DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

PROGRAM COMPLIANCE AND OVERSIGHT GROUP

December 14, 2012

VIA:
EMAIL (Hassan.Rifaat@windsorhealthplan.com)
AND FACSIMILE (615-782-7826)

Dr. Hassan Rifaat
Chief Executive Officer
Sterling Life Insurance Company
7100 Commerce Way, Ste 285
Brentwood, TN 37027
Phone: 615-782-7861

Re: Notice of Imposition of Civil Money Penalty for Prescription Drug Plan Contract Number: S4802

Dear Dr. Rifaat:

Pursuant to 42 C.F.R. § 423.752(c)(1), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Sterling Life Insurance Company (Sterling), a division of Windsor Health Group and subsidiary of Munich American Holding Corporation, that CMS has made a determination to impose a civil money penalty (CMP) in the amount of $75,000 for Prescription Drug Plan (PDP) Contract Number: S4802.

CMS has determined that Sterling failed to provide its enrollees with prescription drug benefits in accordance with CMS requirements. A PDP sponsor's central mission is to provide Medicare enrollees with prescription drug benefits within a framework of Medicare requirements that provide enrollees with a number of protections.

Summary of Noncompliance

CMS conducted an audit at Sterling's Brentwood, Tennessee offices from April 30, 2012 through May 4, 2012. During the audit, CMS conducted reviews of Sterling's operational areas to determine if Sterling is following CMS rules, regulations, and guidelines. After conducting an

extensive review, CMS auditors concluded that Sterling failed to comply with CMS requirements governing the processing of coverage determinations and Part D appeals set forth in 42 C.F.R. Part 423, Subpart M. Violations in these areas can result in enrollees experiencing delays or denials in receiving covered prescription drugs and increased out-of-pocket costs. These violations directly adversely affected (or had the substantial likelihood of adversely affecting) Sterling's enrollees.

Part D Grievance, Coverage Determination and Appeal Relevant Requirements

Medicare enrollees have the right to contact their plan sponsor to express general dissatisfaction with the operations, activities, or behavior of the plan sponsor or to make a specific complaint about the denial of coverage for drugs to which the enrollee believes he or she is entitled. Sponsors are required to classify complaints about coverage for drugs as a request for a coverage determination. 42 C.F.R. §§ 423.564(b) and 423.566(b).

The enrollee, the enrollee's representative, or the enrollee's treating physician or prescriber may make a request for a coverage determination. 42 C.F.R. § 423.566(c). The first level review is the coverage determination, which is conducted by the plan sponsor. 42 C.F.R. § 423.566. If the coverage determination is adverse (not in favor of the enrollee), the enrollee has the right to file an appeal. 42 C.F.R. § 423.580. The first level of appeal is called a redetermination. Redeterminations are processed by the plan sponsor and must be conducted by an individual who was not involved in the coverage determination decision. 42 C.F.R. § 423.590(f). The second level of appeal is made to an independent review entity (IRE) contracted by CMS. 42 C.F.R. § 423.600.

There are different decision making timeframes for the review of coverage determinations and appeals. 42 C.F.R. §§ 423.568, 423.572 and 423.590. CMS has a beneficiary protection in place that requires plans to forward coverage determinations and redeterminations to the IRE when the plan has missed the applicable adjudication timeframe. 42 C.F.R. §§ 423.568(h), 423.572(d) and 423.590(c) and (e).

If the plan sponsor reverses its initial adverse coverage determination or the IRE reverses the plan sponsor's adverse decision, the plan sponsor must correctly authorize or provide the benefit under dispute within the regulatory timeframes set forth at 42 C.F.R. §§423.636 and 423.638. If the plan sponsor does not effectuate the decision timely and correctly, this can result in delays to an enrollee's access to medically necessary or life-sustaining drugs.

Deficiencies Related to Coverage Determinations and Part D Appeals

CMS identified serious violations of Part D requirements in Sterling's coverage determinations and appeals operations. Sterling's violations include:

- Failure to timely and correctly effectuate plan redeterminations. This is in violation of 42 CFR §§423.636 and 423.638.

- Substantial failure to ensure that coverage determinations and plan redeterminations were processed and enrollees were notified within the required timeframes. This is in violation of 42 CFR §§423.568(b), 423.572(a), and 423.590(a) and (d).

- Failure to forward untimely coverage determination and redetermination requests to the IRE within the required timeframes. This is in violation of 42 C.F.R. §§ 423.568(h) and 423.590(c) and (e).

Basis for Civil Money Penalty

Pursuant to 42 C.F.R. § 423.752(c), CMS has determined that Sterling's violations of Medicare Part D requirements are significant enough to warrant the imposition of a civil money penalty. Sterling failed substantially to carry out the terms of its contract with CMS, and failed to carry out its contract with CMS in a manner that is consistent with the effective and efficient implementation of the program. 42 C.F.R. § 423.509(a)(1) and (2).

Right to Request a Hearing

Sterling may request a hearing to appeal CMS's determination in accordance with the procedures outlined in 42 C.F.R. Part 423, Subpart T. Sterling must send a written request for a hearing to the Departmental Appeals Board office listed below within 60 calendar days from receipt of this notice, or by February 13, 2013. 42 C.F.R. §§ 423.1006 and 423.1020. The request for hearing must identify the specific issues and the findings of fact and conclusions of law with which Sterling disagrees. Sterling must also specify the basis for each contention that the finding or conclusion of law is incorrect. The request should be sent to:

Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

A copy of the hearing request should also be sent to CMS at the following address:

Patricia Axt, Director, Division of Compliance Enforcement
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-22-06
Baltimore, MD 21244
Email: Trish.Axt@cms.hhs.gov
FAX: 410-786-6301

If Sterling does not request an appeal in the manner and timeframe described above, the initial determination by CMS to impose a CMP will become final and due on February 14, 2013. Sterling may choose to have the penalty deducted from its monthly payment, transfer the funds electronically, or mail a check to CMS.

Please note that any further failures by Sterling to comply with these or any other CMS requirements may subject your organization to other applicable remedies available under law, including the imposition of intermediate sanctions, penalties, or other enforcement actions as described in 42 C.F.R. Parts 423, Subparts K and O.

If Sterling has any questions about this notice, please call or email the enforcement contact provided in the email notification.

Sincerely,

/s/

Gerard J. Mulcahy
Acting Director
Program Compliance and Oversight Group

cc: Mr. Tod Anderson, CMS/CMHPO/Region VIII
Ms. Karen McGee, CMS/CMHPO/Region VIII
Ms. Dawn Finnell, CMS/CMHPO/Region VIII