



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

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RACHEL M. DAVISON
ACTING COMMISSIONER OF INSURANCE

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LIEUTENANT GOVERNOR

June 5, 2024

The Honorable Rachel M. Davison
Acting Commissioner of Insurance
Commonwealth of Massachusetts
Division of Insurance
1000 Washington Street, Suite 810
Boston, Massachusetts 02118-6200

Dear Acting Commissioner Davison:

Pursuant to former Commissioner Anderson's instructions and in accordance with Massachusetts General Laws, Chapter 175, Section 4, the Massachusetts Division of Insurance ("Division") has performed a limited-scope examination of the financial, operational, and market conduct matters of Point32Health, Inc. (National Association of Insurance Commissioners "NAIC" Group Code 4742) including the following Massachusetts domestic insurers:

<u>Domestic Insurer</u>	<u>NAIC Company Code</u>
Tufts Associated Health Maintenance Organization, Inc.	95688
Tufts Health Public Plans, Inc.	14131
Harvard Pilgrim Health Care, Inc.	96911
Tufts Insurance Company	60117
Harvard Pilgrim Health Care of New England, Inc.	96717
HPHC Insurance Company, Inc.	18975

The limited-scope examination was conducted at the direction of, and under the overall management and control of the Division. Representatives from the firm of Rudmose & Noller Advisors, LLC, were engaged to complete certain agreed upon procedures. The most recent comprehensive financial examinations of the Domestic Insurers were conducted as of December 31, 2018, and comprehensive financial examinations of the Domestic Insurers have been called as of December 31, 2023. This limited-scope examination report is not intended to communicate all matters of importance for an understanding of the Domestic Insurers' financial or operational

condition. The following report represents the scope, observations, and conclusions as a result of this limited-scope examination.

Scope

Point32Health, Inc. identified a cybersecurity ransomware incident on April 17, 2023 that impacted the operational and financial systems of the Domestic Insurers. As a result, the Division called a limited-scope examination on May 2, 2023 to conduct enhanced regulatory monitoring of the incident and management's remediation efforts. The Division provided notice of the limited-scope examination to the states where the Domestic Insurers are authorized on May 4, 2023.

The financial aspects of the limited-scope examination were conducted in accordance with standards and procedures established by the NAIC Financial Condition (E) Committee and prescribed by the current *NAIC Financial Condition Examiners Handbook*. The market conduct aspects of the examination were conducted using the guidance and standards of the current *NAIC Market Regulation Handbook*.

Cybersecurity Incident

The cybersecurity incident impacted operational systems including those for premium billing and collections, claims processing and payment, member eligibility and enrollment, medical and behavioral health utilization management, and appeals and grievances of Harvard Pilgrim Health Care, Inc., Harvard Pilgrim Health Care of New England, Inc., and HPHC Insurance Company, Inc. In addition, Point32Health, Inc.'s core financial systems were located in the Harvard Pilgrim data center. Thus, financial reporting systems and accounts payable processing were disrupted for all Point32Health, Inc.'s affiliated entities and insurers.

Management of Point32Health, Inc. quickly communicated to individual members, commercial customers, providers, and regulators, and established a website that provided information to these stakeholders. Management also engaged an outside law firm, assisted by cybersecurity consultants, to conduct an investigation. Using both internal and external resources, Point32Health, Inc. worked to remediate the incident as quickly as possible. Those efforts continued through late May, and in early June, efforts to restore impacted systems began. Management also directly contacted state and federal regulators during this period to keep them apprised of developments and related actions.

Beginning the week of May 22, 2023, Point32Health, Inc. provided general notice of the event to members via emails to employer groups, media outlets in all states, and through its website. These notices included an offer of credit monitoring and identity theft protection services through IDX, and how to contact the IDX call center. Beginning the week of June 12, 2023, Point32Health, Inc. began providing written mailed notices to impacted consumers, who were offered two years of complimentary credit monitoring services through IDX. The credit monitoring included changes to the member's credit file such as new credit inquiries, new accounts opened, delinquent payments, improvements in the member's credit report, bankruptcies, court judgments and tax liens, new addresses, new employers, and other activities that may affect the member's credit record. Dark-web monitoring of underground websites and chat rooms was also included in the services. Additionally, the offering to members included identity theft protection including insurance for costs incurred up to \$1.0 million, and fully-managed recovery services for identity restoration, if needed. Similar identity theft protection and credit monitoring through IDX was, and is being made available to impacted individual health providers, individual brokers, and current and former Point32Health, Inc. employees.

In a U.S. Department of Health and Human Services Office of Civil Rights filing, Point32Health, Inc. disclosed that there were 2,624,191 impacted individuals, which includes current and former members of the Domestic Insurers dating back to March 28, 2012. An additional 195,613 individual providers and brokers were also notified in compliance with state regulatory requirements.

Point32Health, Inc. continued to restore impacted systems throughout the summer of 2023 until early fall when the functionality of the operational systems was fully restored. From April 17, 2023 to July 17, 2023, the period during which certain member eligibility systems were not fully functional, pre-authorizations and referrals were waived. Thus, for claims with dates of service in this period, all submitted claims were paid, including claims that would not normally be covered under the insurance policies and contracts. Beginning July 17, 2023, normal pre-authorization practices were reinstated for services expected to be delivered on or after July 24, 2023. Point32Health, Inc. also established a process where contracted providers could submit a request for a commercial claims bridge payment.

Beginning in May 2023, plaintiffs began filing various class-action lawsuits in state and federal courts with 20 such class-action cases filed. Plaintiffs allege a variety of claims, including breach of fiduciary duty, negligence, and breach of contract in connection with alleged failures to properly safeguard protected health information and personally identifiable information. Plaintiffs seek injunctive relief, including increases in security spending, and economic damages. The Court has consolidated these cases in Federal Court and appointed the lead plaintiffs' counsel.

Observations

The limited-scope examination closely monitored the impact of the cybersecurity ransomware incident on the insurers' financial position, liquidity and operations, and the incidents effects on members and providers. From May 11, 2023 through early 2024, senior Division staff from the financial solvency oversight, legal, and market conduct areas held periodic meetings with Point32Health Inc. management to discuss ongoing efforts to address the incident. More specifically, the Division performed procedures related to the following:

- Management's plans for handling pre-authorizations, appeals, and grievances during and after the breach period,
- Processes to provide identity theft protection and credit monitoring services to impacted individuals,
- Management's communications with other state and Federal regulators,
- Point32Health Inc.'s liquidity plan as claim payments were restarted in early June,
- Timelines and tasks needed to mitigate the incident and restore all operational systems,
- Assessments of enterprise risk management processes and controls, and
- Other relevant procedures as deemed necessary by the Division.

The Division directed Point32Health, Inc. that costs related to the cybersecurity ransomware incident should not be included in claim or administrative costs when seeking approval of future insurance premium rates.

Conclusions

Based upon the limited-scope examination procedures performed, the Domestic Insurers of Point32Health, Inc. have assessed the operational impacts of the cybersecurity incident, and restarted all effected operational systems by the fall of 2023. No financial statement adjustments to the Domestic Insurers' statutory financial statements were identified by the Division during the limited-scope examination. The Division's enhanced financial solvency and market conduct oversight of the Domestic Insurers will continue during the comprehensive financial examinations as of December 31, 2023 commencing later this year.

SIGNATURE PAGE

Acknowledgement is made of the cooperation and courtesies extended by the officers and employees of the Domestic Insurers of Point32Health, Inc. during the limited-scope examination.

The assistance rendered by the following examiners participating in this limited-scope examination is acknowledged.

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