

**NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM**

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**IN THE MATTER OF APPEAL 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 FROM 1996
ASSESSMENT**

ADMINISTRATIVE ORDER NO. 98-02

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 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 because CIGNA had 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, pursuant to *N.J.A.C. 11:20-9*; and

WHEREAS, pursuant to *N.J.A.C. 11:20-9.5(g)*, CIGNA made a written request for a hearing on August 22, 1997, supplemented that request with additional materials on September 4, 1997 and September 9, 1997, provided additional information on November 5, 1997 and January 14, 1998, and renewed its request for a hearing on January 14, 1998; and

WHEREAS, on February 23, 1998, the IHC Board issued Administrative Order No. 98-01, in which the Board ordered the transmittal to the Office of Administrative Law ("OAL") of certain issues relating to CIGNA's request for a *pro rata* exemption from 1996 loss assessment; and

WHEREAS, on December 16, 1997, the IHC Board issued member carriers' respective 1996 loss assessments, which assessments were calculated on the basis that CIGNA had not been granted an exemption from assessment; and

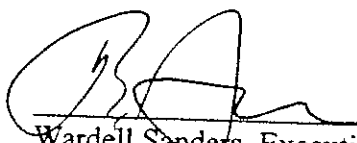
WHEREAS, by letter dated January 12, 1998, pursuant to *N.J.A.C. 11:20-2.15*, CIGNA challenged its 1996 loss assessment and requested a hearing; and

WHEREAS, the issues regarding CIGNA's request for an exemption, which are to be considered by the OAL, are inextricably intertwined with CIGNA's challenge of its 1996 loss assessment;

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 challenge of its 1996 loss assessment share, dated January 12, 1998,

ORDERED that the IHC Board shall reserve decision on CIGNA's challenge of its 1996 assessment 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