NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
Trenton, NJ 08625

IN THE MATTER OF RELIANCE INSURANCE COMPANY'S
APPEAL OF THE INDIVIDUAL HEALTH COVERAGE
PROGRAM BOARD'S ASSESSMENT FOR REIMBURSABLE
LOSSES AND ADMINISTRATIVE EXPENSES FOR
CALENDAR YEAR 1994

ADMINISTRATIVE ORDER NUMBER 96-16

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, Reliance Insurance Company ("Reliance") is a "carrier" that filed a Market Share and Net Paid Loss Report ("Exhibit K") with the IHC Board on February 24, 1995 which reported net earned premium of $7,943,278;

WHEREAS, the IHC Board, on November 21, 1995, assessed Reliance for its share of reimbursable losses and administrative expenses of the IHC Program for calendar year 1994 in the amount of $112,607, based on its reported net earned premium;

WHEREAS, Reliance paid the invoice amount on February 27, 1996 and appealed the assessment by letter of the same date, on the grounds that:
- Reliance is a property and casualty insurer that is not subject to the IHC Act;
- all accident and health premiums written in New Jersey for 1994 were special risk or supplemental coverages not subject to assessment. Notwithstanding its assertion, Reliance conceded that some unspecified portion of its net earned premium was attributable to stand alone prescription drug plans, which are included in the definition of "health benefits plan" pursuant to N.J.A.C. 11:20-1.2. Reliance further contends that the regulation is ultra vires; and
- Reliance should not have to pay an assessment until the reimbursable losses reported to the Board have been audited;

WHEREAS, the IHC Board has considered Reliance's appeal of the 1994 assessment and concludes the following:
- Reliance's appeal does not raise issues of material fact and does not, therefore, constitute a contested case requiring a hearing, pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.;
- the IHC Act applies to any insurance company authorized to issue health benefits plans in this State;

- N.J.A.C. 11:20-1.2 is a valid regulation adopted in accordance with law. All coverages included within the definition of "health benefits plan" are subject to assessment by the IHC Program; and
- the IHC Board is not required by law to audit reimbursable losses prior to assessing carriers. An audit of the 1993 and 1994 losses has been conducted and adjustments to reimbursable losses may be made as a result of the auditor's findings. Any adjustments would result in a recalculation of all carriers' assessment shares for those years.

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 Reliance's appeal of the 1994 assessment by the IHC Board is hereby denied. The Board will release from escrow the assessment paid by Reliance unless the Board receives within 15 days of Reliance's receipt of this final order written notice from Reliance of its intention to appeal this final administrative order to the Appellate Division of the New Jersey Superior Court. If such appeal has not been filed within 45 days of Reliance's receipt of this final administrative order, the Board will release from escrow the assessment paid by Reliance and make such funds available for payment to carriers eligible for reimbursement of losses. If an appeal is filed, the assessment will remain in escrow until the Appellate Division issues an order to release such funds or the appeal is otherwise resolved.

_____   _____
Kevin O'Leary, Executive Director   Date