

NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD

Trenton, NJ 08625

IN THE MATTER OF HEALTH MAINTENANCE
ORGANIZATION OF NEW JERSEY'S APPEAL OF THE
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD'S
ASSESSMENT FOR REIMBURSABLE LOSSES AND
ADMINISTRATIVE EXPENSES FOR CALENDAR YEAR 1994

ADMINISTRATIVE ORDER NUMBER 96-15

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, the Health Maintenance Organization of New Jersey ("HMO/NJ") is a "carrier" that filed, on February 27, 1995, a combined carrier Market Share and Net Paid Loss Report ("Exhibit K") with the IHC Board on behalf of HMO/NJ and its affiliates, which reported net earned premium of \$784,803,372. HMO/NJ did not file a specifically named-carrier Exhibit K for HMO/NJ with the IHC Board as required pursuant to N.J.A.C. 11:20-8.2(b);

WHEREAS, Corporate Health Insurance Company ("CHI") is an affiliated carrier of HMO/NJ which filed a specifically-named-carrier Exhibit K with the IHC Board on February 27, 1995 which reported net earned premium of \$2,175,099;

WHEREAS, pursuant to N.J.A.C. 11:20-9.3, the Board notified HMO/NJ on May 11, 1994, that its minimum enrollment share for 1994 was 19,961 non-group persons;

WHEREAS, HMO/NJ sought an exemption from assessment for reimbursable losses for calendar year 1994, pursuant to N.J.A.C. 11:20-9.2, and, on February 27, 1995, reported its enrollment of 24,658 non-group persons, as required by N.J.A.C. 11:20-9.5 consisting of: 2,447 standard individual health benefits plans; 4,449 Medicare cost and risk contracts; 17,161 Medicaid contracts; and 599 HealthStart Plus recipients;

WHEREAS, pursuant to N.J.A.C. 11:20-9.4(b), the Board accepted HMO/NJ's reported Medicaid contracts only to the extent that they satisfied up to one third of HMO/NJ's minimum enrollment share for 1994 of 19,961 non-group persons, specifically, 5,531 lives, for a total of 13,026 non-group persons;

WHEREAS, the IHC Board, on November 21, 1995, assessed HMO/NJ in the amount of \$2,204,988 for its share of administrative expenses on the basis of its reported specifically-named carrier net earned premium of \$782,628,273, and for a prorata share of reimbursable

losses, as a result of HMO/NJ's having met 65.3% of its minimum enrollment share and having been granted a prorata exemption under N.J.A.C. 11:20-9.5.;

WHEREAS, the IHC Board, on November 21, 1995, assessed CHI for a share of administrative expenses and reimbursable losses in the amount of \$31,335 on the basis of its reported specifically-named carrier net earned premium of \$2,175,099;

WHEREAS, HMO/NJ remitted \$2,012,266 on December 21, 1995 and CHI paid the assessment in full on December 21, 1995;

WHEREAS, HMO/NJ appealed the assessment by letter dated December 18, 1995, on the following grounds:

- the Board failed to take into account 2,044 and 1,375 community rated conversion lives issued prior to August 1, 1993 toward satisfying HMO/NJ's 1993 and 1994 minimum enrollment shares, respectively, consistent with the Board's reconsideration of the appeal of HIP Health Plan of New Jersey, and, therefore, failed to correctly calculate HMO/NJ's exemption from assessment for reimbursable losses for calendar years 1993 and 1994; and
- that the IHC Board assessed CHI for administrative expenses and reimbursable losses on the basis of its specifically named carrier net earned premium, with no prorata exemption applied. As an affiliated carrier, HMO/NJ and CHI should have been considered a single carrier for exemption and assessment purposes; and
- in accordance with a court order entered pursuant to the Third Circuit Court of Appeal's decision in HMO/NJ v. Whitman, et al., in which the Court determined that FEHBA premiums were not subject to assessment by the IHC Board, HMO/NJ placed in escrow \$192,762, based on its own calculation of the portion of HMO/NJ's assessment attributable to FEHBA premiums;

WHEREAS, the IHC Board has considered HMO/NJ's appeal of the 1994 assessment and concludes the following:

- open enrolled, community rated conversion lives issued prior to August 1, 1993 may be counted toward satisfying HMO/NJ's minimum share;
- pursuant to N.J.A.C. 11:20-1.2, carriers that are affiliated carriers are to be treated as one carrier; accordingly, the exemption requested by HMO/NJ and granted by the Board extends to HMO/NJ and its affiliated carrier CHI;
- the assessment of HMO/NJ for administrative expenses and its prorata share of reimbursable losses should have been calculated on the basis of its combined carrier net earned premium, rather than HMO/NJ's specifically-named carrier net earned premium;
- CHI, as an affiliated carrier of HMO/NJ, should not have been assessed separately from HMO/NJ; and
- pursuant to the decision of the Third Circuit Court of Appeals in HMO/NJ v. Whitman, HMO/NJ should not have been assessed on net earned premium attributable to FEHBA health benefits plans.

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 12th day of March, 1996,

ORDERED that HMO/NJ's appeal of the 1994 assessment by the IHC Board is hereby granted, and that the Board's shall:

- recalculate HMO/NJ's pro-rata exemptions from assessment for reimbursable losses for calendar years 1993 and 1994 counting open enrolled, community rated conversion lives issued prior to August 1, 1993 toward satisfying HMO/NJ's minimum enrollment share;
- rescind the assessment of CHI, and refund the assessment paid following resolution of all pending appeals;
- recalculate the assessment of HMO/NJ for administrative expenses and its prorata share of reimbursable losses on the basis of its combined carrier net earned premium, rather than HMO/NJ's specifically-named carrier net earned premium; and
- recalculate the assessment of HMO/NJ, in accordance with the order of the Third Circuit Court of Appeals in HMO/NJ v. Whitman, excluding from the assessment base net earned premium attributable to FEHBA health benefits plans.

The Board shall notify HMO/NJ of the amount of any assessment due or refund owed following resolution of all pending appeals and recalculation of all carriers' assessments for calendar years 1993 and 1994.

Kevin O'Leary, Executive Director

Date