

**Settlement Agreement between the Prudential Insurance Company of America and the
United States Department of Labor**

THIS SETTLEMENT AGREEMENT (“Agreement”) is made and entered into as of later date indicated on the signature page of this Agreement, by and between Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the “Secretary”) and The Prudential Insurance Company of America (“Prudential”) and is effective on the later of the dates that each of the Parties signed this Agreement (“Effective Date”).

WHEREAS, the Secretary is authorized to administer and enforce Title I of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. § 1001, et seq.;

WHEREAS, Prudential sells group life insurance policies to employers (the “group life insurance policyholders” or “employers”), who use such policies to provide life insurance benefits to their employees under “employee benefit plans,” as defined in ERISA Section 3, 29 U.S.C. § 1002(3), that such employers have established (“group insurance plans”);

WHEREAS, under such group insurance plans, employees generally may enroll at no cost to themselves to receive basic life insurance coverage (“basic life coverage”) without having to provide evidence of insurability (“EOI”) to Prudential, and the employer generally covers the full premium for basic life coverage;

WHEREAS, under some such group insurance plans, employees may elect to purchase coverage that requires EOI (e.g., in amounts higher than the basic life coverage limit) (“supplemental coverage”) for themselves or their eligible dependent, but must pay the premium for such supplemental coverage, which premiums generally are deducted by the employer from the employees’ pay;

WHEREAS, the group insurance policies that Prudential sells to employers for such plans provide supplemental coverage to an employee only if the employee electing supplemental coverage has submitted EOI to Prudential concerning his or her or his or her eligible dependent’s health status and has been approved by Prudential for such coverage;

WHEREAS, employers have the choice to have these group insurance plans record kept by either their own recordkeepers or by Prudential;

WHEREAS, employers choosing to act as their own recordkeepers or hire third party recordkeepers other than Prudential, are responsible for maintaining the records of premiums collected and for identifying those employees including their eligible dependents that should submit the EOI to Prudential;

WHEREAS, on occasion, some employers with respect to plans that are record kept by the plan’s own recordkeeper have collected premiums from an employee for supplemental coverage and

remitted the same to Prudential even though Prudential has not approved EOI for the employee or their eligible dependent and Prudential has not approved the employee or their eligible dependent for such coverage;

WHEREAS, in the event that a group life insurance policyholder collects premiums from any employee for the supplemental portion of the insurance without first confirming that Prudential has approved that employee's or eligible dependent's EOI, the group life insurance policyholder may be liable to the beneficiaries of said employee or their eligible dependent;

WHEREAS, Prudential, based on the terms of its group insurance policies, has denied claims for supplemental coverage based solely on the absence of EOI for an employee or eligible dependent and/or approval of such employee for supplemental coverage despite the employer deducting the premium from the employee's pay and forwarding those amounts to Prudential;

WHEREAS, the Secretary contends that Prudential is a fiduciary within the meaning of ERISA § 3(21)(A), 29 U.S.C. § 1002(21)(A), with respect to such group life insurance plans;

WHEREAS, the Secretary contends that Prudential has a fiduciary duty pursuant to ERISA Sections 404(a)(1)(A) and 404(a)(1)(B), 29 U.S.C. §§ 1104(a)(1)(A) & (a)(1)(B), to ensure that it makes eligibility determinations for each employee or their eligible dependent for supplemental coverage at or near the time Prudential receives premiums for such coverage;

WHEREAS, Prudential neither admits nor denies that it is a fiduciary or that it failed to discharge its fiduciary duties, if any, under ERISA;

WHEREAS, the Secretary and Prudential wish to resolve this matter including the alleged claims under Title I of ERISA that the Secretary asserts it may have against Prudential for Prudential's denial of claims for supplemental coverage, based on the absence of EOI, without litigation;

NOW THEREFORE, in consideration of the mutual covenants recited herein, the Secretary and Prudential agree to settle this matter including the claims arising from Prudential's denial of supplemental group life insurance coverage claims based on absence of EOI, on the following basis:

1. As of four months after the Effective Date of this Agreement set forth above, Prudential shall not deny a supplemental coverage claim under a group life insurance policy issued to an employer for its group insurance plan covered by ERISA solely on the basis that EOI for the employee or their eligible dependent was not submitted to or approved by Prudential, where Prudential has received the portion of required premiums for the supplemental coverage that requires EOI from the group life insurance policyholder for three months or more with respect to the supplemental coverage that requires EOI of such employee or their eligible dependent.
2. In the event Prudential denies a supplemental coverage claim under a group life insurance policy issued to an employer for its group insurance plan covered by ERISA based on lack

of EOI for an employee or their eligible dependent where Prudential, at the time the claim is submitted, has received less than three months of the required premiums for the supplemental portion of the insurance that requires EOI from the group life insurance policyholder, Prudential shall remit to the appropriate payee (i.e., the beneficiary or the employer of the employee) all premiums deducted and collected by the employer which were forwarded to Prudential for the supplemental portion of the insurance that requires EOI promptly after its transmission of its denial notice, together with a notice that (i) explains the basis for the denial, and (ii) states that if any amounts will be refunded, the amount of any such premium refunded, and the party to whom the premium will be refunded will be provided promptly. The denial notice shall make clear that if premiums have been forwarded to Prudential for three months or more or if the employee or their eligible dependent did submit EOI, the beneficiary should contact Prudential immediately.

3. Any denial of claims as set forth in paragraph 2 shall be without prejudice to any claims an employee or their eligible dependent's beneficiaries may assert against any party other than Prudential.
4. In the event Prudential discovers that an employee or their eligible dependent, who enrolled for supplemental coverage that requires EOI, failed to submit any required EOI, Prudential may request that the employee or their eligible dependent submit EOI only if:
 - a. Such request by Prudential is made no later than one year from the date on which Prudential received the first premium payment for the supplemental coverage that requires EOI for such employee or their eligible dependent;
 - b. Such employee or their eligible dependent is still alive. To the extent that Prudential has actual knowledge that the employee or their eligible dependent cannot submit EOI, Prudential shall work with the employer and the employee or their eligible dependent to effect the proper submission;
 - c. With its request for such EOI, Prudential provides the employer a notice to be delivered to the employee or their eligible dependent that:
 - i. Prudential is not requesting and will not consider any information regarding a medical issue, diagnosis, new prescription or any other relevant factual matter arising after the date of Prudential's receipt of the employee's or their eligible dependent's first premium payment;
 - ii. The information requested is limited to the employee's or their eligible dependent's health status as of the date that Prudential received the employee's or their eligible dependent's first premium payment for the supplemental coverage that required EOI;
 - d. In the event Prudential determines that an employee or their eligible dependent is not eligible for supplemental coverage, either based on the employee's failure to


provide an EOI as requested under this paragraph or because the EOI provided under this paragraph does not meet the eligibility criteria established under the group life insurance policy, Prudential shall promptly remit to the employee all premiums deducted and collected by the employer which were forwarded to Prudential for the supplemental portion of the insurance that required EOI.

- e. The same procedures shall govern the review and processing of EOI submitted under this subsection as those governing EOI submitted as required under the group life insurance policy; further, the same rights of appeal available to employees for Prudential's eligibility determinations of EOI submitted under the terms of the group life insurance policy shall be available to any employees submitting EOI under this paragraph.
5. No later than 120 days after the Effective Date, Prudential shall notify all existing ERISA group life insurance policyholders, and any new ERISA group life insurance policyholders that enter into contracts with Prudential thereafter that:
 - a. They must not collect any premiums from any employee or their eligible dependent for supplemental coverage that requires EOI without first confirming that Prudential has approved the employee's or their eligible dependent's EOI, and that;
 - b. In the event they collect premiums from any employee for supplemental coverage that requires EOI without first confirming that Prudential has approved such EOI, they may be liable to the beneficiaries of any such employee or their eligible dependent.
 6. No later than 120 days after the Effective Date, Prudential shall revise its internal materials to reflect the procedures set forth in this Agreement.
 7. No later than 120 days after the Effective date, Prudential shall notify all existing group life insurance policyholders of the procedures set forth in this Agreement, and thereafter shall provide any new policyholders with the same notification at the time of engagement.
 8. To the extent that Congress or the Department of Labor issues any statute, rule, or regulation inconsistent with any provision of this Agreement, Prudential shall be relieved of any obligation to comply with such conflicting provision of this Agreement and shall be free to modify the policies reflected herein to the extent necessary to comply with any such statute, rule, regulation or guidance. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
 9. By entering into this Settlement Agreement, the Parties hereto represent that they have been informed by counsel of the effect and purpose of this Agreement and agree to be bound by its terms. Any attorney signing each expressly represents that he or she is authorized to execute this Settlement Agreement on behalf of the Party represented and that the attorney has fully disclosed any conflicts of interest relating to his or her representation for purposes of executing

this Settlement Agreement. This Settlement Agreement is not binding on any governmental agency other than the United States Department of Labor.

10. In consideration of Prudential's implementation of the policies and procedures set forth above, and with the exception of the Secretary's right to seek monetary restitution or a surcharge for past denials of claims, this Agreement operates as a complete and final disposition of all potential allegations or claims for non-monetary relief or otherwise that the Secretary may have against Prudential based on, or arising from, the denial of a group life insurance supplemental coverage claim based on lack of EOI up to the Effective Date. This Agreement is executed in settlement of the potential allegations and claims described in this paragraph and will not be construed to otherwise limit the authority of the Secretary or to limit the rights of any persons other than the parties to this Agreement.
11. The Secretary covenants, warrants and agrees that the Secretary will not institute any action against Prudential alleging a violation or breach of the terms of this Agreement, or otherwise to enforce any terms of this Agreement, without providing Prudential at least 60 (sixty) days prior written notice of the alleged violation or breach and the opportunity to cure any such alleged violation or breach within the 60 day period.
12. This Settlement Agreement may be executed simultaneously in any number of counterparts. Each executed counterpart (including an executed counterpart delivered by facsimile or e-mail) of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same agreement.

FOR THE SECRETARY OF LABOR:

By:  Date: April 18, 2023

Andrew Karonis, Senior Trial Attorney
U.S. Department of Labor
210 Varick Street, Room 983
New York, NY 10014

FOR THE PRUDENTIAL INSURANCE COMPANY OF AMERICA:

By:  Date: 4/13/23

Print Name: ERIC SCHWIMMER

Title: Vice President, Corporate Counsel