

**NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM**

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**IN THE MATTER OF REQUEST BY CIGNA
HEALTHCARE OF NEW JERSEY, INC.,
ALONG WITH AFFILIATED CARRIERS CIGNA
HEALTHCARE OF NORTHERN NEW JERSEY, INC.,
INSURANCE COMPANY OF NORTH AMERICA,
AND LIFE INSURANCE COMPANY OF NORTH
AMERICA, FOR EXEMPTION FROM ASSESSMENT
FOR 1996 REIMBURSABLE LOSSES**

ADMINISTRATIVE ORDER NO. 98-01

WHEREAS, the New Jersey Individual Health Coverage Program ("IHC") Board is authorized by the Individual Health Insurance Reform Act of 1992 ("IHC Act"), *L. 1992, c. 161 (N.J.S.A. 17B:27A-2 et seq.)*, and regulations promulgated thereunder, to assess members of the IHC Program on the basis of their proportionate share of program losses and administrative expenses and to take any actions necessary to recover assessments owed to the IHC; and

WHEREAS, CIGNA HealthCare of New Jersey, Inc., along with affiliated carriers CIGNA HealthCare of Northern New Jersey, Inc., Insurance Company of North America, and Life Insurance Company of North America (collectively, "CIGNA"), is a "carrier" as defined in the IHC Act; and

WHEREAS, pursuant to *N.J.S.A. 17B:27A-12d* and *N.J.A.C. 11:20-9*, a member carrier is entitled to an exemption from an annual loss-reimbursement assessment if, during the assessment year to which the exemption request applies, it enrolls or insures at least the minimum number of non-group persons allocated to that carrier by the IHC Board (the "minimum enrollment share"), but if that carrier does not enroll the full number of its minimum enrollment share but enrolls at least 50% of the minimum number, it shall be entitled to a *pro rata* exemption from the loss assessment based on the percentage of the minimum enrollment share that the carrier actually enrolled or insured; and

WHEREAS, a member carrier that enrolls or insures less than 50% of its minimum enrollment share shall be entitled to a *pro rata* exemption from assessments based on the percentage of the minimum number of non-group persons actually enrolled or insured by the carrier, but only subject to a demonstration that the carrier has made a good-faith marketing effort to cover its minimum enrollment share in accordance with the reporting criteria set forth in *N.J.A.C. 11:20-9.6* and subject to the IHC Board's review of the carrier's advertising, marketing, and promotion efforts in direct support of sales of standard health benefits plans during the applicable calendar year; and

WHEREAS, based on the net earned premium and non-group enrollment reported by all carriers, including CIGNA, and in accordance with *N.J.A.C. 11:20-9.3*, the IHC Board notified CIGNA on April 4, 1996, as revised on April 12, 1996, that its minimum enrollment share for 1996 was 20,413 non-group persons; and

WHEREAS, on April 12, 1996, CIGNA filed a request for an exemption from assessment for reimbursable losses of the IHC for calendar year 1996 pursuant to *N.J.A.C. 11:20-9.2*, and in doing so, agreed to cover its minimum enrollment share of non-group persons; and

WHEREAS, the IHC Board granted CIGNA's request for a conditional exemption, contingent on CIGNA's meeting its minimum enrollment share; and

WHEREAS, on March 24, 1997, CIGNA filed with the IHC Board a combined Carrier Market Share and Net Paid Loss Report ("Exhibit K") for calendar year 1996, which reported net earned premium of \$387,090,033, and

WHEREAS, on March 24, 1997, CIGNA filed with the IHC Board a certification of non-group persons, pursuant to *N.J.A.C. 11:20-9.5*, which reported enrollment in 1996 of 5,553 non-group persons, or 27.2% of its minimum enrollment share; and

WHEREAS, on June 30, 1997, as supplemented on July 9, 1997, CIGNA filed a Good-Faith Marketing Report, pursuant to *N.J.A.C. 11:20-9.6*, describing its marketing efforts in direct support of sales of individual health benefits plans in New Jersey, which efforts, in summary, consisted of:

- inbound telemarketing response to mail drops conducted during September 1993 and April 1994,
- fulfillment as a result of mail drops conducted during September 1993 and April 1994,
- a New Jersey brand-awareness campaign conducted during 1996 (outdoor advertising, radio advertising, and print advertising),

- a national brand-awareness campaign (print media and television), and
- participation in the Health Access program; and

WHEREAS, the IHC Board reviewed CIGNA's Good-Faith Marketing Report and determined that CIGNA had failed to demonstrate that it had made a good-faith effort to cover its minimum enrollment share; and

WHEREAS, because CIGNA failed to enroll or insure at least 50% of its minimum enrollment share and the IHC Board found that CIGNA had not demonstrated a good-faith marketing effort, on July 15, 1997, the IHC Board issued Administrative Order No. 97-02 in which the Board denied CIGNA's request for a *pro rata* exemption from assessments; and

WHEREAS, pursuant to *N.J.A.C. 11:20-9.5(g)*, on August 22, 1997, CIGNA made a written request for a hearing based on the IHC Board's denial of CIGNA's request for a *pro rata* exemption, and supplemented that request with additional materials on September 4, 1997 and September 9, 1997; and

WHEREAS, after reviewing the materials that CIGNA had provided, on October 20, 1997, the IHC Board requested that CIGNA provide additional factual information regarding its marketing efforts, which information CIGNA provided on November 5, 1997; and

WHEREAS, the IHC Board notified CIGNA, by letter dated December 19, 1997, that it would conduct a hearing on the papers, advised CIGNA of the factual conclusions that it was likely to reach, and advised CIGNA that any additional factual materials in support of CIGNA's position should be submitted to the IHC Board no later than January 14, 1998; and

WHEREAS, on January 14, 1998, CIGNA submitted additional information for the IHC Board's consideration, and simultaneously renewed its request the IHC Board provide a trial-type hearing;

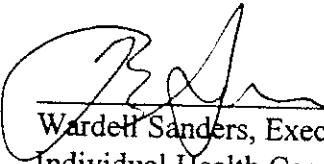
NOW THEREFORE, pursuant to the authority granted to the IHC Board by *N.J.S.A. 17B-27A-2 et seq.*, *N.J.A.C. 11:20-1 et seq.*, and all powers expressed or implied therein, and the decision of the IHC Board as expressed by this Administrative Order,

IT IS on this 23rd day of February, 1998, the date on which the IHC Board considered CIGNA's request for hearing, originally dated August 22, 1997 and renewed January 14, 1998;

ORDERED that this matter shall be transmitted to the Office of Administrative Law for a hearing on the following issues:

1. the nature and extent of CIGNA's marketing efforts, as reflected in the Good-Faith Marketing Report that it submitted on June 30, 1998, as supplemented on July 9, 1997, September 4, 1997, September 9, 1997, November 5, 1997, and January 14, 1998;
2. whether those efforts could reasonably have been expected to result in the enrollment by CIGNA of the minimum enrollment share that the IHC Board established for CIGNA to meet in order to be eligible for an exemption from the 1996 loss assessment; and
3. whether those efforts constitute good-faith marketing, as set forth in *N.J.S.A. 11:20-9.6*; and

IT IS FURTHER ORDERED that because any remaining issues raised by CIGNA are purely legal issues, the IHC Board will reserve decision on them until after the Office of Administrative Law has rendered its decision in the hearing on the issues before it.



Wardell Sanders, Executive Director
Individual Health Coverage Program Board