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Reply to Saint Paul office

January 5, 1995

VIA FEDERAL EXPRESS TO:

Honorable Anne K. Bingaman
Assistant Attorney General
Antitrust Division
U.S. Department of Justice
Tenth and Constitution, N.W.
Washington, D.C. 20530

Re: Business Review Request for Proposed Northwestern National Life Insurance Company Integrity Plus℠ Medical Fraud and Abuse Detection Program

Dear Ms. Bingaman:

Pursuant to Title 28 of the Code of Federal Regulations §50.6 and the Antitrust Division's expedited business review procedure for information exchange in the health care industry, Northwestern National Life Insurance Company ("NWNL") respectfully requests the Department of Justice provide a business review letter stating its antitrust enforcement intentions with respect to a proposed medical fraud and abuse detection service it intends to offer to third parties.

NWNL is a life and health insurance company. It has less than .4% of all private health care claims business including employer self-funded plans but excluding government plans, such as Medicare and Medicaid. NWNL currently has its own internal medical fraud detection unit, called the Special Investigations Unit (hereinafter "SIU" section), which operates as part of NWNL's own insurance and administrative service only claims processing operations. The SIU, which is currently part of the claims paying section of NWNL's employee benefits division, has developed programs and procedures to detect indications of medical claim fraud and abuse. NWNL would like to offer SIU fraud detection services to other insurers, health maintenance organizations, third party administrators, employers offering self-funded health plans, reinsurers, and similar persons or entities.

NWNL believes there would be a demand for medical fraud and abuse detection services. It has developed a cost effective program to detect medical fraud and abuse, and believes that other medium and small insurance companies, as well as health maintenance organizations, and self-funded employers would benefit as payors to have more information in detecting medical fraud

and abuse. It is estimated that medical fraud and abuse accounts for $110 billion annually, or approximately 10% of all medical payments. Consequently, reducing medical fraud and abuse could lower health care costs.

NWNL plans to create a separate section, within its employee benefits division, which would offer medical fraud detection services both to NWNL and other entities. The separate SIU section would administer a program to detect and investigate indications of fraudulent or abusive practices in the delivery of health care services, and provide information to clients to assist them in detecting claim fraud and abuse, thereby reducing health care costs. The separate SIU section would maintain the confidentiality of certain information it received and would not disclose certain information within NWNL, including NWNL's claims processing unit. NWNL would continue, separately from this section, to operate its own claims processing business and to resolve its own claims with health care providers, and would not share with the independent SIU section information concerning current claims disputes, nor would it receive from the independent section information concerning claims disputes involving the SIU section's clients. As a client, it would receive information regarding instances of investigated potential medical fraud and abuse. The independent SIU section will service NWNL's claims processing unit in the same manner as it would serve other third party clients.

NWNL proposes to offer to these prospective clients several fraud detection and administrative services. The terms and scope of those services are contained in the Services Agreement, which is attached as Appendix A. NWNL is currently offering on-site training to client customer claim personnel on the methods of detecting and investigating indications of fraudulent health care claims practices and would provide proprietary written materials including training manuals and workbooks. The SIU section proposes to offer medical fraud detection and investigation services, review claims submitted to it for indications of fraud, and provide information without recommendation to the client as to the results of its investigation. The client would make all claims decisions.

The SIU section maintains data concerning medical claims practices of health care providers. The SIU has developed a national databank containing health care provider information involving false, incomplete or misleading claims practices. The SIU section will use information limited to historical data. The SIU section's client would be able to access this historical data by code numbers corresponding to health care practice patterns to identify health care providers it may wish to monitor more carefully. The SIU's historical databank would be updated with information from investigations conducted by the SIU for other clients. A copy of these codes

are attached as Schedule II to the Integrity Plus Services Agreement.[1] After completion or resolution of the investigation, however, the SIU section will add such historical information pertaining to indicators of fraud and abuse to its own database.

The SIU section will also analyze client claim data to uncover patterns or practices by health care providers that may indicate inappropriate claim submissions. The separate SIU section will provide its analysis to the client. Such analysis will not be a recommendation for payment or denial of any particular claim, but would be designed to assist the client in determining, in the exercise of its own independent judgment, whether any further action or investigation may be necessary with respect to a particular claim.

The SIU section will provide claims investigation services prospectively or retrospectively as to claims identified by or for the client. The SIU section will report the information it obtained from its investigation to the client, and such information may indicate that fraudulent or inappropriate practices have occurred. The decision on whether to pay or deny the claim will be the client's decision, however. With respect to claims that have already been paid, if the client determines that the claim should not have been paid, the client may authorize the SIU section to recover payments from the provider on its behalf. The SIU section would be compensated, in part, by the savings it achieved from detecting medical fraud and abuse in accordance with the terms of the Services Agreement. The SIU section may also offer subrogation services--identifying other payors and pursuing at the request of the client, reimbursement from others. In addition, the SIU section will also offer state law compliance information concerning fraudulent activities.

The SIU section will not identify to the client the names of other parties supplying information about a health care provider's prior claim practices, nor will it identify to the client the names of other parties receiving confidential information pertaining to providers. NWNL will maintain the separate SIU section to provide these services and no business information about client matters, including the amount of any claims resolution or any fee arrangements between client and any provider, will be exchanged with any other part of NWNL, except as may be required for auditing and regulatory compliance. NWNL will not exchange information with the separate

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[1]Such codes include: license revocation, altered claims, falsified or inappropriate treatment of records, service dates inconsistent with treatment records, and sanctioned by Medicare or Medicaid.

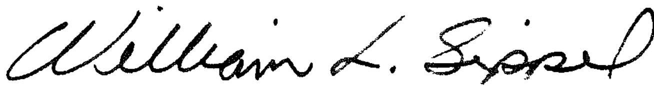
SIU section about claim or provider arrangements involving other NWNL sections or divisions. No reports will be exchanged between NWNL and the client concerning whether provider claim matters that were subject to investigation resulted in termination or modification of any business relationships between the health care provider and the client or NWNL. (The SIU section may receive such information but it will not share it with NWNL or other clients.) The independent SIU section will make no recommendations as to any action that should or should not be taken by client with respect to any information that the SIU section provides to the client.

NWNL is unable to identify at this time the number of potential clients for its fraud detection and investigation service. It has a number of prospective clients who have identified an interest in the product. Larger insurance companies may already provide certain services in-house, but smaller insurance companies, HMOs, and self-funded plans are likely purchasers.

We are enclosing copies of the Integrity Plus Services Agreement, a Fee Schedule, a Schedule of Information Codes, a Confidentiality Statement, and a Sample Report. We request that these materials be treated as confidential pursuant to 28 C.F.R. § 50.6, given the proprietary nature of the information supplied.

Please contact me at (612) 291-9285 if you have any questions.

Sincerely yours,



William L. Sippel

WLS178187/jmo (67511-12)

Enc.

cc: Mark Schechter, Esq. (w/enc.)
David Jordan, Esq. (w/enc.)
Gerald M. Sherman, Esq. (w/enc.)