

NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

Trenton, NJ 08625

IN THE MATTER OF BANKERS SECURITY LIFE
INSURANCE SOCIETY'S APPEAL OF THE INDIVIDUAL
HEALTH COVERAGE PROGRAM BOARD'S ASSESSMENT
FOR REIMBURSABLE LOSSES AND ADMINISTRATIVE
EXPENSES FOR CALENDAR YEAR 1994

ADMINISTRATIVE ORDER NUMBER 96-03

WHEREAS, the New Jersey Individual Health Coverage Program ("IHC") Board is authorized by the Individual Health Insurance Reform Act of 1992 ("IHC Act"), N.J.S.A. 17B:27A-2 et seq., and regulations promulgated thereunder, to administer the IHC Program, to assess members of the IHC Program on the basis of their proportionate share of program losses and administrative expenses and to take any legal actions necessary to recover assessments owed to the IHC Program;

WHEREAS, Bankers Security Life Insurance Society ("Bankers") is a "carrier" with "health benefits plans" in force in New Jersey and is, therefore, a member of the IHC Program subject to assessment pursuant to N.J.S.A. 17B:27A-2 et seq.;

WHEREAS, Bankers did not file a timely Market Share and Net Paid Loss Report ("Exhibit K") with the IHC Board, and on November 21, 1995, the Board assessed Bankers for its share of reimbursable losses and administrative expenses of the IHC Program for calendar year 1994 in the amount of \$122,175, based on \$11,631,003, the accident and health premium reported on the annual statement filed with the New Jersey Department of Insurance;

WHEREAS, Bankers appealed the assessment by letter dated November 29, 1995, on the grounds that:

- 1) Bankers is not subject to assessment;
- 2) Bankers did not write any new major medical business in New Jersey in 1994;
- 3) Bankers was granted an exemption from assessment for calendar year 1993.

WHEREAS, the Board found that Bankers' appeal letter contained the following errors of fact: first, Bankers neither applied for nor received exemptions from assessments for calendar years 1993 and 1994; second, Bankers neither requested, nor received, certification of non-member status in the IHC Program for calendar years 1993 and 1994;

WHEREAS, the IHC Board notified Bankers of these errors by letter dated January 9, 1996 and received, on January 31, 1996, payment of the 1994 assessment but did not receive any other form of response to the January 9, 1996 letter.

WHEREAS, the IHC Board received a subsequent letter from Paula Cludray-Engelke, of Northwestern National Life Insurance Company ("NWNL"), dated January 23, 1996, indicating

that NWNL had acquired Bankers, effective January 17, 1995, and reserving Bankers' right of appeal until it could complete an Exhibit K.

WHEREAS, the Board responded, by letter from the Executive Director to Paula Cludray-Engelke, by facsimile on January 25, 1996, that any additional grounds in support of Bankers appeal would have to be submitted immediately, so that the Board could make a final determination at its February 13, 1996 meeting;

WHEREAS, NWNL responded by letter dated February 12, 1996, and reported that its net earned premium for assessment purposes for 1994 was \$8,058,543, reducing the net earned premium figure used for assessment purposes due to the inclusion of disability income and hospital indemnity premium in the accident and health premium reported to the Department of Insurance. NWNL asked that Bankers' assessment be recalculated on the basis of the revised net earned premium submitted.

WHEREAS, the Board has considered Bankers' appeal of the 1994 assessment. Based on the facts, the Board concludes the following:

- 1) Bankers' appeal does not constitute a contested case requiring a hearing, pursuant to the Administrative Procedure Act;
- 2) Bankers is a member of the IHC Program, subject to assessment;
- 3) the fact that Bankers did not write any new major medical business in 1994 is not relevant to its liability for assessment, which is calculated on the basis of its net earned premium from "health benefits plans" in force in 1994, or, in lieu of a market share and net paid loss report, its accident and health premiums reported to the Department of Insurance on its annual statement. N.J.A.C. 11:20-2.17 and N.J.S.A. 17B:27A-12.
- 4) disability income and hospital indemnity coverage are excluded from the definition of "health benefits plan," as defined at N.J.A.C. 11:20-1.2 and Bankers' assessment should be recalculated on the basis of its revised net earned premium.

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

IT IS on this 13th day of February, 1996,

ORDERED that Bankers appeal of the 1994 assessment by the IHC Board is denied to the extent it asserts non-membership in the IHC Program and granted to the extent it seeks a revision in the net earned premium reported as the basis of Bankers' assessment. Therefore, Bankers' assessment will be recalculated and and refund due will be paid to Bankers' upon final reconciliation of all pending appeals.

Kevin O'Leary, Executive Director

Date