

NEW JERSEY  
**INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD**

Trenton, NJ 08625

IN THE MATTER OF BLUE CROSS AND BLUE SHIELD OF  
NEW JERSEY'S APPEAL OF THE INDIVIDUAL HEALTH  
COVERAGE PROGRAM BOARD'S ADJUSTMENT OF  
REIMBURSEMENT OF LOSSES FOR CALENDAR YEARS  
1993 AND 1994

**ADMINISTRATIVE ORDER NUMBER 96-23**

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 reimburse carriers for eligible losses;

WHEREAS, Blue Cross and Blue Shield of New Jersey ("BCBSNJ") is a "carrier" that filed combined carrier Market Share and Net Paid Loss Reports ("Exhibits K") with the IHC Board on behalf of BCBSNJ and its affiliates, five wholly-owned subsidiaries of Medigroup, Inc., on March 31, 1994, which reported 1993 net earned premium of \$1,355,620,499 and sought reimbursement of net paid losses of \$54,178,827 and on March 1, 1995, which reported 1994 net earned premium of \$1,314,525,419 and sought reimbursement of net paid losses of \$39,976,798;

WHEREAS, on the basis of the findings of an independent audit of BCBSNJ, in accordance with N.J.A.C. 11:20-8.8(c), and the Board's determination that BCBSNJ had voluntarily waived reimbursement for certain expenses identified in documents titled "Certification of the Allocation Methodologies for the IHC Carrier Market Share and Net Paid Loss Report" (hereinafter "Certifications") submitted with BCBSNJ's Exhibits K for calendar years 1993 and 1994, the Board on May 20, 1996 issued Administrative Order Number 96-21, incorporated herein by reference, which adjusted the Board's reimbursement of BCBSNJ's reimbursable losses to \$51,184,372 for 1993 and \$34,958,008 for 1994.

WHEREAS, BCBSNJ appealed the Board's decision on June 12, 1996, pursuant to N.J.A.C. 11:20-8.9, and requests that the Board hold a hearing to reconsider its decision on the following grounds:

1. the Board failed to follow its own procedures, set forth in N.J.A.C. 11:20-8.8, by deciding to reimburse BCBSNJ for less than the net paid loss amounts contained in the audit report;
2. the Board lacks the authority, under N.J.A.C. 11:20-2.17 or N.J.A.C. 11:20-8.8 to consider documents other than a carrier's Exhibit K and the audit report in determining a carrier's net paid losses; and
3. BCBSNJ did not waive its entitlement to reimbursement for expenses identified in the Certifications which accompanied BCBSNJ's Exhibit K filings for calendar years 1993 and 1994.

BCBSNJ requests that the Board set aside its decision and reimburse the full net paid losses stated in the auditor's report, or, in the alternative, set aside the audit as having been flawed and unduly influenced by the Board.

WHEREAS, pursuant to N.J.A.C. 11:20-8.6(b)1, in documents titled "Certification of the Allocation Methodologies for the IHC Carrier Market Share and Net Paid Loss Report" (hereinafter "Certifications") which accompanied the above referenced Exhibits K and are incorporated herein by reference, Robert J. Pures, Vice President of Finance and Treasurer of BCBSNJ, certified, among other things, that the administrative expenses reported on the Exhibits K did not include employee incentive expenses of \$373,000 in 1993 and \$885,000 in 1994 "since BCBSNJ believes that they should not be subsidized by other carriers" or amortization of deferred system development costs of \$2,596,000 in 1993 and \$2,238,000 in 1994 "since they pertain to expenditures incurred prior to 1993;"

WHEREAS, the effect of the Certifications was to explain that BCBSNJ had reduced the reimbursement for losses BCBSNJ could have sought in the amount of \$2,969,000 for calendar year 1993 and \$3,123,000 for calendar year 1994;

WHEREAS, pursuant to N.J.A.C. 11:20-8.8(b) and following a competitive bidding process, the IHC Board on May 9, 1995 selected Deloitte and Touche, LLP ("D&T"), to conduct an independent audit of BCBSNJ's 1993 and 1994 Exhibits K;

WHEREAS, following its audit of BCBSNJ, D&T presented a final audit report to the IHC Board on May 7, 1996, which reported net paid losses of \$54,153,372 in 1993 and \$38,081,088 in 1994. In calculating net paid losses for calendar years 1993 and 1994, D&T included employee incentive expenses and deferred system development costs, which were reported in BCBSNJ's annual statements for those years, and stated, in the section of the audit report titled "Note to Combined Statements of Net Paid Losses - Statutory Basis for Individual Business," that D&T's presentation of BCBSNJ's reported expenses "do not reflect changes, identified by Blue Cross and Blue Shield of New Jersey, Inc., in Certifications accompanying the Carrier Market Share and Net Paid Loss Reports filed with the New Jersey Individual Health Coverage Program Board as compared with the annual statements filed with the New Jersey Department of Insurance;"

WHEREAS, the Board voted to adopt D&T's audit report on May 7, 1996 and to adjust BCBSNJ's net paid losses for 1993 and 1994 in accordance with the amounts in the audit report, pursuant to N.J.A.C. 11:20-8.8(c). The Board then voted to acknowledge and give effect to the clear, voluntary, and intentional statements in the Certifications, which statements waived reimbursement for employee incentive expenses and amortization of deferred system development costs, thereby reducing the net paid losses of BCBSNJ by \$2,969,000 for calendar year 1993 and \$3,123,000 for calendar year 1994. Accordingly, the Board determined that the reimbursable losses of BCBSNJ should be reduced from \$54,178,827 to \$51,184,372 for 1993, and from \$39,976,798 to \$34,958,008 for 1994;

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 this Administrative Order;

IT IS on this 20th day of May, 1996,

ORDERED that BCBSNJ's requests for reimbursement of net paid losses for calendar years 1993 and 1994 are hereby adjusted to \$51,184,372 for 1993 and \$34,958,008 for 1994 on the basis of the findings of an independent auditor, in accordance with N.J.A.C. 11:20-8.8(c), and BCBSNJ's voluntary waiver of reimbursement for certain expenses identified in the Certifications submitted with BCBSNJ's Exhibits K. The Board will recalculate all carriers' assessments for reimbursable losses for calendar years 1993 and 1994 in accordance with the reimbursable losses provided in this order.

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Kevin O'Leary, Executive Director

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Date