period. The Company provided a listing of 23 policies identified as canceled during this period. Of the 23 policies reviewed six (6) free look policies were noted as containing errors.

LTC Free Look Returned Policies

Field Size:	23
Sample Size:	23
Sample Type:	Census
Number of Files with Errors:	6
Found Error Ratio:	26%
Criterion Used:	10%

*Finding:* A review of Free Look cancellations found that the company did not return free look premiums in a timely manner. The Company agreed to two of the findings, however four other files were poorly documented which leads to a total of six files or 26% of the sample.

*Recommendation:* It is recommended that the Company properly process all free look cancellations and return premiums in a timely manner to comply with 18 Del. C. § 7105(f). It is also recommended that the Company and their representatives' date stamp all incoming documents to ensure proper file handling.

## VIII. CLAIMS

The examiners requested a listing of all LTC Paid and Denied claims during the examination period. The Company provided a listing of 101 claims that were paid and seven claims denied during the examination period.

### LTC Inforce Paid Claims

Field Size:	101
Sample Size:	101
Sample Type:	Census
Number of Files with Errors:	16
Found Error Ratio:	16%
Criterion Used:	10%

#### Claims

The Company is adequately monitoring claim handling processes to ensure the timeliness of claim adjudication.

18 Del Admin. Code 902 § 1.2.1.5

*Finding:* The examiners reviewed 101 Claim policies, which represents 100% of the Company's Claims that were filed during the examination period. Upon review of the claims, 16 of the 101, or 15.8% do not meet 18 Del Admin. Code 902 § 1.2.1.5 - Failure to Pay or Deny claim within 30 days from proof of loss.

*Recommendation:* It is recommended that the Company comply with 18 Del Admin. Code 902 § 1.2.1.5 of the Delaware Insurance Statute and pay or deny all claims within 30 days from proof of loss.

### LTC Inforce Denied Claims

Field Size:	7
Sample Size:	7
Sample Type:	Census
Number of Files with Errors:	0
Found Error Ratio:	0%
Criterion Used:	10%

*Findings:* There were no exceptions noted in the Company's Claims Handling of Denied Claims during the examination period.

#### Claim Procedures

All procedures related to how the Company plans to effectively adjudicate LTC claims were reviewed. The LTC claim manuals were noted without exception.

Claims

The Company maintains adequate processes and procedures to properly adjudicate claims within statutory timelines.

18 Del Admin. Code 902 § 1.2.1.5

*Finding:* The following procedure was listed by the Company as a *Timely Claim Settlement* for a filed claim: “Decisions on Nursing Home claims are made within 45 days.” The Company’s documented procedure does not comply with Delaware Statutory Regulation: 18 Del Admin. Code 902 § 1.2.1.5 – Failure to Pay or Deny claim within 30 days from proof of loss.

*Recommendation:* It is recommended that the Company’s Nursing Home claim procedures are rewritten to ensure compliance with DE Statute 18 Del Admin. Code 902 § 1.2.1.5 – Failure to Pay or Deny claim within 30 days from proof of loss, and pay or deny all claims within 30 days from proof of loss.

CONCLUSION

The examination conducted by Derek R. Stepp, Parker Stevens, Michael Pate and Shelly Schuman is respectfully submitted.



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Derek R. Stepp, CIE, MCM  
Examiner-in-Charge  
Market Conduct  
Delaware Department of Insurance