U.S. OFFICE OF PERSONNEL MANAGEMENT

OFFICE OF THE INSPECTOR GENERAL

OFFICE OF AUDITS

Final Audit Report

Audit of the Federal Long Term Care Insurance Program for Contract Years 2017 through 2019

Report Number 1G-LT-00-21-013

September 12, 2022

EXECUTIVE SUMMARY

Audit of the Federal Long Term Care Insurance Program for Contract Years 2017 through 2019

Report No. 1G-LT-00-21-013 **September 12, 2022**

Why Did We Conduct the Audit?

Our audit objectives were to determine if the Federal Long Term Care Insurance Program (FLTCIP) was administered in accordance with the U.S. Office of Personnel Management (OPM) contract number OPM3516C0004 and applicable Federal regulations, to include evaluating the program's current funding status, for contract years 2017 through 2019.

What Did We Audit?

The Office of the Inspector General has completed a performance audit of the FLTCIP with our primary focus being operations conducted by the John Hancock Life and Health Insurance Company (Contractor). Our audit consisted of a review of the program's administrative expenses, cash management, claims processing, and performance guarantees for contract years 2017 through 2019. Additionally, we reviewed the current FLTCIP Funded Status Report provided by the Contractor to determine whether premium rates were adequate to fund the program through future periods. Audit work was completed remotely at our offices in Jacksonville, Florida and Cranberry Township, Pennsylvania.

Michael R. Esser
Assistant Inspector General for Audits

What Did We Find?

Our audit identified one program improvement area for the administration of the FLTCIP. Specifically, we determined that the Contractor and OPM need to strengthen their procedures and controls related to the FLTCIP funding status and the frequency of setting premium rates.

Based on the September 2020 FLTCIP Funded Status Report provided by the Contractor, the FLTCIP Experience Fund has an estimated [redacted] deficit compared to what is needed to pay future claim obligations and expenses under moderately adverse assumptions. If the program continues without a premium increase or benefit decrease, it is projected that the Fund will be depleted by 2048, at which point the Contractor would be obligated to pay future benefits under the fully insured arrangement. While benefits are contractually guaranteed to enrollees, OPM and John Hancock should work together to develop a strategy to manage any future premium increases.

No other audit issues were identified from our reviews of the administrative expenses, cash management, claims processing, and performance guarantees.

[1] A subsequent FLTCIP Funded Status Report as of March 2021, submitted September 24, 2021, shows an estimated [redacted] deficit. While this revised shortfall is lower than previously projected, a premium increase and/or benefit reduction may still be necessary to stabilize the fund.

ABBREVIATIONS

AAS	**Annual Accounting Statements**
Contract	**Contract Number OPM3516C0004**
Contractor	**John Hancock Life and Health Insurance Company**
CY	**Contract Year**
FLTCIP	**Federal Long Term Care Insurance Program**
FOIA	**Freedom of Information Act**
LTCP	**Long Term Care Partners, LLC**
NAIC	**National Association of Insurance Commissioners**
OIG	**Office of the Inspector General**
OPM	**U.S. Office of Personnel Management**

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I. BACKGROUND

This report details the results of our audit of the Federal Long Term Care Insurance Program (FLTCIP) for contract years (CY) 2017 through 2019. The audit was conducted pursuant to the provisions of contract number OPM3516C0004 (Contract) between the U.S. Office of Personnel Management (OPM) and the John Hancock Life and Health Insurance Company (Contractor); Title 5, United States Code, Chapter 89; and Title 5, Code of Federal Regulations, Chapter 1, Part 890. The audit was performed by OPM's Office of the Inspector General (OIG), as established by the Inspector General Act of 1978, as amended.

The FLTCIP was established by the Long-Term Care Security Act (Public Law 106-265), which was signed by the President on September 19, 2000. The Act directed OPM to develop and administer a long-term care insurance program for Federal employees, members of the uniformed services, and civilian and military retirees.

OPM's Healthcare and Insurance office contracts with the Contractor to administer the FLTCIP benefits. The Contractor's responsibilities under the Contract are carried out by its wholly owned subsidiary, Long Term Care Partners, LLC (LTCP) located in Portsmouth, New Hampshire. On June 15, 2020, LTCP announced that its new trade name would be FedPoint. LTCP would still be the legal name on contracts with OPM. Section I.10 of the Contract includes a provision, Inspection of Services – Fixed Price, which allows for audits of the Contractor's operations.

Our previous audit of the FLTCIP for CYs 2014 through 2016 (Report Number 1G-LT-00-19-003), dated July 17, 2019, did not identify any findings related to FLTCIP operations. Additionally, the OIG conducted an audit of OPM's Rate Monitoring and Procurement Process of the FLTCIP (Report Number 4A-HI-00-17-025), dated April 5, 2018, which identified a program improvement area related to the stabilization of the FLTCIP program and rate setting process. All findings and recommendations related to this prior audit have been resolved.

II. OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

Our audit objectives were to determine if the FLTCIP was administered in accordance with the Contract and applicable Federal regulations, which included an evaluation of the program's current funded status.

Our specific audit objectives were to determine if:

Administrative Expenses Review

- The administrative expenses reported by the Contractor and charged to the FLTCIP were allowable, properly allocated, and supported by documentation.

Cash Management Review

- The premium and investment income reported on the audited financial statements were properly calculated.
- The premium rates were sufficient to properly fund FLTCIP.

Claims Processing Review

- The claims were properly paid in accordance with contractual benefits.

Performance Guarantees Review

- The Contractor met performance standards in accordance with the terms of the Contract and paid applicable penalties if any standards were not met.

SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit findings and conclusions based on the audit objectives. We believe that the evidence obtained will provide a reasonable basis for our findings and conclusions to meet our audit objectives.

This performance audit included a review of the administrative expenses, cash management, claims processing, and performance standards for CYs 2017 through 2019. Additionally, we reviewed the current FLTCIP Funded Status Report provided by the Contractor to determine whether the premium rates were adequate to fund the program through future periods. We began the audit with an entrance conference on May 24, 2021, and we completed fieldwork with an exit conference on September 9, 2021. All audit work was completed remotely from our approved telework locations near our Cranberry Township, Pennsylvania and Jacksonville, Florida field offices.

The Contractor is responsible for providing Federal employees and annuitants, current and retired members of the uniformed services, and their qualified relatives with long-term care insurance. To accomplish this objective, the Contractor reported the following program revenue, claims paid, administrative expenses, and profit during the scope of our audit:

CY	Revenue	Claims Paid	Expenses	Profit	Increase in Fund Balance
2017	$1,038,875,902	$315,929,555	[redacted]	[redacted]	[redacted]
2018	$733,680,035	$282,351,152	[redacted]	[redacted]	[redacted]
2019	$1,463,737,000	$349,533,000	[redacted]	[redacted]	[redacted]
Total	**$3,236,292,937**	**$947,813,707**	[redacted]	[redacted]	[redacted]

In planning and conducting the audit, we obtained an understanding of the Contractor's internal control structure to help determine the nature, timing, and extent of our auditing procedures. This was determined to be the most effective approach to select areas of audit. For those areas selected, we primarily relied on substantive tests of transactions and not tests of controls. Based on our testing, we did not identify any significant matters involving the Contractor's internal control structure and its operation. However, since our audit would not necessarily disclose all significant matters in the internal control structure, we do not express an opinion on the Contractor's system of internal controls taken as a whole.

We also conducted tests of accounting records and other auditing procedures as we considered necessary to determine compliance with the Contract and Federal regulations. With respect to the items not tested, nothing came to our attention that caused us to believe that the Contractor had not complied, in all material respects, with those provisions.

In conducting our audit, we relied to varying degrees on computer-generated data provided by the Contractor. Due to time constraints, we did not verify the reliability of the data generated by the various information systems involved. However, while utilizing the computer-generated data during audit testing, nothing came to our attention to cause us to doubt its reliability. We believe that the data was sufficient to achieve the audit objectives.

To determine whether costs charged to the FLTCIP and services provided to FLTCIP participants were in accordance with the terms of the Contract and Federal regulations, we performed the following audit steps for CYs 2017 through 2019:

Administrative Expenses Review

- Reconciled the Contractor's administrative expenses, as reported in the annual accounting statements (AAS), to its general ledger to determine if the amounts were allowable, accurately calculated, and sufficiently supported for CYs 2017 through 2019.

Cash Management Review

- Reconciled the premium revenue and investment income reported on the AAS to supporting documentation to ensure that they were properly calculated.

- Reviewed supporting documentation provided by the Contractor to ensure that the FLTCIP was properly funded at the current premium rates and benefits.

Claims Processing Review

- From the most recent year of the audit scope (2019), we randomly selected 25 paid claims using MS Excel's random number generator, totaling $92,056, from a universe of 87,457 claims, totaling $258,640,953[2], to determine if the claim was properly paid.

Performance Guarantees Review

- Reviewed all performance guarantees to determine if the performance requirements were met and any penalties were properly calculated and paid.

The samples that were selected and reviewed in performing the audit were not statistically based. Consequently, the results could not be projected to the universe since it is unlikely that the results are representative of the universe taken as a whole.

[2] The claim universe reported excludes the disabled life reserves amount reported by the Contractor as claims paid in the table on page 3.

III. AUDIT RESULTS

A. ADMINISTRATIVE EXPENSES REVIEW

The results of our review showed that the administrative expenses charged by the Contractor for FLTCIP operations were in accordance with the Contract and Federal Regulations.

B. CASH MANAGEMENT REVIEW

The results of our review showed that the Contractor properly managed and reported FLTCIP funds, although an improvement area has been noted on the following page related to the program's funding status and premium rates.

C. CLAIMS PROCESSING REVIEW

The results of our review showed that the Contractor properly paid FLTCIP claims in accordance with its Contract and applicable regulations.

D. PERFORMANCE GUARANTEES REVIEW

The results of our review showed that the Contractor's performance guarantees for FLTCIP were accurately calculated and reported to OPM.

IV. PROGRAM IMPROVEMENT AREA

A. FLTCIP FUNDING STATUS

The FLTCIP Experience Fund is estimated to be at a [redacted] deficit compared to what is needed to pay future claims and expenses under the required 10 percent margin for moderately adverse assumptions. If the program continues without a premium increase or benefit decrease, it is projected that the Fund will be depleted by 2048, at which point the Contractor would be obligated to pay future benefits under the fully insured arrangement. Our concern is that the Contractor will likely seek another large premium increase to help eliminate its risk in paying future benefits, thereby creating another unexpected hardship for program participants. OPM should work with the Contractor to reduce the unexpected large premium increases commonly seen with this program by having more transparency with the participants and smaller premium increases over shorter amounts of time.

The FLTCIP is not currently funded to handle future anticipated claims at the current premium rates.

Section C.2 of the Contract states that "While rates will not be 'guaranteed for life' to enrollees, your pricing assumptions should produce fully sustainable premium rates for New Enrollees. The Contractor will be held to the most recent National Association of Insurance Commissioners (NAIC) standard for rate adequacy. Thus, you must certify that you have priced to 'moderately adverse' conditions as consistent with the most recent NAIC standard."

Additionally, "The Contractor must regularly monitor FLTCIP experience and propose corrective action whenever experience indicates that it may be needed. Any such action so proposed is subject to approval by OPM."

Finally, part II, section I.4(c) of the Contract states that "Premium prices may be redetermined if supported by data that the parties agree is sufficiently different to warrant a change. The Contractor may commence a price redetermination process under this Contract Clause I.4 if … a 10 percent increase in future claims experience would result in a negative surplus position in the Experience Fund."

To ensure that the premium rates are adequate to cover the cost of benefits, the Contractor monitors the claims experience and provides OPM with a funded status report every six months showing the level of FLTCIP's Experience Fund and its ability to pay future claims obligations. We reviewed the FLTCIP funded status reports provided by the Contractor and its subsidiary, LTCP, from March 2017 through September 2020. During our review of the September 2020 Funded Status Report, we found that the FLTCIP Experience Fund was estimated to be at a [redacted] deficit compared to what is needed to pay future claim obligations and expenses.

[3] A subsequent FLTCIP Funded Status Report as of March 2021, submitted September 24, 2021, shows an estimated [redacted] deficit. While this revised shortfall is lower than previously projected, a premium increase and/or benefit reduction may still be necessary to stabilize the fund.

This forecast includes a 10 percent claims margin for moderately adverse experience and is based on the Contractor's newly revised assumptions that are updated every three years. We discussed this issue with OPM and LTCP to determine the cause of the deficit and any corrective action being considered for the program. The updated assumptions and further claims experience showed that the main drivers of this estimated deficit relate to lower long-term interest rates and higher claims utilization due to longer life expectancies (especially with dementia patients). Corrective actions being discussed by OPM and LTCP include increased premiums and/or lower benefits during the next seven-year contract period beginning in 2023. If the FLTCIP continues without an adjustment to premiums and/or benefits, the program's fund is projected to be depleted by 2048, at which point the Contractor would have to pay the benefits from its own funds since FLTCIP is a fully insured product. Because premiums are not guaranteed, and the Contractor monitors the Experience Fund to ensure that it is sufficiently funded to cover all anticipated claims and expenses in the future, FLTCIP participants will likely see a large increase in premiums and/or decrease to benefits for the next contract period to help reduce the deficit.

As demonstrated at the start of this contract period in 2016, FLTCIP's large one-time premium increase and/or benefit decrease caused an unexpected hardship to its participants. To avoid the same situation occurring again, we suggest that OPM and LTCP immediately update participants on FLTCIP's funding status and take corrective actions to mitigate the adverse effects that another large one-time premium increase and/or benefit decrease could have on the program and its participants.

Recommendation 1

We recommend that OPM instruct the Contractor to immediately notify FLTCIP subscribers of the change in funding level assumptions, and any corrective actions being considered to properly fund the program, so that participants have adequate time to plan for premium increases and/or benefit reductions.

Contractor's Response:

"The Contractor disagrees with some of the content and the manner in which the overall finding related to the FLTCIP funded status is presented by OIG within the audit report. Disagreements are highlighted within the Contractor's formal response letter included in the Appendix.

Regarding this specific recommendation, the Contractor continues to work with OPM on communications to subscribers about financial developments that can affect premium adequacy, on ways to adjust premiums if, and when, the need for such adjustments becomes clear, and on product design features and premium/benefit options that provide enrollees adequate choice and flexibility. The Contractor is open to expanding communications and

other changes if approved by OPM. The Contractor recommends, to the extent possible, that information provided to subscribers be current, comprehensive, and actionable, including approved options to ensure subscribers do not become confused and/or make less than optimal decisions for themselves based on incomplete data.

In November 2021, letters to over 70,000 FLTCIP subscribers offering the biannual inflation protection buy-up option stated that the Contractor regularly monitors FLTCIP experience and that there is a strong likelihood that premium rates for many enrollees may need to increase. The letter content was vetted and approved by OPM. Additional subscriber communications and the timeline for mailing are currently under review by OPM."

OPM's Response:

OPM objected to the inclusion of this recommendation in the draft report; however, it has already taken several actions that address the OIG's concerns, to include:

- **OPM directed the Contractor to stop active marketing efforts to prospective applicants.**

- **OPM ordered the Contractor to properly notify FLTCIP enrollees of the changes in funding assumptions and the possibility of the need for a premium increase and/or benefit reductions in the near future.**

OIG's Response:

Although OPM objected to the inclusion of this recommendation in our audit report, it has taken corrective actions that address our recommendation. Therefore, no further action is required to close this recommendation.

Recommendation 2

We recommend that OPM work with the Contractor to develop an annual communications plan to provide summary level FLTCIP funding status to participants, so they are properly informed of the program's funding level.

Contractor's Response:

"As noted in the response to Recommendation 1, the Contractor continues to work with OPM on communications to subscribers about financial developments that can affect premium adequacy. The Contractor is open to expanding communications and other changes if approved by OPM. The Contractor recommends, to the extent possible, that information provided to subscribers be current, comprehensive, and actionable, including approved options

to ensure subscribers do not become confused and/or make less than optimal decisions for themselves based on incomplete data."

<u>OPM's Response:</u>

OPM objected to the inclusion of this recommendation in the draft report, but it does agree that enrollees should be properly informed and are committed to making sure enrollees have the information they need to make informed decisions.

"OPM is working with [the Contractor] to provide timely and accurate information to enrollees and OPM has been giving consideration to what program solvency information would be most appropriate and could be disclosed to enrollees, how, and with what frequency. While it may be useful for enrollees to be regularly informed about the program's solvency, we do not agree that [the Contractor] should be made to disclose its projections of the funded status. This is commercial or financial information that is privileged and confidential and exempt from disclosure pursuant to [the Freedom of Information Act (FOIA)] Exemptions 4 and 5. Moreover, it is important to note that information in the funded status report can be misinterpreted without proper context. This is because the 'funding status' is not an objective, definitive measurement; it is a projection made by the insurer and is subject to a wide range of assumptions for which the insurer is using confidential and proprietary data and methods to make estimates. It is difficult to convey the necessary context as the information within the report is privileged and confidential.

When there is a likelihood that premium rates for enrollees may need to increase, enrollees could be harmed by receiving information on a possible rate increase, without additional context, before the contracting parties have agreed to the premium rates, as well as the options that will be offered to particular enrollees to help mitigate the impact of any premium increases. There is a period of time between when it reasonably appears that rates will need to increase and when new rates can be established with the insurer. Some enrollees may allow their coverage to lapse before detailed information is available on new rates and potential mitigation opportunities.

Although FLTCIP rules allow enrollees to cancel their coverage at any time, enrollees are encouraged to carefully weigh whether such a decision makes sense for them. If a premium rate increase is required that affects an enrollee, OPM works to provide the enrollee with options at that time to help mitigate the impact. In some cases, these options may include a paid-up, limited benefit, referred to as the 'contingent benefit upon lapse' in the FLTCIP Benefit Booklet. This option, a consumer protection feature that was built into the program, allows for FLTCIP enrollees whose premium is increased beyond a certain percentage to stop paying premiums and provides paid-up coverage with a reduced level of benefits. However, any options provided when facing a rate increase are only offered to enrollees with active coverage at that time."

OIG's Response:

We maintain our position that the transparency of the program's funded status should be communicated to plan participants. OPM itself stresses that enrollees should be properly informed, and it has committed to making sure enrollees have the information needed to make informed decisions. Providing plan participants with an annual summary of the FLTCIP funding status would help accomplish this objective.

Additionally, we disagree with the assertion that participants would misinterpret or have a difficult time understanding the information found in an annual statement of the program's funding level. The statements could contain similar information to what is shared by retirement account administrators and the Social Security Administration, such as whether the fund is at a surplus or deficit, and by how much or at what percentage, based on the projected period.

Recommendation 3:

We recommend that OPM work with the Contractor to develop a corrective action plan to mitigate large premium increases and/or benefit reductions that have historically occurred with each new seven-year contract period. These large premium and benefit changes are detrimental to the program and could be spread out over the seven-year contract period by adjusting premiums and/or benefits in the year immediately following an extensive change in assumptions to the FLTCIP fund (performed every three years by LTCP).

Contractor's Response:

"The Contractor disagrees with components of this recommendation as currently stated.

- ***For the first five years of the current contract, prior to the issuance of the September 30, 2020 Funded Status Report in April 2021, actual experience, projections, and analysis did not support the need for a premium increase. The Contractor does not support increasing premiums to subscribers absent data being available to support the need for such an increase. The most current data and projections available should be used to make decisions regarding premium/benefit adjustments and not historical trends from past contract periods.***

- ***If/when data does emerge to support the need for a premium adjustment, the Contractor is open to considering options with OPM regarding the timing of implementation of such an adjustment – immediate or phased in. In the case of a premium increase, due to the time value of money, aggregate percentage increases would have to be significantly larger if delayed and spread over multiple years.***

- ***As actual experience is reviewed and certain assumptions and projections are updated semi-annually, the Contractor is concerned that this recommendation could lead to a situation where premiums and/or benefits are continually being adjusted/readjusted and spread/respread over multiple years. The Contractor believes such a scenario of floating premiums and/or benefits would be extremely confusing for subscribers, especially when other existing product features such as inflation buy ups and Premium Stabilization Fund adjustments are layered on. For a product that projects investment and utilization over many decades, we believe a more stable premium and benefit structure would serve subscribers best. Industry practices have long given clients the benefit of time to change the circumstances of small and moderate funding imbalances through market performance.***

The Contractor is committed to working with OPM on different options for future premium and/or benefit modifications when assumption and projection changes dictate such a need, including implementing necessary premium and/or benefit adjustments within a contract period and assessing phase-in options for any premium increases."

<u>OPM's Response:</u>

OPM objected to the inclusion of this recommendation in the draft report. ***"With respect to the recommendation about mitigation, as we have done before as part of our routine contract administration and as indicated in our response to Recommendation 1, OPM will work with [the Contractor] to mitigate the effects of any premium increases and/or benefit reductions that may occur during the course of administering the current contract.***

The second part of this recommendation is unclear. The last sentence suggests that premium increases and/or benefit changes should be spread out over the seven-year contract period. As stated above, at the time the seven-year contract is negotiated, the insurer prices the premium rates for FLTCIP with the expectation that they will be sufficient to cover costs over the enrollee's lifetime under moderately adverse conditions, and OPM reviews the pricing and assumptions for reasonableness. Unlike other types of insurance products such as health insurance, this pricing relies on assumptions decades into the future about investment earnings, enrollee longevity, and future experience for factors such as the timing, duration, and amount of claims. Program experience may differ, as it has in the past, from the assumptions used for pricing, and future assumptions may change based on evolving experience and market conditions. OPM requires the insurer to provide periodic reports on the Program's funded status, which the insurer has provided to OPM, which generally is how OPM learns of a potential need for a premium increase and/or a benefit reduction. The need for future premium increases and/or benefit reductions would generally not be known at the time the seven-year contract is entered into, and therefore could not be spread out over the seven-year contract period, as the recommendation states."

OIG's Response:

We partially agree with the Contractor and OPM's response related to unexpected changes in program experience and costs, but history has shown that with each new seven-year contract period there has been a large rate increase with benefit reductions. The contractor disclosed during the audit that its commercial clients for long-term care insurance adjust rates more frequently at three-year intervals. Our recommendation is to use shorter contract periods or have rate adjustments at the same three-year interval that aligns with the Contractor's "deep dive" to develop new FLTCIP assumptions. The end goal is to reduce large premium increases and benefit reductions that are detrimental to the program and its participants. We are open to other ideas on how to best stop these actions from reoccurring with each new seven-year contract period. OPM and the Contractor are strongly encouraged to research this issue and come up with a better solution that helps mitigate the risk of significant rate increases every seven years.

Additional OPM Concern 1: Clarification Regarding the Current Projected Funding

OPM Concern 1 in its response provided additional background information about how FLTCIP rates were established (competitive seven-year contract) and the Contractor's semi-annual reporting requirement (FLTCIP Funded Status Report). OPM also made the statement, in agreement with the OIG, that the Contractor "prices the proposed premium rates for FLTCIP with the expectation that they will be sufficient to cover the costs over the enrollee's lifetime under moderately adverse conditions, and OPM reviews the pricing and assumption for reasonableness." OPM then suggested that our draft report raised issues outside of our audit scope (to determine if the Contractor complied with FLTCIP contractual and regulatory obligations) because the insufficient premium was due to higher-than-expected claims experience and no fault of either party. However, OPM completed several corrective actions during its response period that do address our recommendations (see OPM response Concern 1 for full text).

OIG's Response:

OPM's Concern 1 clearly agrees with the OIG that the Contractor proposed premium rates that were to be sufficient to cover the cost over the enrollee's lifetime under moderately adverse conditions. The problem is that the premium rates were not sufficient to cover the cost over the enrollee's lifetime because the Contractor underestimated the claims experience and overestimated investment revenue. A review of FLTCIP's funding level was one of our objectives since inadequate funding in prior contract periods created large unanticipated rate increases and/or benefit reductions with disruptions to the program. The OIG's reporting of inadequate funding levels during our audit was to help reduce the effects of unexpected premium increases and benefit decreases to participating enrollees through greater transparency. Although

OPM disagreed with our recommendations, it has completed some corrective actions by issuing several communications to enrollees after the issuance of our draft report.

Additional OPM Concern 2: Protection of Funded Status Report Information

OPM Concern 2 directs the OIG to redact the information contained in the Funded Status Report from disclosure. OPM cites that the commercial or financial information is confidential and exempt from FOIA Exemptions 4 and 5, referring to 5 U.S.C. subsection 552(b)(4) and (5).

OIG's Response:

OPM is fully aware that all OIG audit reports go through a redaction review process by both the OIG Office of Legal and Legislative Affairs and the Contractor's senior management or legal counsel in accordance with Federal laws. Additionally, because OPM is the sponsor of the FLTCIP and responsible for managing and overseeing the program, which includes the review and approval of rates, OPM has a duty to inform participants of the funded status. Another reason that the funding level should be communicated to participants is because they fully fund the program. An annual reporting of FLTCIP's funding levels to participating enrollees should contain minimal information similar to the information provided by retirement account administrators and social security statements.

Additional OPM Concern 3: Procedural Issues

OPM Concern 3 suggests that there were two procedural issues with our draft report. First, OPM considered the recommendations to be directed more towards itself than the Contractor; therefore, OPM proposed that a different type of audit and report would have been better suited. Second, OPM stated that the OIG exceeded the scope of the audit, contract years 2017 through 2019, since the FLTCIP Funded Status Report referenced was as of September 30, 2020.

OIG's Response:

OPM's first procedural issue with Concern 3 is based on our recommendations that include OPM requiring or working with the Contractor to take corrective action. The OIG has always maintained that the authority to oversee the Contractor belongs to OPM, and we frequently direct our recommendations to OPM or the OPM Contracting Officer as the starting point. This does not mean that OPM was at fault for inadequate rates and improper funding. The premium rates were established and proposed by the Contractor to properly fund the program under moderately adverse conditions. Those rates are now insufficient to meet that goal.

OPM's second procedural issue with Concern 3 is invalid. The September 2020 FLTCIP Funded Status Report was based on an analysis from March 2018 through September 2020 and included the most relevant information at the time of our audit. Additionally, actuarial assumptions included historical data from the period of our audit scope.

APPENDIX A

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December 10, 2021

James L. Tuel, Jr.
Chief – Special Audits Group
U.S. Office of Personnel Management
Office of the Inspector General

Re: OIG Audit of Federal Long Term Care Insurance Program Operations (2017-2019) (Report Number 1G-LT-00-21-013) – Contractor Response to Draft Audit Report (dated November 12, 2021)

Dear Mr. Tuel:

We have reviewed the above referenced draft audit report provided to us on November 12, 2021. Thank you for providing us with an opportunity to respond to the report.

The Contractor is pleased that this audit, along with the previous 3-year audit of the FLTCIP, has confirmed our compliance with all contractual responsibilities surrounding administration of the program. The recent funded status projections highlighted within the draft audit report (which reflect point in time estimates based on the most current experience and assumptions) are something that we are monitoring and working on closely with the U.S. Office of Personnel Management (OPM). Providing subscribers with accurate and actionable information to inform sound decision making will continue to be our focus.

The Contractor disagrees with the following content, and lack of context, presented in the draft audit report:

- We disagree with the characterization of the funding status of the Experience Fund as a deficiency as it relates to the Contractor's contractual performance for the period under audit, or in any period thereafter. While the Contractor is open to discussing recommendations with OPM and further improving communications, the Contractor firmly believes it provided all services in accordance with the contract and applicable federal regulations (consistent with the stated purpose of this OIG audit). The Contractor does not agree that its procedures and controls were deficient.

Deleted by OIG – Not Relevant after Final Report Revisions

- We disagree with the exclusion in the report of additional context surrounding the funded status and reporting. Specifically, the following was excluded context:

- That the Contractor provides OPM semi-annual funded status reports (including the one referenced) on a regular and timely basis.
- That funded status reports reflect point-in-time estimates based on the most current experience and assumptions and include projections both with and without claims margins.
- That the funded status reports regularly provided to OPM both before and after the one referenced within this audit report, indicate materially lower deficit, or surplus, balances.
- That numerous meetings have taken place between the Contractor and OPM (before, during, and after the OIG audit) to address the program's funded status.

Deleted by OIG – Not Relevant after Final Report Revisions

The three recommendations are restated below along with our specific responses:

OIG Recommendation 1
We recommend that OPM require the Contractor to immediately notify FLTCIP subscribers of the change in funding level assumptions, and any corrective actions being considered to properly fund the program, so that participants have adequate time to plan for premium increases and/or benefit reductions.

Contractor Response

The Contractor disagrees with some of the content and the manner in which the overall finding related to the FLTCIP funded status is presented by OIG within the audit report.

Deleted by OIG – Not Relevant after Final Report Revisions

Regarding this specific recommendation, the Contractor continues to work with OPM on communications to subscribers about financial developments that can affect premium adequacy, on ways to adjust premiums if, and when, the need for such adjustments becomes clear, and on product design features and premium/benefit options that provide enrollees adequate choice and flexibility. The Contractor is open to expanding communications and other changes if approved by OPM. The Contractor recommends, to the extent possible, that information provided to subscribers be current, comprehensive, and actionable, including approved options to ensure subscribers do not become confused and/or make less than optimal decisions for themselves based on incomplete data.

In November 2021, letters to over 70,000 FLTCIP subscribers offering the biannual inflation protection buy-up option stated that the Contractor regularly monitors FLTCIP experience and that there is a strong likelihood that premium rates for many enrollees may need to increase. The letter content was vetted and approved by OPM. Additional subscriber communications and the timeline for mailing are currently under review by OPM.

OIG Recommendation 2
We recommend that OPM require the Contractor to share FLTCIP's funding status with subscribers on an annual basis to keep participants properly informed of the program's solvency.

Contractor Response

As noted in the response to Recommendation 1, the Contractor continues to work with OPM on communications to subscribers about financial developments that can affect premium adequacy. The Contractor is open to expanding communications and other changes if approved by OPM. The Contractor recommends, to the extent possible, that information provided to subscribers be current, comprehensive, and actionable, including approved options to ensure subscribers do not become confused and/or make less than optimal decisions for themselves based on incomplete data.

OIG Recommendation 3
We recommend that OPM work with the Contractor to develop a corrective action plan to mitigate significant premium increases and/or benefit reductions that have historically occurred with each new seven-year contract period. These large premium and benefit changes are detrimental to the program and could be spread out over the seven-year contract period by adjusting premiums and/or benefits in the year immediately following a change in assumptions to the FLTCIP fund.

Contractor Response

The Contractor disagrees with components of this recommendation as currently stated.

- **For the first five years of the current contract, prior to the issuance of the September 30, 2020 Funded Status Report in April 2021, actual experience, projections, and analysis did not support the need for a premium increase. The Contractor does not support increasing premiums to subscribers absent data being available to support the need for such an increase. The most current data and projections available should be used to make decisions regarding premium/benefit adjustments and not historical trends from past contract periods.**
- **If/when data does emerge to support the need for a premium adjustment, the Contractor is open to considering options with OPM regarding the timing of implementation of such an adjustment – immediate or phased in. In the case of a premium increase, due to the time value of money, aggregate percentage increases would have to be significantly larger if delayed and spread over multiple years.**
- **As actual experience is reviewed and certain assumptions and projections are updated semi-annually, the Contractor is concerned that this recommendation could lead to a situation where premiums and/or benefits are continually being adjusted/readjusted and spread/respread over multiple years. The Contractor believes such a scenario of floating premiums and/or benefits would be extremely confusing for subscribers, especially when other existing product features such as inflation buy ups and Premium Stabilization Fund adjustments are layered on. For a product that projects investment and utilization over many decades, we believe a more stable premium and benefit structure would serve subscribers best. Industry practices have long given clients the benefit of time to change the circumstances of small and moderate funding imbalances through market performance.**
-

The Contractor is committed to working with OPM on different options for future premium and/or benefit modifications when assumption and projection changes dictate such a need, including implementing necessary premium and/or benefit adjustments within a contract period and assessing phase-in options for any premium increases.

We appreciate the opportunity to respond to this draft audit report. As previously stated, our response is based solely on the content of the draft audit report provided to us on November 12, 2021. If any of the content of the draft report from OIG changes, or if any content is added to the report (including but not limited to further background or audit objective/scope/methodology information), we would like to request the opportunity to view that content and potentially modify our formal response included here. If you have any questions, or require further information, please contact me at (617) 572-5871 or (btingle@jhancock.com), or Geoff Norris at (603) 422-8676 or (gnorris@fedpointusa.com).

Respectfully,

Brooks Tingle, President & CEO
John Hancock Life & Health Insurance Company

cc:

Zahir Bhanji
Vice President & Chief Financial Officer
John Hancock Life & Health Insurance Company

Paul Forte
Chief Executive Officer
Long Term Care Partners, LLC DBA FedPoint

Kevin Hill
Chief Operating Officer
Long Term Care Partners, LLC DBA FedPoint

Geoff Norris
Chief Financial Officer
Long Term Care Partners, LLC DBA FedPoint

APPENDIX B

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
1900 E Street, NW, Washington, DC 20415

Healthcare and Insurance

DATE: April 19, 2022

MEMORANDUM FOR: Michael R. Esser
Assistant Inspector General for Audits
Office of Inspector General

FROM: Laurie E. Bodenheimer
Associate Director
Healthcare and Insurance

SUBJECT: Response to Draft Audit Report No. 1G-LT-00-21-013 on the Federal Long Term Care Insurance Program's Operations as Administered by John Hancock Life and Health Insurance Company for Contract Years 2017 through 2019

The purpose of this memo is to update OPM's response to the Office of the Inspector General's (OIG) Draft Audit Report, Federal Long Term Care Insurance Program's (FLTCIP) Operations as Administered by John Hancock Life and Health Insurance Company for Contract Years 2017 through 2019, Report Number 1G-LT-00-21-013. This Audit focused on FLTCIP operations as administered by John Hancock (JH), the FLTCIP contractor/insurer. After further conversations with OIG staff about our January 14, 2022, response to the Draft Audit Report, we have decided to revise some of our previously stated concerns. This memo serves as our final management response to the Draft Audit Report.

Healthcare and Insurance (HI) reviewed the Draft Audit Report and has three primary concerns. First, we believe it is important to clarify information related to the current projected funding of FLTCIP. Second, we want to ensure that privileged and confidential information provided to OPM by JH is properly protected. Third, the Draft Audit Report contain procedural issues that should be addressed. In particular, the recommendations are primarily directed to OPM, not to JH. Moreover, some of the data discussed in the report appears to be outside of the scope of the period being audited. Each of these concerns is explained in detail below, followed by our responses to OIG's specific audit recommendations.

Concern 1: Clarifications Regarding the Current Projected Funding

FLTCIP premium rates are generally established through a competitive procurement process for a seven-year contract term, as prescribed by statute. The insurer prices the proposed premium rates for FLTCIP with the expectation that they will be sufficient to cover costs over the enrollee's lifetime under moderately adverse conditions, and OPM reviews the pricing and assumptions for reasonableness. This pricing relies on assumptions decades into the future about investment earnings, enrollee longevity, and future experience for factors such as the timing, duration, and amount of claims. Program experience may differ, as it has in the past, from the assumptions used for pricing, and future assumptions may change based on evolving experience and market conditions.

OPM requires the insurer to provide periodic reports on the FLTCIP's funded status, which the insurer has provided to OPM on a confidential basis. These reports include multiple projections of future costs and premium income based on the contractor's confidential and proprietary assumptions about factors such as investment returns, claims costs and enrollee longevity. While the contractor must report on the projected funded status of the program and may request price redetermination when the projected margins fall below the contractually agreed upon amounts, it is important to note that the insurer must continue to pay benefits to all eligible individuals in accordance with the contract, regardless of any projected future funding deficiencies.

The insurer's periodic funded status reports provide estimates of projected funding surpluses or deficits for current FLTCIP participants. The funded status represents an estimate of projected future program costs compared with projected premium income and assets. These estimates are projected decades into the future according to arrays of assumptions for factors such as claims incidence and duration, benefit utilization and enrollee longevity. The insurer calculates present values from these projections using discount rates that represent estimates of future investment returns over the lifetime of current FLTCIP enrollees. Future experience can be expected to vary from the assumptions the insurer has used in its projections. Actual experience for factors such as future investment returns and claims costs may result in significant changes to the program's projected funded status over time. The insurer revises its assumptions as experience emerges, so future funded status projections can be expected to differ from current results due to changes to the assumptions and due to actual experience that has differed from prior assumptions.

The insurer's funded status report provides additional context around this potential future variability and includes the results of projections under various scenarios in which its assumptions have been adjusted. The Draft Audit Report cites a specific projection of the program's projected funded status with little additional context or explanation. The specific projected funding shortfall cited in the Draft Audit Report is based on the insurer's projection of the program's funded status as of September 30, 2020, if future claims costs exceed the insurer's stated claims assumptions by ten percent.

The OIG identified one "deficiency" related to an anticipated funding deficit and made recommendations pertaining to when and how such information should be disclosed to enrollees. As described in more detail below, this part of the Draft Audit Report does not appear to be within the stated scope of the audit, which is contractor compliance with FLTCIP contractual and regulatory obligations, and OPM has suggested a different procedural vehicle for raising this issue with OPM. But we take the funding status of the program very seriously and welcome an opportunity to engage on the steps OPM has taken and is considering taking in light of the contractor’s recent funded status reports. OPM cares deeply about enrollees’ experience and OPM fully supports program transparency consistent with its legal and contractual obligations. In fact, OPM has already taken action and is continuing to take action related to evolving FLTCIP funding projections. Beginning in May 2021, OPM directed the FLTCIP administrator, Long Term Care Partners, LLC (LTCP) to stop active marketing efforts to prospective applicants. OPM subsequently directed LTCP to inform new applicants during the application process that there is a likelihood of future increases to premium rates.

OPM also directed LTCP to include language in the letters that it sent in November to Future Purchase Option (FPO) enrollees, for whom an actionable decision as to whether to purchase additional coverage was imminent, regarding the likelihood of future increases to premium rates. Similarly, in December 2021, OPM directed the insurer to include language in letters to be mailed in January 2022 to enrollees with a Premium Stabilization Feature (PSF) informing these enrollees of a reduction to the PSF percentage due to changes to projected experience, including the prolonged low interest rate environment and its impact on projected investment performance.

As Congress intended in establishing the program, we are helping participants address the costs of long-term care services through FLTCIP. Going forward, OPM will be considering options for the future of the FLTCIP. Beyond the immediate contracting steps being considered, we will also take a broader look at the state of the long-term care insurance market, including any potential newer product offerings. In the years since the FLTCIP was enacted in 2000, there has been considerable contraction in the group long term care insurance market. For the FLCTIP current contract, which was awarded in 2016, OPM received only one proposal—from JH, the incumbent—in response to its solicitation for qualified carriers offering long-term care insurance.

We disagree with the conclusion that a potential underfunding of FLTCIP is tantamount to a contract administration deficiency. JH complied with the contract’s terms by submitting funded status reports in April 2021 and November of 2021. The reason for this routine reporting is to allow for the type of analysis, oversight, and action that we are conducting. To date, we are unaware of any information that would indicate this is a result of non-compliance with the FLTCIP contract between OPM and JH. Moreover, the potential deficit and its potential implications do not appear to relate to JH’s performance, nor to any other matter within the purview of this audit, the stated objective of which was to determine whether costs charged and benefits provided are in accordance with the FLTCIP regulations and contract.

Moreover, the Draft Audit Report does not articulate a connection between the objective of determining whether JH operated in accordance with the FLTCIP regulations and contract during contract years 2017 through 2019, and the recommendations that OPM require JH to perform actions that are not required by the regulations or the contract. To the extent the current projected funding is discussed, it is critical that the Final Audit Report make clear the actual meaning and significance of the current projected funding in order to avoid readers misunderstanding the report’s findings.

Concern 2: Protection of Funded Status Report Information

Information contained in funded status reports provided by JH to OPM pursuant to the FLTCIP contract must be adequately protected from disclosure. JH's funded status reports are properly considered commercial or financial information obtained from a person that is privileged or confidential, and, therefore, is exempt from disclosure under Freedom of Information Act (FOIA) Exemption 4. *See* 5 U.S.C. § 552(b)(4). These reports are also covered by Exemption 5, which exempts from disclosure matters that are "intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency." 5 U.S.C. § 552(b)(5). Thus, we request that OIG exclude all funded status report information in its final report or thoroughly redact the final report to protect the disclosure of confidential and/or financial information from being improperly disclosed.

Concern 3: Procedural Issues

Finally, we have identified two procedural issues with the Draft Audit Report that we believe should be addressed. First, the audit recommendations are not directed to the audited party. Despite being described as an audit of JH's compliance with the FLTCIP regulations and contract regarding costs charged and benefits provided, all of the recommendations in the Draft Audit Report are directed to OPM. We welcome feedback from OIG but believe that recommendations for the Contracting Officer, Program Office, or OPM in connection with contractor audits are more appropriately provided to OPM through another OIG vehicle, such as a Management Advisory report or other internal audit vehicle in order to avoid disclosing internal OPM deliberations and to allow more effective FLTCIP administration.

Second, OIG expressly limited its audit scope to contract years 2017 through 2019. However, the funded status report referenced in the Draft Audit Report reflects FLTCIP data as of September 30, 2020, which falls outside the stated scope of this Audit. Information outside of the stated scope of the Audit would be more appropriately addressed in another forum, such as through a Management Alert as discussed above.

As noted above and in our responses below, OPM is committed to providing enrollees with information they need to make informed decisions. We would be happy to engage with OIG on this important issue, but believe that it is not appropriate to do so within the context of contractor audit.

Recommendation Responses

As described above, because this audit was directed to JH, OPM believes that any recommendations to OPM should be provided through a separate vehicle; however, in the interest of transparency, we have provided a response to each of the recommendations below.

Recommendation #1: We recommend that OPM require the Contractor to immediately notify FLTCIP subscribers of the change in funding level assumptions, and any corrective actions being considered to properly fund the program, so that participants have adequate time to plan for premium increases and/or benefit reductions.

Management Response: Based on our three concerns discussed above, OPM objects to the inclusion of this recommendation in the Draft Audit Report.

OPM has already taken several actions that address OIG's concerns and will continue to help appropriately administer the FLTCIP. We have indicated actions we have taken and those planned for current and new enrollees below and we will provide additional information at actionable decision points as explained further in our response.

OPM ordered the carrier to properly notify FLTCIP enrollees of the changes in funding assumptions and the possibility of the need for a premium increase and/or benefit reductions in the near future. Specifically, in April 2021, the insurer notified OPM that it could no longer certify the premium rates being offered for the current plan, FLTCIP 3.0, at 35 percent PSF. Beginning in May, OPM directed the FLTCIP administrator, Long Term Care Partners, LLC (LTCP) to stop active marketing efforts to prospective applicants. In addition, OPM has directed LTCP to take, and LTCP has taken, the following actions:

Current Enrollees 1.0 and 2.0

LTCP communicated to the enrollees eligible for Future Purchase Option (FPO) inflation protection with a letter sent November 16 - 18, 2021. FPO letters have customarily included the following notice:

> "**An important note about premiums**
>
> Premiums are not guaranteed. The premium for your group (for example, those with the same plans design or set of benefits) may only increase if it is determined to be inadequate. While the group policy is in effect, the U.S. Office of Personnel Management (OPM) must approve an increase in premium."

In addition to this, the following was added to the FPO letters sent in November:

> "John Hancock, as contractor under the FLTCIP, is required to regularly monitor FLTCIP experience and propose corrective action to OPM when experience indicates that it may be needed. Due to the low interest rate environment and emerging claims experience, there is a strong likelihood that premium rates for many enrollees may need to increase. If a premium rate increase is required, then we will provide you with options at that time to help mitigate the impacts. No additional details about premium rates are available at this time. As more information becomes available regarding any potential impacts to your FLTCIP plan, we will notify you in writing if any action is required on your behalf."

Current Enrollees 3.0

LTCP communicated to the enrollees eligible for FPO with a letter sent November 16-18, 2021. In addition to the information provided to 1.0 and 2.0 enrollees, FLTCIP 3.0 enrollees received the following notice with their FPO letter:

> "**An important note about the premium stabilization feature (PSF)**
> The PSF is designed to reduce the potential need for future premium increases, and, under certain conditions, the PSF amount may be used to offset your future premium payments or provide a refund of premium death benefit.
>
> Per your FLTCIP 3.0 Benefit Booklet, the PSF percentage may be adjusted, with OPM approval, due to actual and projected FLTCIP experience. We expect to reduce the PSF percentage in the near future. You will receive a separate letter with the PSF percentage, as well as an updated schedule of benefits, when the change becomes effective. Refer to the "Premium Stabilization Feature: section of the FLTCIP 3.0 Benefit Booklet for additional information about this feature.
>
> **The adjustment to the PSF percentage does not change your current premium rate. In addition, it does not change your inflation protection option or your benefit amount available for covered services. LTCFEDS.com/changes will be updated with information once the new PSF percentage is finalized.**"

OPM is directing the contractor to send a PSF notification letter to the entire 3.0 population (FPO and Automatic Compound Inflation Option (ACIO) enrollees) during the second week of January 2022 notifying enrollees that the PSF percentage will be reduced to 20 percent effective February 1, 2022.

New Applicants 3.0

In December 2021, LTCP updated the information provided to new applicants on LTCFEDS.com, to communicate that there will be a reduction to the PSF percentage and that there is a strong likelihood of a future premium rate increase. Individuals who select to apply receive the following message:

> "**An important note about the premium stabilization feature (PSF)**
>
> The PSF is designed to reduce the potential need for future premium increases, and, under certain conditions, the PSF amount

may be used to offset your future premium payments or provide a refund of premium death benefit.

We expect to reduce the PSF percentage in the near future.

An important note about premiums

John Hancock Life & Health Insurance Company, as contractor under the FLTCIP, is required to regularly monitor FLTCIP experience and propose corrective action to the U.S. Office of Personnel Management (OPM) when experience indicates that it may be needed. Due to the low interest rate environment and emerging claims experience, there is a strong likelihood that premium rates for many enrollees may need to increase.

If you are approved for coverage and it's determined that a premium rate increase is required, we will provide you with options at that time to help mitigate the impacts. No additional details about premium rates are available at this time. As more information becomes available regarding any potential impacts to your FLTCIP plan, we will notify you in writing if any action is required on your behalf.

Premiums are not guaranteed. The premium for your group (for example, those with the same plan design or set of benefits) may only increase if it is determined to be inadequate. While the group policy is in effect, OPM must approve an increase in premium."

During the second week of January 2022, LTCP will update the application to reflect the new PSF percentage.

In addition, it is important to note that OPM and our FLTCIP contractor have consistently provided premium disclosure language in FLTCIP educational materials. Since the program began in 2002, the *FLTCIP 1.0 Benefit Booklet* has stated the conditions in which John Hancock Life & Health Insurance Company may increase enrollees Federal Long Term Care Insurance Program (FLTCIP) premiums. This language has been used in the subsequent FLTCIP 2.0 and 3.0 *Benefit Booklets.*

FLTCIP 1.0 Benefit Booklet

Screen clipping of page 5: "When We May Increase Your Premium"

WHEN WE MAY INCREASE YOUR PREMIUM. We reserve the right to increase your premium in the future. However, it is important to note that we cannot single you out and raise your premium because of your advancing age, declining health, claim status or for any other reason related solely to you. We may only increase your premium if you are among a group of enrollees whose premium is determined to be inadequate. While the Group Policy is in effect, OPM must approve the increase in premium. As a reminder, your premium may also increase if you voluntarily elect to increase your benefits. Please see the subsection How Benefit Changes Affect Your Premium.

Screen clipping of page 28: "How Benefit Changes Affect Your Premium"

If you selected the future purchase option, your premium will increase for each inflation increase under this option; the additional premium for each increase will be based on your age and the premium rates in effect at the time the increase takes effect. If you accept an offer to switch from the future purchase option to the automatic compound inflation option, your premium will increase based on your age and the premium rates in effect at the time that switch goes into effect. This increase in premium is intended to pay for future inflation increases under the automatic compound inflation option. Once you have switched, your premium will not increase with each inflation increase. However, your premiums may still increase under the conditions described in the above Premiums section and the When We May Increase Your Premium section at the beginning of this Benefit Booklet.

In response to questions raised in an October 14, 2009 congressional hearing regarding disclosures to FLTCIP prospects and applicants that premiums may increase, OPM, in collaboration with JH and LTCP took further steps to provide consumers with the information they need to make educated decisions regarding their long term care insurance coverage, including prominent mention throughout print and electronic materials of the potential for premium increases. In addition to the content in the *FLTCIP 1.0 Benefit Booklet,* premium disclosure language was added to FLTCIP educational literature—including print (*Book One: Program Details and Rates, Book Two: Additional Information,* and *FLTCIP Program Overview* brochures; the *Alternative Insurance Plan* and *FLTCIP 2.0 Benefit Booklets;* enrollee correspondence; rate quotes; seminar handouts, talking points) and electronic (planning tools, podcasts, webinars, worksheets) collateral—to ensure enrollee awareness about the potential for future premium increases and the conditions under which they could be implemented.

Prospective applicants can use the rate quote calculator to research various FLTCIP plans before applying. The website clearly states with each rate quote (screen clipping):

** Premiums are based on your age and the premium rates in effect at the time we receive your application. **This quote is valid for 30 calendar days.** If you have not yet applied after 30 calendar days or by your next birthday, whichever is sooner, you must request a new rate quote. **Note:** Premiums are not guaranteed. The premium for your group (for example, those with the same plan design or set of benefits) may only increase if it is determined to be inadequate. While the group policy is in effect, OPM must approve an increase in premium.

The FLTCIP applications were revised not only to include premium disclosure messaging throughout, but also to require that all applicants sign an agreement acknowledging their understanding the company's right to increase premiums. This script reads as follows:

> "Premiums are not guaranteed. I understand that my premium will not change because I get older or my health changes or for any other reason related solely to me. Premiums may only increase if I am among a group of whose premium is determined to be inadequate. I understand that while the group policy is in effect, OPM must approve the change."

Screen clipping of the dialogue box before the applicant's signature:

STOP

Please check the box and sign below.

The company's right to increase premiums: Premiums are not guaranteed. I understand that my premium will not change because I get older or my health changes or for any other reason related solely to me. Premiums may only increase if I am among a group of enrollees whose premium is determined to be inadequate. I understand that while the group policy is in effect, OPM must approve the change.

Note: You must check the above box to confirm that you have read and understand the paragraph above titled, "The company's right to increase premiums." We cannot process your application if you do not check the box.

Mail to: Long Term Care Partners, LLC, P.O. Box 797, Greenland, NH 03840-0797

or

Fax to: 1-866-921-4510

In addition, once an eligible individual is approved for FLTCIP, they receive an approval letter which contains the following language: "Please note: Premiums are not guaranteed. Your premium will not change because you get older or your health changes or for any other reason related solely to you. However, your premiums may increase if you are among a group of enrollees whose premium is determined to be inadequate. While the group policy is in effect, OPM must approve the change." OPM and our contractor provide plentiful information, both online and in print, that clearly states that FLTCIP premiums are not guaranteed.

OPM will continue to take appropriate actions to ensure that FLCTIP enrollees have timely and accurate information when they are at an actionable decision point, and more generally as developments unfold. With respect to the recommendation to notify FLCTIP enrollees of any corrective actions being considered to properly fund the program, OPM does not yet have specific information to provide about potential changes in premium rates. OPM will notify enrollees of any premium increases and/or benefit reductions once any such changes are agreed upon between OPM and the contractor. Anyone subject to a rate increase would be provided options to adjust benefits to avoid or reduce the impact of the rate increase. The increases may vary significantly among enrollees depending on factors such as issue age and type of coverage.

Recommendation #2: We recommend that OPM require the Contractor to share FLTCIP's funding status with subscribers on an annual basis to keep participants properly informed of the program's solvency.

Management Response: Based on our three concerns discussed above, OPM objects to the inclusion of this recommendation in the Draft Audit Report. We agree that enrollees should be properly informed and are committed to making sure enrollees have the information they need to make informed decisions.

As noted above in response to Recommendation 1, OPM is working with JH to provide timely and accurate information to enrollees and OPM has been giving consideration to what program solvency information would be most appropriate and could be disclosed to enrollees, how, and with what frequency. While it may be useful for enrollees to be regularly informed about the program's solvency, we do not agree that JH should be made to disclose its projections of the funded status. This is commercial or financial information that is privileged and confidential and exempt from disclosure pursuant to FOIA Exemptions 4 and 5. Moreover, it is important to note that information in the funded status report can be misinterpreted without proper context. This is because the "funding status" is not an objective, definitive measurement; it is a projection made by the insurer and is subject to a wide range of assumptions for which the insurer is using confidential and proprietary data and methods to make estimates. It is difficult to convey the necessary context as the information within the report is privileged and confidential.

When there is a likelihood that premium rates for enrollees may need to increase, enrollees could be harmed by receiving information on a possible rate increase, without additional context, before the contracting parties have agreed to the premium rates, as well as the options that will be offered to particular enrollees to help mitigate the impact of any premium increases. There is a period of time between when it reasonably appears that rates will need to increase and when new rates can be established with the insurer. Some enrollees may allow their coverage to lapse before detailed information is available on new rates and potential mitigation opportunities.

Although FLTCIP rules allow enrollees to cancel their coverage at any time, enrollees are encouraged to carefully weigh whether such a decision makes sense for them. If a premium rate increase is required that affects an enrollee, OPM works to provide the enrollee with options at that time to help mitigate the impact. In some cases, these options may include a paid-up, limited benefit, referred to as the "contingent benefit upon lapse" in the FLTCIP Benefit Booklet. This option, a consumer protection feature that was built into the program, allows for FLTCIP enrollees whose premium is increased beyond a certain percentage to stop paying premiums and provides paid-up coverage with a reduced level of benefits. However, any options provided when facing a rate increase are only offered to enrollees with active coverage at that time.

Recommendation #3: We recommend that OPM work with the Contractor to develop a corrective action plan to mitigate significant premium increases and/or benefit reductions that have historically occurred with each new seven-year contract period. These large premium and benefit changes are detrimental to the program and could be spread out over the seven-year contract period by adjusting premiums and/or benefits in the year immediately following a change in assumptions to the FLTCIP fund.

Management Response: Based on our three concerns discussed above, OPM objects to the inclusion of this recommendation in the Draft Audit Report.

With respect to the recommendation about mitigation, as we have done before as part of our routine contract administration and as indicated in our response to Recommendation 1, OPM will work with JH to mitigate the effects of any premium increases and/or benefit reductions that may occur during the course of administering the current contract.

The second part of this recommendation is unclear. The last sentence suggests that premium increases and/or benefit changes should be spread out over the seven-year contract period. As stated above, at the time the seven-year contract is negotiated, the insurer prices the premium rates for FLTCIP with the expectation that they will be sufficient to cover costs over the enrollee's lifetime under moderately adverse conditions, and OPM reviews the pricing and assumptions for reasonableness. Unlike other types of insurance products such as health insurance, this pricing relies on assumptions decades into the future about investment earnings, enrollee longevity, and future experience for factors such as the timing, duration, and amount of claims. Program experience may differ, as it has in the past, from the assumptions used for pricing, and future assumptions may change based on evolving experience and market conditions. OPM requires the insurer to provide periodic reports on the Program's funded status, which the insurer has provided to OPM, which generally is how OPM learns of a potential need for a premium increase and/or a benefit reduction. The need for future premium increases and/or benefit reductions would generally not be known at the time the seven-year contract is entered into, and therefore could not be spread out over the seven-year contract period, as the recommendation states.

Conclusion

We appreciate the opportunity to respond to this draft report. If you have any questions regarding our response, please contact Angela Calarco at Angela.Calarco@opm.gov.

Cc:

Anne Harkavy, Chief of Staff
Edward DeHarde, Deputy Associate Director, Healthcare and Insurance
Cindy Butler, Deputy Assistant Director, Federal Employee Insurance Operations
Jonathan Foley, Senior Advisor to the Director
Lynn Eisenberg, General Counsel

Report Fraud, Waste, and Mismanagement

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Washington, DC 20415-1100