

NEW JERSEY  
**INDIVIDUAL HEALTH COVERAGE PROGRAM**

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IN THE MATTER OF APPEAL BY  
UNITED STATES LIFE INSURANCE  
COMPANY OF THE CITY OF NEW YORK  
OF ITS LOSS ASSESSMENTS BY THE  
INDIVIDUAL HEALTH COVERAGE  
PROGRAM BOARD FOR THE 1993, 1994,  
1995 AND 1996 CALCULATION PERIODS

**ADMINISTRATIVE ORDER NO. 04-IHC-06**

WHEREAS, this matter arises from an appeal and request for hearing by the United States Life Insurance Company of City of New York ("U.S. Life") with regard to its loss assessments for the 1993, 1994, 1995 and 1996 one-year calculation periods; and

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, to assess each member of the IHC Program for its share of reimbursable losses and administrative expenses, based on the proportion that the member's net earned premium for the calculation period preceding the assessment bears to the net earned premium for all members of the IHC Program for that calculation period; and

WHEREAS, U.S. Life was a "carrier" and a "member" of the IHC Program as defined in the IHC Act for the 1993, 1994, 1995 and 1996 one-year calculation periods; and

WHEREAS, on July 11, 1994, the IHC Board issued an assessment invoice to U.S. Life for the 1993 calculation period (accompanied by a spreadsheet outlining the calculation of each IHC Program member's proportional share of the assessment), as follows:

|                                       |                  |
|---------------------------------------|------------------|
| reimbursable losses                   | \$1,281,438      |
| administrative expenses               | 11,942           |
| <u>1992 assessment reconciliation</u> | <u>994</u>       |
| Total Assessment                      | \$1,294,374; and |

WHEREAS, on August 3, 1994, the IHC Board received a \$1,294,374 payment from U.S. Life for the July 11, 1994 invoice, and the payment was neither made under protest nor accompanied by an appeal of the 1993 loss assessment, a request for a hearing, or a request that any disputed assessment amount be put in an interest bearing account; and

WHEREAS, on November 21, 1995, the IHC Board issued an assessment invoice to U.S. Life for the 1994 calculation period (accompanied by a spreadsheet outlining the calculation of each IHC Program member's proportional share of the assessment), as follows:

|                                       |                   |
|---------------------------------------|-------------------|
| reimbursable losses                   | \$989,941         |
| administrative expenses               | \$7,995           |
| <u>1993 assessment reconciliation</u> | <u>-\$ 10,221</u> |
| Total Assessment                      | \$987,715; and    |

WHEREAS, on January 3, 1996, the IHC Board received a \$987,715 payment from U.S. Life for the November 21, 1995 invoice, and the payment was neither made under protest nor accompanied by an appeal of the 1994 loss assessment, a request for a hearing, or a request that any disputed assessment amount be put in an interest bearing account; and

WHEREAS, on June 12, 1996, the IHC Board issued an assessment invoice to U.S. Life for the 1995 calculation period (accompanied by a spreadsheet outlining the calculation of each IHC Program member's proportional share of the assessment), as follows:

|                                |                  |
|--------------------------------|------------------|
| reimbursable losses            | \$1,454,687      |
| <u>administrative expenses</u> | <u>5,694</u>     |
| Total Assessment               | \$1,460,381; and |

WHEREAS, on July 11, 1996, the IHC Board received a \$1,460,381 payment from U.S. Life for the June 12, 1996 invoice, and the payment was neither made under protest nor accompanied by an appeal of the 1995 loss assessment, a request for a hearing, or a request that any disputed assessment amount be put in an interest bearing account; and

WHEREAS, on December 15, 1997, the IHC Board issued an assessment invoice to U.S. Life for the 1996 calculation period (accompanied by a spreadsheet outlining the calculation of each IHC Program member's proportional share of the assessment), as follows:

|                                |                  |
|--------------------------------|------------------|
| reimbursable losses            | \$1,275,827      |
| <u>administrative expenses</u> | <u>7,602</u>     |
| Total Assessment               | \$1,283,429; and |

WHEREAS, on February 17, 1998, the IHC Board received a \$1,283,429 payment from U.S. Life for the December 15, 1997 invoice, and the payment was neither made under protest nor accompanied by an appeal of the 1996 loss assessment, a request for a hearing, or a request that any disputed assessment amount be put in an interest bearing account; and

WHEREAS, by letter dated February 7, 2001, U.S. Life requested that its appeal from the 1997/1998 loss assessment<sup>1</sup> be deferred pending final resolution of In re New Jersey Individual Health Coverage Program's Readoption of N.J.A.C. 11:20-1 et seq., and also appealed, for the first time, from its share of the 1993, 1994, 1995, and 1996 loss assessments, issued by the IHC Board on July 11, 1994, November 21, 1995, June 12, 1996, and December 15, 1997, respectively; and

WHEREAS, the regulation relating to appeals of assessments applicable to the 1993, 1994, 1995 and 1996 assessments, N.J.A.C. 11:20-2.15(a), provided that a “member seeking to challenge the amount of an assessment must do so within 20 days of receiving the notice of the assessment...”; and

WHEREAS, as shown in the chart below, U.S. Life’s February 7, 2001 appeals of the 1993, 1994, 1995, and 1996 loss assessments were not filed within or near the deadline for filing assessment challenges set forth in N.J.A.C. 11:20-2.15(a):

| Loss Assessment Year             | Invoice Date | Challenge Deadline* | Date of Appeal |
|----------------------------------|--------------|---------------------|----------------|
| 1993                             | 7/11/1994    | 8/5/1994            | 2/07/2001      |
| 1994                             | 11/21/1995   | 12/18/1995          | 2/07/2001      |
| 1995                             | 6/12/1996    | 7/8/1996            | 2/07/2001      |
| 1996                             | 12/15/1997   | 1/9/1998            | 2/07/2001      |
| *Allows 5 days for mail delivery |              |                     |                |

WHEREAS, the IHC Board, on June 4, 2001, issued Order No. 01-IHC-01, in which it ordered that determinations with regard to U.S. Life’s Appeal of its 1993, 1994, 1995 and 1996 assessments and Request for a Hearing, and the determination of whether there were genuine issues of material fact that require a contested case hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., were deferred pending resolution of the matter captioned In the Matter of the New Jersey Individual Health Coverage Program's Readoption of N.J.A.C. 11:20-1 et seq.; and

WHEREAS, on May 24, 2002, the Appellate Division issued its decision in In re New Jersey Individual Health Coverage Program's Readoption of N.J.A.C. 11:20-1 et seq., 353 N.J. Super. 494 (2002); and

WHEREAS, on May 10, 2004, the Supreme Court affirmed in part and reversed in part the judgment of the Appellate Division, In re New Jersey Individual Health

<sup>1</sup> U.S. Life appealed its loss assessments for both the 1997/1998 and 1999/2000 calculation periods. The Board voted at its September 1, 2004, meeting to grant both of those appeals. See IHC Administrative Order No. 04-IHC-05.

Coverage Program's Readoption of N.J.A.C. 11:20-1 et seq., 175 N.J. 570 (2004), effectuating a final resolution of that matter; and

WHEREAS, the IHC Board voted at its September 1, 2004, meeting to deny U.S. Life's appeals of its 1993, 1994, 1995 and 1996 loss assessments because they had not been timely filed;

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 October 2004,

ORDERED that U.S. Life's Appeals of its 1993, 1994, 1995, and 1996 loss assessments and Request for a Hearing are hereby denied for failure to file a timely appeal pursuant to N.J.A.C. 11:20-2.15(a).

This Order constitutes a final agency decision and is effective immediately. Any appeals from this Order must be filed with the Appellate Division within 45 days from the date of service of the Order.

\_\_\_\_\_  
Wardell Sanders, Executive Director  
Individual Health Coverage Program Board

Date: \_\_\_\_\_