

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of

Case No. INS-16-0286

THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

ORDER TO CEASE AND DESIST,
FINAL ORDER ASSESSING CIVIL
PENALTY AND CONSENT TO ENTRY
OF ORDER

Respondent.

The Director of the Department of Consumer and Business Services for the State of Oregon (“Director”), acting in accordance with Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 (“Insurance Code”) has commenced this administrative proceeding, pursuant to ORS 731.256, to take enforcement action against The Lincoln National Life Insurance Company (“Respondent”); and

WHEREAS Respondent wishes to resolve and settle this matter with the Director,

NOW THEREFORE, as evidenced by the authorized signatures subscribed on this order, Respondent hereby CONSENTS to entry of this order upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent has been licensed in Oregon as a foreign insurer since August 8, 1922. Respondent’s principal place of business is 1300 S Clinton Street, Fort Wayne, IN 46802. Respondent’s National Association of Insurance Commissioners number is 65676.

2. For facts 2A through 2F, the insured will be referred to as “WS.” At all times material to facts 2A through 2F, WS was an Oregon resident.

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1 A. Respondent received a claim (“July Claim”) from WS on August 12, 2013 for
2 Long Term Care (“LTC”) services provided to WS in July 2013. Respondent sent WS a
3 claim status letter on August 15, 2013 and again on March 3, 2014. Respondent fully
4 paid the July Claim on March 6, 2014.

5 B. Respondent received a claim (“August Claim”) from WS on September 16,
6 2013 for LTC services provided to WS in August 2013. Respondent sent WS a claim
7 status letter on January 30, 2014, January 31, 2014, February 3, 2014 and March 3,
8 2014. Respondent fully paid the August Claim on March 6, 2014.

9 C. Respondent received a claim (“September Claim”) from WS on October 21,
10 2013 for LTC services provided to WS in September 2013. Respondent sent WS a claim
11 status letter on March 3, 2014 and fully paid the September Claim on March 6, 2014.

12 D. Respondent received a claim (“October Claim”) from WS on November 12,
13 2013 for LTC services provided to WS in October 2013. Respondent sent WS a claim
14 status letter on March 3, 2014 and fully paid the October Claim on March 6, 2014.

15 E. Respondent received a claim (“November Claim”) from WS on December 16,
16 2013 for LTC services provided to WS in November 2013. Respondent sent WS a claim
17 status letter on March 3, 2014 and fully paid the November Claim on March 6, 2014.

18 F. Respondent received a claim (“December Claim”) from WS on January 29,
19 2014 for LTC services provided to WS in December 2013. Respondent sent WS a claim
20 status letter on March 3, 2014 and fully paid the December Claim on March 6, 2014.

21 CONCLUSIONS OF LAW

22 The Director CONCLUDES that:

23 3. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that
24 any person has been engaged or is engaging or is about to engage in any violation of the
25 Insurance Code, the Director may issue an order, directed to such person, to discontinue
26 or desist from such violation or threatened violation.



1 4. Pursuant to Oregon Administrative Rule (“OAR”) 836-080-0235(1), an
2 insurer shall, not later than the 30th day after its receipt of properly executed proofs of
3 loss from a first party claimant, advise the claimant of the acceptance or denial of the
4 claim. Respondent violated OAR 836-080-0235(1) on five occasions by failing to timely
5 advise WS about the acceptance or denial of the claims as follows.

6 A. Respondent advised WS of acceptance of the August Claim 136 days after
7 receipt of the claim.

8 B. Respondent advised WS of acceptance of the September Claim 133 days after
9 receipt of the claim.

10 C. Respondent advised WS of acceptance of the October Claim 111 days after
11 receipt of the claim.

12 D. Respondent advised WS of acceptance of the November Claim 77 days after
13 receipt of the claim.

14 E. Respondent advised WS of acceptance of the December Claim 33 days after
15 receipt of the claim.

16 5. Pursuant OAR 836-080-0235(4), if an insurer needs more time to determine
17 whether the claim of a first party claimant should be accepted or denied, it shall so notify
18 the claimant not later than the 30th day after receipt of the proofs of loss, giving the
19 reason more time is needed. Forty-five days from the date of such initial notification and
20 every 45 days thereafter while the investigation remains incomplete, the insurer shall
21 notify the claimant in writing of the reason additional time is needed for investigation.

22 Respondent violated OAR 836-080-0235(4) on 15 occasions as follows:

23 A. Respondent provided a timely initial notification for the July Claim to WS on
24 August 15, 2013. Respondent did not provide additional 45-day notifications that were
25 required to be provided on September 29, 2013, November 13, 2013, December 28,
26 2013 and February 11, 2014.



1 B. Respondent did not provide an initial 30-day notification to WS for the
2 August Claim that was required to be provided on or before October 16, 2013.
3 Respondent did not provide subsequent 45-day notifications to WS for the August Claim
4 that were required to be provided on November 30, 2013 and January 14, 2014.

5 C. Respondent did not provide an initial 30-day notification to WS for the
6 September Claim that was required to be provided on or before November 20, 2013.
7 Respondent did not provide subsequent 45-day notifications to WS for the September
8 Claim that were required to be provided on January 4, 2014 and February 18, 2014.

9 D. Respondent did not provide an initial 30-day notification to WS for the
10 October Claim that was required to be provided on or before December 12, 2013.
11 Respondent did not provide a subsequent 45-day notification to WS for the October
12 Claim that was required to be provided on January 26, 2014.

13 E. Respondent did not provide an initial 30-day notification to WS for the
14 November Claim that was required to be provided on or before January 15, 2014.
15 Respondent did not provide a subsequent 45-day notification to WS for the November
16 Claim that was required to be provided on March 1, 2014.

17 F. Respondent did not provide an initial 30-day notification to WS for the
18 December Claim that was required to be provided on or before February 28, 2014.

19 6. Under ORS 731.988(1) the Director may impose a civil penalty of up to
20 \$10,000 per violation upon any person that violates any provision of the Insurance Code
21 or any lawful rule or final order of the Director.

22 ORDERS

23 Now, therefore, the Director issues the following ORDERS:

24 7. As authorized by ORS 731.252(1), the Director ORDERS Applicant to
25 CEASE AND DESIST from violating any provision of the Insurance Code or the
26 administrative rules promulgated thereunder.

1 8. Based upon the foregoing and as authorized by ORS 731.988(1), the Director
2 ORDERS that Respondent pay a CIVIL PENALTY of \$30,000 as follows:

3 A. A CIVIL PENALTY of \$1,500 per occurrence for five violations of OAR
4 836-080-0235(1) for a total CIVIL PENALTY of \$7,500.

5 B. A CIVIL PENALTY of \$1,500 per occurrence for 15 violations of OAR 836-
6 080-0235(4) for a total CIVIL PENALTY of \$22,500.

7 9. The Director SUSPENDS the collection of \$15,000 of the total CIVIL
8 PENALTY assessed above, so long as Respondent complies with all terms and
9 conditions of this Order and all requirements of the Oregon Insurance Code. If
10 Respondent complies with the terms of this Order and the Director has not initiated an
11 enforcement action for new violations of the Oregon Insurance Code during the three-
12 year period from the effective date of this Order, the Director WAIVES the collection of
13 the suspended CIVIL PENALTY assessed herein.

14 10. The \$15,000 CIVIL PENALTY assessed above that is not suspended is due
15 and payable at the time this Order is returned to the Division.

16 SO ORDERED this 23rd day of November _____, 2016 in
17 Salem, Oregon.

18 PATRICK M. ALLEN, Director
19 Department of Consumer and Business Services

20
21 /s/ David Tatman
22 David C. Tatman, Chief of Enforcement
23 Division of Financial Regulation

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26

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1 CONSENT TO ENTRY OF ORDER

2 I, Carolyn McGovern, state that I am an officer of The
3 Lincoln National Life Insurance Company and I am authorized to act on its behalf. I
4 have read the foregoing order, and I know and fully understand the contents hereof. I
5 have been advised of the right to a hearing and of the right to be represented by counsel
6 in this matter. The Lincoln National Life Insurance Company voluntarily and without
7 any force or duress consents to the entry of this order expressly waiving any right to a
8 hearing in this matter. The Lincoln National Life Insurance Company understands that
9 the Director reserves the right to take further actions to enforce this order or to take
10 appropriate action upon discovery of other violations of the Insurance Code. The
11 Lincoln National Life Insurance Company will fully comply with the terms and
12 conditions stated herein.

13 The Lincoln National Life Insurance Company understands that this order is a
14 public document.

15 /s/ Carolyn McGovern
16 Signature

17 Carolyn McGovern
18 Printed name

19 VP, Claims
20 Office held

21 ACKNOWLEDGMENT

22 There appeared before me this 17th day of November, 2016,
23 Carolyn McGovern, who was first duly sworn on oath, and stated that
24 she/he was and is an officer of The Lincoln National Life Insurance Company and that
25 she/he is authorized and empowered to sign this Consent to Entry of Order on behalf of
26 The Lincoln National Life Insurance Company and to bind The Lincoln National Life
Insurance Company to the terms hereof.

27 /s/ Diane B. Goodman
28 Signature of Notary Public

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