

Order No. 94-5

New Jersey
Individual Health Coverage Program Board
Trenton, New Jersey

IN THE MATTER OF LIFE
INSURANCE COMPANY OF NORTH
AMERICA'S 1992 ASSESSMENT

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ADMINISTRATIVE ORDER

WHEREAS, the Individual Health Coverage ("IHC") Program Board of Directors ("Board") is authorized by the Individual Health Insurance Reform Act ("IHC Act"), N.J.S.A. 17B:27A-2 et seq., and regulations promulgated by the Board, N.J.A.C. 11:20-1 et seq., to administer the IHC Program, to assess members of the IHC Program 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, all carriers, as defined by N.J.S.A. 17B:27A-2(1) and N.J.A.C. 11:20-1.2, that issue or have in force health benefits plans in New Jersey are members of the IHC Program pursuant to the IHC Act and applicable regulations, including N.J.S.A. 17B:27A-2, -10 and N.J.A.C. 11:20-1.2;

WHEREAS, carriers, as a condition of issuing health benefits plans in New Jersey, must either offer individual health benefits plans pursuant to the provisions of the IHC Act or pay an assessment, unless the carrier has received an exemption pursuant to the IHC Act, N.J.S.A. 17B:27A-4;

WHEREAS, payment of an assessment made under the IHC Act is a condition of issuing health benefits plans in New Jersey, N.J.S.A. 17B:27A-12(c);

WHEREAS, failure of a member carrier to pay its assessment shall subject the member to the imposition of an interest penalty on the unpaid assessment, N.J.S.A. 17B:27A-10(f)(4) and N.J.A.C. 11:20-2.11(e), and "shall be grounds for forfeiture of a carrier's authorization to issue health benefits plans of any kind in the State, as well as any other penalties permitted by law." N.J.S.A. 17B:27A-12(c);

WHEREAS, the Board assessed all members of the IHC Program for their proportionate share of 1992 reimbursable losses of the IHC Program as an advance interim assessment authorized by the IHC Act and such assessments were made by invoices dated on or about October 22, 1993;

WHEREAS, Life Insurance Company of North America, ("Life"), as a company authorized to issue health insurance by the New Jersey Department of Insurance, is a member of the IHC Program subject to assessment for its proportionate share of 1992 reimbursable losses of the IHC Program;

WHEREAS, Life did not file its Carrier Market Share and Net Paid Loss Report, known as Exhibit K, by the June 28, 1993 deadline set forth in the IHC regulations, N.J.A.C. 11:20-2.11(b) and Appendix to N.J.A.C. 11:20, Exhibit K;

WHEREAS, on or about July 8, 1993, the Board forwarded to carriers, including Life, IHC Bulletin 93-01 which sought clarification from carriers as to whether they were members of the IHC Program subject to assessment; IHC Bulletin 93-01 required carriers which do not write or have in force business which could be construed as "health benefits plans," as defined by the IHC Act and regulations, to certify to the Board and the New Jersey Department of Insurance the carriers' basis for exclusion from assessment;

WHEREAS, Life did not respond to IHC Bulletin 93-01;

WHEREAS, the IHC Program Interim Administrator mailed an invoice to Life, dated October 22, 1993, which stated that Life was liable to the IHC Program for \$15,286 as its share of the 1992 reimbursable losses and 1993 administrative expenses of the IHC Program;

WHEREAS, Life failed to respond to the October 22, 1993 assessment notice;

WHEREAS, on March 1, 1994, the IHC Program Interim Administrator mailed a letter to Life advising the company that its assessment remained unpaid, that, pursuant to N.J.A.C. 11:20-2.11(e), the unpaid assessment was subject to the imposition of an interest penalty, and that any member disputing either its inclusion in the IHC Program or the amount of its assessment was still liable for the payment of the assessment pending resolution of the dispute;

WHEREAS, Life failed to respond to the March 1, 1994 letter; and

WHEREAS, Life has, as of the date of this Administrative Order, failed to pay its assessment or otherwise respond to the invoice for payment and Life has not disputed either its inclusion in the IHC Program or the amount of its assessment as determined by the Board;

THEREFORE, based upon the Board's review of all correspondence and applicable law, the Board finds that the facts in this matter are not disputed and that Life, having failed to timely dispute its assessment or to offer any explanation for its

failure to pay its assessment, must immediately remit its assessment, plus interest.

Based on the undisputed facts, the Board's legal conclusions are as follows:

1. Life is a "carrier" authorized to issue "health benefits plans in New Jersey," and is, therefore, a member of the IHC Program subject to the filing and assessment requirements of the IHC Act and regulations.

2. Life failed to submit an Exhibit K to the IHC Program by June 28, 1993, as required by N.J.A.C. 11:20-2.11 and 8.2. Upon Life's failure to submit an Exhibit K, the Board correctly used the net earned premium figure of \$23,031,057, as reported by Life to the New Jersey Department of Insurance, to calculate Life's share of the assessment for 1992 reimbursable losses, in accordance with N.J.A.C. 11:20-2.11(d)(1) and 8.7(a)(2).

3. Life has not timely disputed either its status as a member of the IHC Program or the amount of the assessment as required by N.J.A.C. 11:20-2.11(e) and 2.15.

4. As provided in N.J.A.C. 11:20-2.11(e), interest began to accrue on Life's unpaid assessment as of November 22, 1993 and continues to accrue at the rate of 1.5 percent per month.


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 5th day of April, 1994,

ORDERED that Life remit to the IHC Program its 1992 assessment of \$15,286, plus interest thereon calculated at the rate of 1.5 percent per month, within five business days of receipt of this Administrative Order; and it is

FURTHER ORDERED that, should Life fail to immediately remit its 1992 assessment plus interest, the Board shall take any and all appropriate legal action necessary to enforce the IHC Act and to collect Life's outstanding assessment, including, but not limited to, referring this matter to the Department of Insurance for consideration of an action as to forfeiture of Life's Certificate of Authority to issue health benefits plans in New Jersey.

4-5-94
Date


Charles Wowkanech
Chairman, IHC Board