

NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM

20 West State Street, 10th Floor
P.O. Box 325
Trenton, NJ 08625
Phone: (609) 633-1882 x50306
Fax: (609) 633-2030
E-mail: wsanders@dobi.state.nj.us

**IN THE MATTER OF THE INDIVIDUAL HEALTH
COVERAGE PROGRAM BOARD'S AUDIT OF TMG
LIFE INSURANCE COMPANY'S NET PAID LOSS
FOR CALENDAR YEAR 1996**

ADMINISTRATIVE ORDER NO. 00-10

WHEREAS, the New Jersey Individual Health Coverage Program ("IHC") Board of Directors is authorized by the Individual Health Insurance Reform Act of 1992 ("IHC Act"), P.L. 1992, c. 161 (N.J.S.A. 17B:27A-2 *et seq.*), and regulations promulgated thereunder and set forth at N.J.A.C. 11:20-1.1 *et seq.*, to assess each member of the IHC Program annually for its share of reimbursable losses and administrative expenses, based on the proportion that the member's net earned premium for a calendar year preceding the assessment bears to the net earned premium for all members of the IHC Program for that calendar year; and

WHEREAS, The Mutual Group ("TMG"), now Clarica, was a "carrier" and a "member" of the IHC Program as defined in the IHC Act in 1996; and

WHEREAS, pursuant to Section 11a(1)(b) of P.L.1992, c.161 (N.J.S.A. 17B:27A-12(a)(1)(b)), if a carrier's claims paid and reasonable administrative expenses on open enrollment, community-rated individual health benefits plans for that calendar year exceeded the carrier's net earned premium and any investment income thereon, the amount of the excess was deemed to be the carrier's "net paid loss" that was reimbursable to that carrier; and

WHEREAS, pursuant to Section 11a(2) of P.L. 1992, c. 161 (N.J.S.A. 17B:27A-12(a)(2)), all members of the IHC Program were liable for an assessment to reimburse carriers for their net paid losses; and

WHEREAS, pursuant to N.J.S.A. 17B:27A-12a(1)(b) and N.J.A.C. 11:20-8, every carrier issuing individual health benefits plans and seeking reimbursement was required to report to the Board the carrier's net earned premium, claims paid, net investment income and administrative expenses for open enrollment, community-rated individual

health benefits plans on a calendar year basis on a form known as a Market Share and Net Paid Loss Report ("Exhibit K"); and

WHEREAS, TMG filed an Exhibit K with the IHC Board dated March 4, 1997, reporting a net paid loss of \$706,765 for calendar year 1996; and

WHEREAS, TMG filed a revised Exhibit K dated November 20, 1997, reporting a net paid loss of \$3,112,044 for calendar year 1996; and

WHEREAS, on or about December 16, 1997, the IHC Board assessed IHC Program members for the calendar year 1996, which 1996 assessment was based, in part, on TMG's reported net paid loss of \$3,112,044; and

WHEREAS, pursuant to N.J.S.A. 17B:27A-11i, N.J.A.C. 11:20-2.3(b)9 and N.J.A.C. 11:20-8.8, the IHC Board has the specific authority to audit carriers seeking reimbursement of net paid losses; and

WHEREAS, the IHC Board contracted with Deloitte & Touche ("D&T"), an independent auditor, to audit the net paid losses of carriers seeking reimbursement for calendar year 1996; and

WHEREAS, on or about March 12, 1998, the IHC Board voted to provide TMG, and all other carriers seeking reimbursement for calendar year 1996, a reimbursement payment representing 80 percent of the carrier's filed net paid loss subject to receipt of a Certification from TMG in which TMG was required to certify that it was familiar with N.J.A.C. 11:20-8.8 and in which it agreed that advance payments made by the IHC Board for filed net paid losses were subject to audit and adjustment; and

WHEREAS, on April 7, 1998, TMG signed the above-referenced Certification and returned the Certification to the IHC Board thereby agreeing that advance payments for filed net paid losses were subject to audit and adjustment; and

WHEREAS, on or about April 9, 1998, in reliance on TMG's Certification and its revised Exhibit K, the IHC Board paid \$2,489,635 representing 80 percent of TMG's reported net paid loss of \$3,112,044 to TMG by wire transfer to a TMG account; and

WHEREAS, on or about September 16, 1997 D&T began its audit of TMG's net paid losses as reported on its revised Exhibit K; and

WHEREAS, as part of its audit of TMG's net paid losses, D&T selected a sample of 84 claims paid from a listing, provided by TMG, of 1996 claims paid; and

WHEREAS, the audit of TMG's net paid losses required that D&T examine TMG's claims paid, net earned premium, net investment income, and administrative expenses as reported on TMG's revised 1996 Exhibit K; and

WHEREAS, TMG had failed to provide sufficient evidence for D&T to complete its audit of TMG's 1996 net paid losses based on the review of the sample of 84 claims; and

WHEREAS, by letter dated July 8, 1998, Wardell Sanders, Executive Director of the IHC Board directed TMG to provide D&T with the outstanding information, as detailed in pages attached to the July 8, 1998 letter, by July 24, 1998; and

WHEREAS, by letter dated July 24, 1998, Paul Charney, Manager Internal Audit of TMG, provided certain additional information to Scott Sanders of D&T; and

WHEREAS, after reviewing the July 24, 1998 letter, D&T advised the IHC Board that TMG had failed to provide the necessary information; and

WHEREAS, after continued unsuccessful efforts by D&T to obtain necessary documentation from TMG, D&T advised the IHC Board that, based on its analysis of TMG's reported claims alone, D&T could not issue an audit report; and

WHEREAS, D&T, by letter dated September 23, 1999 agreed to perform agreed-upon procedures relating to TMG's reported claims on its Exhibit K in accordance with standards established by the American Institute of Certified Public Accountants; and

WHEREAS, D&T issued an Agreed-upon Procedures Report dated December 8, 1999 that was received by the IHC Board on May 4, 2000, a copy of which is attached hereto; and

WHEREAS, based on the attached Agreed-upon Procedures Report from D&T and TMG's failure to provide sufficient documentation to D&T to issue an audit report of TMG's reported net paid losses, the IHC Board voted at its July 11, 2000 meeting to issue this Order; and

WHEREAS, the following claim information and documentation necessary for D&T to complete an audit of TMG's net paid losses based on the sample of 84 claims paid already taken by D&T (hereinafter the "Missing Data") is needed from TMG in order for D&T to complete the claims portion of the 1996 net paid loss audit; and

1. Based on the sample of 84 claims paid for 1996, TMG has not yet provided claim file documentation for 15 claims paid selections. (Selections 7, 8, 12, 18, 30, 31, 35, 36, 40, 42, 45, 51, 71, 73 and 79)
2. Although TMG provided claim file documentation for 69 of the sample of 84 paid claims, the following information has not yet been provided with respect to certain of those 69 paid claims:
 - a) TMG has not yet provided documentation for the medical necessity (pre-certification) for one of the claims. (Selection 77)
 - b) TMG has not yet provided documentation of pre-existing conditions investigations, potential third party/worker's compensation, other coverage where

- indicated and duplicate payments with respect to 12 of the paid claims. (Selections 3, 4, 9, 17, 19, 21, 26, 44, 55, 61, 65 and 82)
- c) TMG has not yet provided an acceptable explanation or documentation to support the differences noted between the billed charges as found on the on-line claim systems or claim history prints provided by TMG and the billed charges as noted on the provider invoices provided by TMG for seven of the paid claims selected. (Selections 14, 17, 20, 49, 65, 69 and 72)
 - d) TMG has not yet located the Prevailing Healthcare Systems Charges (PHCS) data for 1996 to support the pricing for 15 of the paid claims selections for which TMG stated that PHCS data was used in the settlement of the claims. (Selections 1, 4, 9, 10, 21, 22, 46, 48, 50, 54, 56, 68, 75, 76 and 82)
 - e) TMG has not yet provided an acceptable explanation concerning the discrepancy between the discount information provided by TMG's vendor and the discount that was used to price the benefits shown on the claim history print for one paid claim selection. (Selection 26)
 - f) TMG has not yet provided any pricing documentation for four paid claims. (Selections 34, 41, 58 and 84)
 - g) TMG has not yet provided the internal procedures relative to the pricing decision and payment methodologies for six of the paid claims selected. (Selections 1, 15, 16, 29, 39 and 55)
 - h) With respect to the accumulation of deductibles, coinsurance and coinsurance cap, TMG has not yet provided an explanation or documentation for the calculation of two of claims selected. (Selections 19 and 48)
 - i) With respect to the accumulation of deductibles, coinsurance and coinsurance caps, TMG has not yet provided explanations or adequate documentation to support benefit payment calculation adjustment, which were adjustments to previous paid claims, for five of the paid claims selected. (Selections 24, 63, 64, 70 and 78)
 - j) With respect to the accumulation of deductibles, coinsurance and coinsurance caps, TMG has not yet provided documentation that is consistent with the amounts used by TMG to explain the benefit payments for five of the paid claims selected. (Selections 6, 43, 59, 60 and 61)
 - k) With respect to the accumulation of deductibles, coinsurance and coinsurance caps, TMG has not yet provided claim history to support prior satisfaction of deductibles and coinsurance caps for 51 of the paid claims selected. (Selections 1, 2, 3, 4, 5, 6, 9, 10, 11, 13, 14, 15, 17, 19, 20, 21, 22, 25, 26, 27, 29, 34, 38, 39, 41, 43, 46, 47, 48, 49, 50, 52, 54, 55, 56, 57, 58, 59, 60, 61, 65, 68, 69, 70, 72, 74, 75, 77, 78, 82 and 83)
 - l) TMG has not yet provided proof of payment for one of the paid claim selection with respect to a claim for which claim file documentation was located. (Selection 39)
3. TMG has not yet provided proof of payment for two of the paid claims for which no claim file documentation was located. (Selections 8 and 42)

WHEREAS, the completion of the audit of TMG's reported net paid loss audit will require TMG to provide D&T with all necessary information to perform premium

earned, claims paid, investment income and expense portions of the audit in addition to the previously discussed segment of the claims paid portion of the audit.

WHEREAS, the following information and documentation necessary for D&T to complete an audit of TMG's net paid losses has not yet been provided:

1. With respect to premiums earned, TMG has not yet reconciled the premium amounts on the State Business page to the premium amounts reported on the Exhibit K. D&T has advised TMG that the premiums earned on lines 23.2 plus 24.6 on the State Business page should be used as the basis for reporting net earned premium on Exhibit K.
2. With respect to premiums earned, TMG has not yet provided detailed records to support the premiums collected in support of the 1996 earned premiums, including the following:
 - a) System produced personal profiles of the subscriber and all insured(s) including ages, relationships, status, etc.;
 - b) Covered person I.D., Product I.D., and contract type;
 - c) Billing summaries covering all policy periods with any earned premium in 1996 (whether collected in 1996 or not);
 - d) Cash receipt summaries covering all policy periods with any earned premium in 1996 (whether collected in 1996 or not);
 - e) Premium rating tables submitted to the State for policies with 1996 earnings; and
 - f) Applications for the insurance coverage and any requests for policy changes affecting the 1996 earned premium.
3. With respect to claims paid, the 1996 claims paid data file includes a number of claims paid with check dates prior to 1/1/96 and after 12/31/96. D&T notes that the claims paid amount reported on Exhibit K is consistent with the sum of the claims paid on the claims paid data file. TMG has not yet provided an explanation for the inclusion of claims paid outside calendar year 1996 on the 1996 claims paid listing.
4. With respect to claims paid, the Direct Losses Paid on lines 23.2 plus 24.6 on the State Business page is to be used as the basis for reporting claims paid on Exhibit K. TMG has yet to reconcile the amounts on the State Business page to the amounts reported on Exhibit K.
5. With respect to expenses, TMG has not yet provided the explanation D&T requested concerning the expense calculation where the method of allocation of expenses to the New Jersey individual business needs to be consistent with the manner in which TMG has allocated expenses to the individual A&H line of business on the Annual Statement. D&T has referred TMG to the certification requirement set forth in N.J.A.C. 11:20-8.6. D&T also noted that if TMG's method of expense allocation between lines of business on the "Analysis of Operations by Line of Business" is based on the percentage of line of business premium to total premium that TMG would be required to document for review the statutory guidance that allows such allocation.
6. With respect to net investment income, TMG has not yet provided the explanation D&T requested concerning the method of allocation of net investment income to the New Jersey individual business which needs to be consistent with how TMG has allocated net investment income to the individual A&H line of business on the

Annual Statement. D&T has referred TMG to the certification requirement set forth in N.J.A.C. 11:20-8.6. D&T also noted that if TMG's method of investment income allocation between lines of business on the "Analysis of Operations by Line of Business" is based on the percentage of line of business premium to total premium that TMG would be required to document for review the statutory guidance that allows such allocation.

NOW THEREFORE, pursuant to the authority granted to the IHC Board by *N.J.S.A. 17B:27A-2 et seq.*, *N.J.A.C. 11:20-1 et seq.*, and all powers expressed or implied therein, and the decision of the IHC Board as expressed by this Administrative Order,

IT IS on this th day of July, 2000,

ORDERED, no later than October 3, 2000 TMG shall provide to D&T all the information relating to the premium earned, net investment income, and expenses as specified above in order for D&T to complete an audit of TMG's net paid losses; and

IT IS FURTHER ORDERED THAT, with respect to the claims portion of TMG's audit, TMG shall either: (1) provide D&T with Missing Data as set forth above; or (2) provide D&T with information necessary to complete an audit of an adjusted net paid loss amount based on an expanded sampling of claims as prescribed by D&T (hereinafter the "Expanded Data"); and

IT IS FURTHER ORDERED THAT should TMG choose to expand the sample size of its claims paid as described in the preceding paragraph, then it shall be responsible for the full amount charged by D&T for the portion of the audit relating to claims from the date of this Order until the completion of the claims portion of the audit; and

IT IS FURTHER ORDERED THAT, if TMG does not provide D&T with either the Missing Data or the Expanded Data by October 3, 2000, then TMG shall pay to the IHC Board (1) \$2,489,635 to reimburse the IHC Board for the IHC Board's April 1998 payment; (2) the interest that the IHC Board would have earned on the \$2,489,635 payment that the IHC Board provided to TMG; and (3) one-half of the cost of the audit and additional audit costs should TMG adjust its net paid loss amount and cause D&T to do additional sampling of claim files; and

IT IS FURTHER ORDERED THAT, TMG shall provide the IHC Board's Executive Director with two progress reports, the first of which shall be provided no later than August 2, 2000 and the second which shall be provided no later than September 7, 2000, each of which shall provide the following information:

1. a general discussion of TMG's efforts to provide either the Missing data or the Expanded Data;
2. identification of any problems that have significantly impeded TMG's efforts to provide either the Missing Data or the Expanded Data;
3. a list of all items comprising the Missing Data that TMG is not yet able to provide;

4. a list of all questions that D&T has asked of TMG is not yet able to answer; and
5. any other information that bears on D&T's ability to complete the 1996 net paid loss audit.

Wardell Sanders, Executive Director
Individual Health Coverage Program Board

DATE: _____