

REPORT ON EXAMINATION

OF

DENTCARE DELIVERY SYSTEMS, INC.

AS OF

DECEMBER 31, 2001

DATE OF REPORT:

APRIL 30, 2003

Revised September 2, 2003

EXAMINER:

KATHLEEN GROGAN

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STATE OF NEW YORK
INSURANCE DEPARTMENT
25 BEAVER STREET
NEW YORK, NEW YORK 10004

George E. Pataki
Governor

Gregory V. Serio
Superintendent

April 30, 2003

Honorable Gregory V. Serio
Superintendent of Insurance
Albany, New York 12257

Sir:

Pursuant to instructions contained in Appointment Number 21852 dated March 11, 2002, attached hereto and in accordance with the New York Insurance Law, I have made an examination into the condition and affairs of Dentcare Delivery Systems Inc., a not-for-profit health service corporation licensed pursuant to the provisions of Article 43 of the Insurance Law, as of December 31, 2001 and I respectfully submit the following report, thereon.

The examination was conducted at its home office located at 60 Charles Lindbergh Boulevard, Uniondale, NY 11553.

Whenever the terms "the Plan" or "Dentcare" appear in this report without qualification, they should be understood to refer to Dentcare Delivery Systems Inc.

1. SCOPE OF EXAMINATION

The previous examination was conducted as of December 31, 1996. This examination covers the five-year period January 1, 1997 through December 31, 2001. Transactions occurring subsequent to this period were reviewed where deemed appropriate.

The examination comprised a complete verification of assets and liabilities as of December 31, 2001, a review of income and disbursements deemed necessary to accomplish such verification and utilized, to the extent considered appropriate, work performed by the Plan's independent certified public accountants. A review or audit was also made of the following items as called for in the Examiner's Handbook of the National Association of Insurance Commissioners:

- History of the Plan
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Market conduct activities
- Growth of the Plan
- Loss experience
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Plan with regard to comments contained in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulation or rules, or which are deemed to require explanation or description.

2. DESCRIPTION OF PLAN

Dentcare is a not-for-profit health service corporation which was licensed on December 1, 1978 under the provisions of the New York State Insurance Law. Dentcare operates via contracts with licensed dentists to provide dental care to its subscribers, primarily on a prepaid (capitated) basis.

Each participating dentist receives a fixed monthly amount for each individual enrollee or family unit that selects that dentist as their provider while insured by the Plan. Dentcare also markets an indemnity plan that provides fee-for-service coverage for dental services.

A. Management

The by-laws of the Plan, as amended, provide that the affairs of the Plan shall be managed by a board of directors consisting of not less than three nor more than twelve members. As of December 31, 2001, the Board was comprised of the following five members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
<u>Provider Representative</u> Dr. Martin Berman Woodmere, NY	Dentist, Private practice
<u>Employee Representative</u> Ms. Barbara Simon Oceanside, NY	President, Dentcare Delivery Systems
<u>Subscriber Representative</u> Ms. Elyse Bloom Greenfield New York, NY	Director of Public Relations, David B. Kriser Dental Center, New York University of Dentistry
<u>Public Representatives</u> Mr. Johnnie Lee Harris Rosedale, NY	Supervisor, Fraud Investigators and Security, New York City Department of Homeless Services

Mr. Robert Muir
Singer Island, FL

Retired

A review of the minutes of the meetings of the board of directors indicated that the meetings were well attended.

Section 4301(k)(1)(D) of the New York Insurance Law requires each health service corporation to have an executive committee composed of directors in the same proportion, by category, as the full Board as is specified in Section 4301(k)(1). Section 4301(k)(1)(D) states:

"Each such health service, hospital service or medical expense indemnity corporation shall have an executive committee the members of which shall be composed, as nearly as possible, of representatives of any member hospitals or licensed medical professionals or such corporation, employee-officers of such corporation, persons covered under its contract and the general public in the same proportions as the membership of the board of directors."

Additionally, Section 5.01 of Dentcare's by-laws state:

"There shall be (1) an Executive Committee; (2) a Dental Advisory Board; (3) a Grievance Committee; and (4) such other standing or special committees as may from time to time be authorized by the Board of Directors."

A review of Dentcare's minutes revealed that there were no sub-committees of Dentcare's board of directors. The previous report on examination also recommended that Dentcare establish an executive committee. Dentcare's response to this recommendation was that the five-member board functions as the executive committee. Dentcare's response is unacceptable inasmuch as it does not fulfil the requirements of the aforementioned Insurance Law and Dentcare's by-laws.

It is recommended that Dentcare comply with its by-laws and Section 4301(k)(1)(D) of the New York Insurance Law by establishing an executive committee. It is further recommended that, in accordance with its by-laws, Dentcare establish such other committees as are specified in its by-laws.

Section 4301(k)(3) states:

"No person who has served as a director of any corporation subject to this article for ten consecutive years shall thereafter be elected for an additional term of office as such until at least one year has elapsed since the expiration of his prior

term of office..."

At December 31, 2001 two (40%) of Dentcare's directors, Mr. Muir and Dr. Berman had served on the Board for more than ten years. Dr. Berman still serves on the Board while Mr. Muir was removed from the board upon his death in March 2002.

It is recommended that Dentcare implement the necessary procedures to comply with Section 4301(k)(3) of the New York Insurance Law and ensure that no person who has served as a director for ten consecutive years be elected for an additional term of office until at least one year has elapsed since the expiration of his prior term of office. The same recommendation was contained in the previous report on examination.

During the period under examination it was noted that Director Muir (a Florida resident) received a monthly expense allowance. He received \$20,154 for the year 2001. The previous report on examination noted Mr. Muir's expense allowance and recommended that Dentcare establish a written agreement with Mr. Muir defining his duties. No written agreement was ever created outlining Mr. Muir's duties. Subsequent to Mr. Muir's death, his wife, Mrs. Patricia Muir (a Florida resident) replaced him on the Board. Mrs. Muir continues to receive the same monthly expense allowance. In response to the Examiner's inquiry, Dentcare stated that board members received differing amounts of compensation as a result of negotiations with each of the board members.

It is recommended that Dentcare submit to the Department supporting documentation to justify the monthly expense allowance paid to Director Patricia Muir. If such expense allowance is unable to be justified, it is recommended that Dentcare cease such expense reimbursements and take the necessary steps to recover any inappropriate payments.

Section 4301(k)(1) states, in part:

"Of the directors not included in the classifications set forth in the preceding sentences...
(B) one-half in number, as nearly as possible, shall be persons whose background and experience indicate that they are qualified to act in the broad public interest, whether or not they are person covered under a contract or contracts issued by such health service

hospital service or medical expense indemnity corporation."

Mrs. Muir is a Florida resident and she is designated as a Public Representative. As a Florida representative, it is questionable how she can represent the broad public interest of the residents of the State of New York.

It is recommended that Dentcare assure that those directors appointed to represent the public are qualified to represent the broad public interest of the residents of the State of New York.

The following is a list of the Plan's officers as of December 31, 2001:

<u>Name</u>	<u>Title</u>
Barbara Simon	President
Robert Koch	Corporate Secretary
Christopher Schmidt	Treasurer

Section 3.01 of Dentcare's by-laws states:

"The officers of the Corporation shall be a Chairman of the Board of Directors, one or more Vice-chairman, a President, a Dental Director, a Secretary, a Treasurer and such other officers as the board of Directors may from time to time appoint."

The previous report on examination recommended that in accordance with its by-laws, Dentcare appoint a Dental Director. Dentcare responded to the report and stated that the Plan did appoint Dr. Martin Berman as the Dental Director. However, it is noted that Dr. Berman was not shown as an officer in Dentcare's financial statements. The National Association of Insurance Commissioners (NAIC) Annual Statement Instructions state:

"Officers, Directors, Trustees-

Show full name (initial not acceptable and indicate by number sign #) those officers and directors who did not occupy the indicated position in the prior statement..."

It is recommended that Dentcare properly report, in its annual statement filings, all officers in accordance with the NAIC Annual Statement Instructions.

Dr. Martin Kane, who is a Director of Healthplex, Inc. which is a company that maintains a service agreement with Dentcare, attended the majority of the Board meetings held during the examination period. The minutes of Dentcare's Board meetings stated that Dr. Kane was an "invited guest" but the minutes did not detail the purpose of Dr. Kane's attendance or his role at the meetings.

It is recommended that the minutes of Dentcare's Board meetings indicate the purpose of attendance of invited guests.

B. Conflict of interest statement and response

Dentcare Director, Dr. Martin Berman, is also a dental provider under contract with Dentcare. In 2001, Dr. Berman received \$725,089 in capitation fees and an additional \$107,234 in specialist fees. This relationship was not disclosed on Dr. Berman's conflict of interest statement.

It is recommended that Dentcare ensure that management accurately disclose all potential conflicts on their annual conflict of interest statements.

C. Territory and plan of operation

Dentcare is authorized to conduct operations in the entire State of New York. As of December 31, 2001, the Plan wrote business in all New York State counties.

At December 31, 2001, Dentcare reported enrollment of 394,368 members. 371,685 (94%) of its members were covered under capitated arrangements while 22,683 members (6%) were insured under indemnity contracts. The previous report on examination reported that Dentcare had 101,812 subscribers at December 31, 1996.

As of December 31, 2001, the Plan had contracts with approximately 625 dentists to provide dental care. It is noted however, that Dentcare's filed 2001 Annual Statement reported that it had

1,233 providers. The examination review revealed that Dentcare's filed Annual Statement incorrectly reported the number of Healthplex providers as Dentcare providers thereby accounting for the difference.

It is recommended that Dentcare accurately report the number of its providers in its filed annual statement.

D. Reinsurance

The Plan was not party to any reinsurance agreements during the examination period.

E. Relationship with Healthplex

Healthplex, Inc. (Healthplex) is a privately held company whose primary business is to provide administrative services to Dentcare and to other dental plans. Additionally, Healthplex operates two wholly owned insurance company subsidiaries, International Healthcare Services, Inc. (International Healthcare), a New Jersey corporation and Healthplex Insurance Company, a New York corporation. Healthplex Insurance Company was licensed in 2001 and has not yet generated any insurance business.

Healthplex was formed, by Dentcare's management, as a publicly traded company in 1984 to provide services as a third-party administrator for insured and uninsured dental programs. When it was formed, Healthplex began to provide administrative services to Dentcare. In 2000, Healthplex was converted from a public company into a privately held company. Healthplex continues to provide the majority of Dentcare's administrative services.

i. Service agreement

Dentcare maintains a service agreement with Healthplex an independent Delaware corporation, formed on July 3, 1984, whose offices are also located at 60 Charles Lindbergh Boulevard. The agreement calls for Healthplex to provide to Dentcare, a wide variety of administrative services.

The service agreement between Healthplex and Dentcare was effective January 1, 1986. The Department approved the agreement on August 8, 1994. The service agreement states, in part:

"Healthplex shall have exclusive authority and responsibility to provide marketing, claims processing, electronic data processing, printing, quality control and actuarial services..."

The agreement further requires Healthplex to provide to Dentcare other services including: billing and collections, accounting and budgeting, banking and payment of bills, claims processing and payment of claims, marketing, purchasing and leasing of equipment, insurance coverages, employee benefits, contract negotiations between providers and other services.

The service agreement requires Dentcare to compensate Healthplex for the services provided according to a formula contained in the agreement that is based on Healthplex's underlying cost to provide such services. The service agreement limits the compensation amount payable under the agreement to the statutory limitation for administration expenses set forth in Section 4309 of the New York Insurance Law, less Dentcare's direct expenses. Pursuant to Section 4309 of the New York Insurance Law, Dentcare's administrative expenses each year are limited to an amount no greater than fifteen percent (15%) of annual premium revenue.

Paragraph VIII of the agreement states in relevant part:

Compensation

The Plan shall compensate Healthplex for all services rendered hereafter in accordance with the terms of Exhibit 1, attached hereto and made a part hereof. Such compensation shall at all times be the lesser of (i) the formula amount as computed by the methodology detailed in Exhibit 1 of this Agreement or (ii) the amount remaining of the statutorily permissible expense limit less the direct expenses of the Plan."

The Plan pays Healthplex an estimated fee for administrative services on a monthly basis. At year-end, a reconciliation of the actual expenses incurred versus the estimated expenses paid is performed. For the year 2001, Dentcare paid Healthplex a total of \$6,455,000. This included reimbursement for \$10,285 of medical premiums paid on behalf of Dentcare employees, by Healthplex during 2001. These premiums are recorded as Dentcare direct expenses. As of December 31, 2001

Dentcare reported a receivable, "Due from Healthplex" in the amount of \$26,356 which represents the amount due back to Dentcare after the year-end reconciliation. Therefore total expenses incurred under Healthplex's administrative agreement amounted to \$6,418,359. This amount plus Dentcare's direct administrative expenses of \$1,022,640 equaled the maximum administrative expense limit permitted under Section 4309 of the New York Insurance Law. During the period under examination, it was noted that Dentcare consistently paid Healthplex the maximum amount permitted by Section 4309 of the Insurance Law.

It is also noted that although the charges under the service agreement are based upon underlying cost, Dentcare has not performed any cost studies since the implementation of the service agreement in 1984. Management has a fiduciary responsibility to ensure that the compensation paid under the service agreement, entered into on behalf of Dentcare, is fair and equitable.

It is recommended that Dentcare compile the actual expenses incurred under the service agreement with Healthplex through such methods as the determination of actual expenses, cost studies and time allocations of personnel and then submit the results to the Department within sixty days of the filing of this report.

ii. Determination of Control

Section 1501(a)(2) defines control as:

"Control', including the terms 'controlling', 'controlled by' and 'under common control with', means the possession direct or indirect of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise...

Section 1501(b) states:

"Notwithstanding the provisions of paragraph two of subsection (a) of this section, the superintendent may determine, after notice and opportunity to be heard, that a person exercises directly or indirectly either alone or pursuant to an agreement with one or more other persons such a controlling influence over the management or policies of an authorized insurer as to make it necessary or appropriate in the public interest or for the protection of the insurer's policyholders or shareholders that the person be deemed to control the insurer."

The general business practices between Dentcare and Healthplex, observed by the examiner, that indicate a controlled relationship include:

- Healthplex performs the majority of Dentcare's administrative services in accordance with the service agreement between the two companies. Dentcare paid Healthplex \$6,418,359 in accordance with the service agreement. This figure represents 86% of Dentcare's total administrative expenses.
- All of Dentcare's advertisements also advertised Healthplex, often by making it appear as if Healthplex were the insurer rather than Dentcare. (See item 4.A, Sales and Advertising herein).
- Dentcare and Healthplex share the same website and email address. The web site is www.healthplex.com and the email addresses of Dentcare employees is name@healthplex.com.
- Healthplex identified Dentcare as an affiliate on its website with the following statement, "In New York, our programs are underwritten by our affiliate Dentcare Delivery Systems, Inc. a non-profit Health Expense Indemnity Corporation." The examiner notes that when Dentcare was questioned about this statement, it was promptly removed from the website. However, there are still many statements that indicate an affiliated relationship. (See 4.A. Sales and Advertising for discussion of the Dentcare's advertisements.)
- Dentcare counted certain Healthplex income as its own, see 2.F. Accounts and records, below, thereby obscuring the distinction between the accounts and records of the respective entities.
- Dr. Martin Kane attended the majority of Dentcare's board meetings. He is a Healthplex director.
- Dentcare and Healthplex share the same home office in Uniondale, Long Island.

Based on a review of the financial transactions between Healthplex and Dentcare and the general business relationship between the two companies, it appears as if Healthplex could be deemed to exercise control over Dentcare as defined in Section 1501 of the Insurance Law.

Section 1503(a) of the New York Insurance Law states:

"Every person who becomes a controlled insurer shall, within thirty days thereafter register with the superintendent and such registration shall be amended within thirty days following any change in the identity of its holding company."

Regulation No. 52 further details the required filings of a controlled insurer and its holding

company. Among those items required by Regulation No. 52 in Section 80-1.4 is:

"(a) a brief description of all transactions during the preceding fiscal year with persons within its holding company system to which it was a party..."

Should Healthplex be deemed to exercise control over Dentcare the above filings will be required.

iii. International Healthcare

International Healthcare is a subsidiary of Healthplex. Dentcare and International Healthcare share provider panels for insureds who work in one state (New York or New Jersey) and use a provider in the other state. Funds are transferred between International Healthcare and Dentcare (usually from Dentcare to International Healthcare for insureds who work in New York and live in New Jersey). Dentcare paid International Healthcare \$554,372 in 2001. It is noted that no written agreement exists between Dentcare and International Healthcare.

It is recommended that Dentcare establish a written agreement with International Healthcare detailing the specific basis for transactions between the companies.

F. Accounts and records

Dentcare reported as premium revenue, \$6,947 that was actually generated from the sale of a non-insured benefit provided by Healthplex to Medicare enrollees.

It is recommended that Dentcare report as premium only income that is derived from the sale of its insurance products.

i. Risk revenue

The Plan reported certain income from the lease of its provider panel to third party insurers or Prepaid Health Service Plans (PHSPs) as premium income. This income should have been reported as "Risk Revenue" on the Plan's Income Statement filed for 2001. The NAIC Annual Statement

Instructions for Health Companies states:

"Line 5 - Risk Revenue

Include: Amounts charged by the reporting entity as a provider or intermediary for specified medical services (e.g. full professional, dental, radiology, etc.) provided to the policyholders or members of another insurer or reporting entity.

Unlike premiums that are collected from an employer group or individual member, risk revenue is the prepaid (usually of a capitated basis) payment, made by another insurer or reporting entity to the reporting entity in exchange for services to be provided or offered by such organization."

As part of the verification of premium revenue reported by the Plan, the examiner selected a number of contracts for review that were found not to be contracts of insurance. It was determined that the income from these arrangements was derived from Dentcare "leasing" its provider network to other insurers, health maintenance organizations (HMOs) or Pre-paid Health Service Plan (PHSPs). The following chart shows a listing of the contracts, selected for review by the examiner, that Dentcare included as premium earned in its 2001 Annual Statement but should have been reported as "risk revenue":

Description of Product	Company Underwriting the Coverage and type of Company	Amount
Lease of provider panel for Medicaid	Vytra HMO	\$ 575,526
Lease of provider panel for Child Health Plus Family Health Plus	Buffalo Community Health Plan PSHP	\$ 478,486
Lease of provider panel for Medicare	Health First PSHP	\$1,268,250
Lease of provider panel for Commercial Groups	US Life Life and accident and health insurer	\$2,561,358
Lease of provider panel for	United Healthcare	\$ 770,766

Medicaid, Child Health Plus, Family Health Plus	HMO	
Total		\$5,654,388

A request was made for the contracts, listed in the above chart, between Dentcare and other entities involved in joint arrangements with Dentcare. Dentcare did not provide any of the contracts. With regard to the arrangement with Vytra, Dentcare stated that there was no written contract. Dentcare's description of the arrangement with Vytra indicated a sharing of profits and administrative expenses.

It is recommended that Dentcare develop and maintain contracts that specify the nature of the product sold and financial obligations of the parties in these non-insurance arrangements.

The United Healthcare (UHC) and the US Life contracts were obtained, by the examiner, from an independent source. The US Life contract was executed with Healthplex rather than Dentcare. Dentcare indicated that Healthplex provides the services to US Life insureds, in part, through Dentcare participating providers. It could not be determined how much revenue was related to Healthplex providers vs. Dentcare providers. The contract was dated in 1986 with a rate amendment from 1994. The Plan was asked to provide any updated material, but did not. Independent confirmation with US Life indicated that the benefits are included on a US Life policy form and that payments to Healthplex are considered by US Life to be claims payments. US Life asserted that it did not believe that it retained any underwriting risk for this coverage. The UHC contract is similar and also was executed with Healthplex. The revenue generated from these arrangements falls under the definition of "risk revenue" rather than premium income.

It is recommended that the Plan report income generated from "leasing" its provider network as Risk Revenue in accordance with the NAIC Annual Statement Instructions.

It is further recommended that Dentcare properly record risk revenue derived only from leasing its own provider network and ensure that any income from Healthplex's business is excluded.

The examiner could not determine the full amount that should have been reclassified as risk revenue for the entire examination period. Therefore, no change is reflected in the Statement of Revenue and Expenses and Reserves included herein under item 3. FINANCIAL STATEMENTS. However, it is incumbent upon Dentcare to report accurate information in its filed Annual Statement.

It is recommended that Dentcare submit a revised Annual Statement for 2002 and revised Quarterly Statements for 2003, that correctly report all risk revenue in the Statement of Revenue and Expenses and exclude all such revenue from premium income.

ii. Section 308 Request

Section 308(a) of the New York Insurance Law states:

"The superintendent may also address to any health maintenance organization or its officers or any authorized insurer or its officers any inquiry in relation to its transactions or condition or any matter connected therewith. Every corporation or person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of a corporation, as he shall designate, and affirmed by them as true under the penalties of perjury."

Due to the lack of documentation provided during the course of the examination, it was impossible to determine the nature and extent of the arrangements entered into with the other carriers. A meeting was held at the Department with officers of Dentcare and Healthplex in order to determine the nature of Dentcare's products and revenue. The meeting resulted in an understanding between the Department and the officers of Dentcare and Healthplex that some of the premium reported was not derived from insurance contracts. In order to obtain clarification of all of Dentcare's business, Dentcare was instructed pursuant to Section 308 of the Insurance Law, to submit a "policy form grid" showing a comprehensive listing of all of Dentcare's policies in-force as well as all other dental programs administered by the Plan. The listing was to be categorized by type of contract, whether the business was insured or noninsured, whether it was marketed with another insurer (along with a description of the marketing arrangement).

Dentcare submitted the requested information however, the information furnished to the Department was not accurate with respect to the nature of the arrangements of some of the policies.

It is recommended that in the future Dentcare comply with the Department's Section 308 requests for information.

iii. Section 4309 Expense Limitation

Section 4309 of the Insurance Law limits the administrative expenses of non-profit medical and dental indemnity, or health and hospital service corporations. Dentcare's annual administrative expenses are limited to an amount no greater than fifteen percent (15%) of annual premium revenue.

It is noted that Dentcare's 2001 financial statements indicate that the Plan met the statutory expense limitation pursuant to Section 4309 of the New York Insurance Law for administrative expenses. However, Dentcare erroneously reported \$27,364 of board of director's fees as medical expenses. These expenses should have been reported as administrative expenses. The NAIC's Annual Statement Instructions for Healthcare Companies states that Line 2 Salaries, Wages and Other Benefits include:

"Fees and other compensation to directors for attendance at board or committee meetings and any other fees and compensation paid to them in their capacities as directors or committee members."

If these expenses were properly recorded, Dentcare would have exceeded the expense limitation by \$27,364.

It is recommended that Dentcare complete its financial statements in accordance with the NAIC instructions and properly classify all administrative expense items.

Further, the misclassification of risk revenue as premium income, discussed above under item 2. F. Accounts and records, directly effects the calculation of the compensation fee under the service

agreement and could cause Dentcare to exceed the limitation specified by Section 4309 of the New York Insurance Law. Since it could not be determined what part of the 2001 administrative expenses reported related to the income generated from risk revenue rather than from insured business, the impact of the misclassification of such revenue as premium income on the calculation of the expense limitation is unclear. However, the potential impact of the premium revenue errors identified herein could result in Dentcare exceeding the expense limitation by \$848,158 (.15 x \$5,654,388) in 2001.

It is recommended that Dentcare track administrative expenses related to the risk revenue business separately from the administrative expenses related to the insured business.

It is recommended that Dentcare review its accounting practices relative to the proper classification of premium income and expense items in 2001 and 2002 for impact on the expense limitation set forth in Section 4309 of the New York Insurance Law. It is further recommended that Dentcare submit its findings to the Department for review within sixty days of the filing of this report.

It is recommended that any adjustments in the management fee due to Healthplex, pursuant to the administrative services agreement resulting from application of the Section 4309 limitation to Dentcare's restated premium income, be settled immediately.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and reserves and unassigned funds as determined by this examination as of December 31, 2001. This statement is the same as the balance sheet filed by the Plan:

<u>Assets</u>	<u>Ledger Assets</u>	<u>Not-Admitted Assets</u>	<u>Net-Admitted Assets</u>
Cash	\$3,580,517		\$3,580,517
Accident and health premiums due and unpaid	1,873,741		1,873,741
Due from Healthplex	<u>26,356</u>		<u>26,356</u>
Total assets	<u>\$5,480,614</u>		<u>\$5,480,614</u>
<u>Liabilities, reserves and unassigned funds</u>			
Claims unpaid			\$101,872
Unpaid claims adjustment expenses			2,126
Premiums received in advance			254,803
General expenses due or accrued			<u>9,566</u>
Total liabilities			<u>\$ 368,367</u>
Statutory reserve			\$3,928,584
Section 1307 loan			265,820
Unassigned funds			917,843
Total capital and surplus			<u>\$5,112,247</u>
Total liabilities, reserves and unassigned funds			<u>\$5,480,614</u>

* No liability appears in the balance sheet for loans in the amount of \$265,820 and accrued interest thereon in the amount of \$13,291. The loans were made pursuant to Section 1307 of the New York Insurance Law. As provided in Section 1307 repayment of principal and interest shall only be made out of free and divisible surplus, subject to prior approval of the Superintendent of the State of New York.

On July 17, 2002, the superintendent approved a request to repay the loan and accrued interest due, in the amount of \$285,756.50. The loan and interest were paid in full on August 2002.

B. Statement of Revenue and Expenses and Reserves and Unassigned Funds

Reserves and unassigned funds increased \$2,934,275 during the five-year examination period, January 1, 1997 through December 31, 2001 detailed as follows:

Statement of Revenue and Expenses

Premium earned		\$186,326,965
Deductions:		
Claims incurred	\$157,737,635	
Claim adjustment expenses	64,717	
Administrative expenses	24,704,092	
Soliciting expenses	<u>616,500</u>	
Total underwriting deductions		<u>183,122,944</u>
Net underwriting gain		<u>3,204,021</u>
Net investment income earned		510,005
Other gain or (loss)		<u>(22,344)</u>
Net Income		<u>\$ 3,691,682</u>

Reserves and Unassigned Funds

Reserves and unassigned funds per report on examination December 31, 1996		<u>\$2,177,970</u>
Net income	\$3,691,682	
Change in surplus note	<u>(757,407)</u>	
Net change in reserves and unassigned funds		<u>2,934,275</u>
Reserves and unassigned funds as of December 31, 2001		<u>\$5,112,245</u>

Actual reserves and unassigned fund as reported in Dentcare's 2001 annual statement is \$5,112,247. The

\$2 difference is due to cumulative effects of rounding.

4. MARKET CONDUCT ACTIVITIES

A review was made of the manner in which Dentcare conducts its business practices and fulfills its contractual obligations to policyholders and claimants. The review was directed at practices of the Company in the following major areas:

- A. Sales and advertising
- B. Underwriting, rating and issuance of policy forms
- C. Claims
- D. Fraud prevention and detection

A. Sales and Advertising

Department Regulation No. 34 {11 NYCRR 215} sets forth standards for advertising by accident and health insurers. A review for compliance with these standards disclosed the following:

Section 215.2(b) of Regulation No. 34 states:

"Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are so advertised."

Section 215.17(a) *Advertising file* states:

"Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement which shall indicate the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to regular and periodical inspection by the department. All such advertisements shall be maintained in said file for a period of either four years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time."

In response to the examiner's request for the advertising file, Dentcare stated that they did not do any advertising. Contrary to Dentcare's response, Dentcare does advertise its products in print advertisements and on Healthplex's website. The examiner obtained the advertisements by

requesting the information from the Healthplex website. The examiner also received some of Dentcare's advertisements in response to a request for policy forms.

It is recommended that Dentcare maintain an advertising file that contains all advertisements in accordance with Section 215.17 of Regulation No. 34. This includes but is not limited to direct mailings sent in response to website inquiries and brochures distributed to prospective insureds describing group policies in which Dentcare is an insurer.

It is recommended that Dentcare maintain a system of control over the content, form and method of dissemination of all of its advertisements in accordance with Section 215.2(b) of Regulation No. 34.

Section 215.13(a) **Identity of Insurer** of Regulation No. 34 states:

"The name of the actual insurer and the form number or numbers advertised shall be identified and made clear in all of its advertisements. An advertisement shall not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device which without disclosing the name of the actual insurer would have the capacity and tendency to mislead or deceive as to the true identity of the insurer."

Healthplex's website contains numerous pages that describe Dentcare's products. The website also provides prospective insureds with an opportunity to request information regarding Dentcare's products. The information, which includes pamphlets, brochures and applications for insurance is then mailed to the prospective insured.

The Healthplex website also contains statements that either infer an affiliate relationship between Dentcare and Healthplex, or make it appear as if Healthplex were the insurer rather than Dentcare. The following statements are examples of statements found on the Healthplex website that indicate an affiliated relationship or that make it appear as if Healthplex were the insurer:

- "Healthplex offers traditional fee-for service dental plans only in New York through

Dentcare Delivery Systems Inc...to learn more about our insured dental plans for groups click here and complete the form."

- "If you would like more information about Healthplex's plans and services, or would like to be contacted by a company representative..."
- "Healthplex offers managed care dental plans for groups that are underwritten by Dentcare Delivery Systems, Inc. and International Healthcare Services, Inc. our affiliates in New York and New Jersey."
- "If you are not covered by Healthplex, but would like information about a Healthplex Plan, please click...If you are presently covered by Healthplex..."
- "How can enrollees be added or deleted from a Healthplex dental plan?"

Additionally, a downloadable brochure describing the CapDent Plus product contained the following statements on the front page of the brochure:

"CapDent Plus –
A Point of Service Dental Plan from
Healthplex"

"Plan Underwritten by:
Dentcare Delivery Systems
International Healthcare, Inc."

On the first page of this brochure the following additional statements were made regarding the CapDent product:

"...In fact, Healthplex's CapDent Plus program was the first true point-of-service dental plan to be offered in the New York Metropolitan area!"

Further, the brochure makes the following conflicting statements both found on page 1:

"This is a point of service plan available only in New York that includes...

and

"The plan is underwritten by Dentcare Delivery Systems, Inc. in New York and by

International Healthcare Services, Inc. in New Jersey."

Individuals who request additional information about products, from Healthplex's website receive a package of advertisements and applications. The package contains an extensive eight page glossy advertisement. The cover stated "Healthplex" and the "The Dental Plan Specialists." The advertisement primarily described Dentcare's insured products and Healthplex's Administrative Services Only (ASO) products. The name "Healthplex" was mentioned on every page of the advertisement but Dentcare's name was not mentioned once. Further the advertisement did not contain a form number.

Also contained in the mailing packet was a form, F-2143, which described four dental plans. The form was titled "HEALTHPLEX DENTAL PLANS – COMPARISON CHART." The chart is a grid advertising several of Dentcare's individual and small group products, CapDent, CapDent PLUS in-network, CapDent PLUS out-of network and HEALTHPLEX PREFERRED. (It is noted that the Company did not file the policy forms for the Healthplex Preferred product – see also 4. B. Underwriting, Rating and Policy forms below.) One row is titled "Company" and Dentcare's name is shown in each of the four columns. The advertisement appears to advertise Healthplex's products rather than Dentcare's.

Also contained in the packet was a form, F-2152, that mentioned Healthplex's name three times, twice in bold colored type and again in italics. Dentcare's name was mentioned as a footnote at the bottom in a sentence that stated "*Underwritten by Dentcare Delivery Systems – A New York State licensed Insurance Company." The page made the following statements about Healthplex: "Healthplex, Inc. has been offering INSURED* dental plans and administrative services to unions, hospitals, school districts and of course to small businesses like yours for 25 years. Healthplex currently provides dental care to over 1.5 million subscribers in the metropolitan area." Further down in the advertisement the following is stated "Healthplex, Inc, offers two Dental Plans that are completely voluntary and can be administered through payroll deduction."

The packet also included an application form and an enrollment card. The application stated "CapDent / CapDent Plus & Healthplex Preferred Group Dental Application." The enrollment card stated "New York Capdent-Capdent Plus – Healthplex Preferred Dental Plans Enrollment Card." Neither of these policy forms stated the name of Dentcare Delivery Systems on it. (See also 4. B. Underwriting, Rating and Policyforms below.) These advertisements do mention Dentcare's name but they appear to be advertisements for Healthplex and Healthplex's products.

It is recommended that Dentcare comply with Regulation No. 34 Section 215.13 by revealing the identity of the insurer in advertisements sent to prospective insureds who request the information from Healthplex's website.

The Plan jointly marketed and sold dental products that were add-ons to a medical product or a dental indemnity product underwritten by another insurer. Some of the brochures were developed by Dentcare and the insurers partnering with Dentcare. Dentcare indicated that it did not review all of these advertisements.

The examiner observed advertisements that marketed Dentcare's managed care product in conjunction with an indemnity product offered by US Life. A ten-page brochure describing the product marketed jointly by US Life and Dentcare mentions Healthplex's name seven times but never mentions Dentcare's name.

It is recommended that Dentcare reveal the identity of the insurer in advertisements including those that market Dentcare's product in conjunction with another licensed insurer's medical or dental products.

Section 215.5 of Regulation No, 34 states, in part:

"(c) An advertisement of a policy shall contain in a prominent place and style the appropriate statement for the coverage provided as determined by the definitions in sections 52.5 through 52.11 of Part 52 of Title 11 of the Official Compilation of Codes,

Rules and Regulations of the state of New York (Regulation No. 62), as follows:

...(7) this policy provides DENTAL insurance only. The expected benefit ratio for this policy is ____%. This ratio is the portion of future premiums which the Company expects to return as benefits, when averaged over all people with this policy."

It was noted that none of Dentcare's advertising material contained this required language.

It is recommended that Dentcare review all current and future advertisements to assure compliance with Section 215.5 of Regulation No. 34.

Section 215.17 (b) *Certificate of compliance* states:

"Each insurer required to file an annual statement which is now or which hereafter becomes subject to the provisions of this Part must file with this department with its annual statement a certificate of compliance executed by an authorized officer of the insurer wherein it is stated that to the best of his knowledge, information and belief the advertisements which were disseminated by the insurer during the preceding statement year complied or were made to comply in all respects with the provisions of this Part and the Insurance Laws of this state as implemented and interpreted by this Part."

Dentcare filed the "Certificate of Compliance regarding advertisements of Accident and Health Insurers" (Certificate of Compliance) with its New York supplement to the NAIC's Annual Statement as required. However, in view of the foregoing comments regarding Dentcare's advertisements, the affidavit was not properly completed.

It is recommended that Dentcare properly complete its Certificate of Compliance contained in its annual statement filing pursuant to Regulation No. 34.

The majority of the business is sold by the principals of the Dentcare. However, a small amount of the business is sold via brokers. Dentcare did not file a commission plan with the Department.

Section 4312(a)(1) of the New York Insurance states:

"...Commissions shall be included in the corporation's rate manual and rate filing..."

It is recommended that Dentcare file its commission plan with the Department.

B. Underwriting, rating and policy forms

Section 4306 of the New York Insurance Law states, in part:

"Every contract issued by any corporation pursuant to the provisions of section four thousand three hundred four of this article, shall be in writing and shall state the terms and conditions thereof. No such contract shall be made, issued or delivered in this state unless it contains the following provisions..."

Section 4308(a) of the New York Insurance Law, states:

"No corporation subject to the provisions of this article shall enter into any contract unless and until it shall have filed with the superintendent a copy of the contract or certificate and of all applications, riders and endorsements for use in connection with the issuance or renewal thereof, to be formally approved by him as conforming to the applicable provisions of this article and not inconsistent with any other provision of law applicable thereto..."

◆ Large Group

The examiner selected twelve large groups to verify that the contracts (policy forms) issued and the rates charged to the groups were filed and approved by the Department. The Plan only produced policy forms for one of the twelve groups sampled. The following was noted with regard to the policy forms provided for the one group:

- The majority of the policy forms were approved during the late 1970's through the mid-1980's. Since the date of approval of these policy forms, there have been significant changes to the Insurance Law that mandate certain contract provisions. Dentcare is required to modify and resubmit these forms to the Department for approval. Dentcare has not updated their policy forms to conform to the current requirements of the Insurance Law.
- One of the policy forms included was not submitted for approval.
- The contract provided was a group remittance contract rather than a group contract. Under a group remittance contract, Dentcare is required to issue to the subscribers the certificate of insurance. Dentcare indicated that the subscribers were not mailed the certificates directly by Dentcare.

It is recommended that Dentcare review all its policy forms in use and make the necessary modifications to ensure compliance with all statutory mandates set forth in Article 43 of the Insurance Law and submit them to the Insurance Department for approval.

For the remaining eleven groups, the Company did not produce the policy forms issued. Dentcare stated that no policy forms were issued to the groups.

For one group, Dentcare stated that the brochures issued to members served as the policy forms. The other product was issued in conjunction with a medical product and Dentcare stated that it did not issue the policy forms. It is noted that the medical carrier, Vytra Health Plans of Long Island (Vytra) also did not have a policy form outlining the dental benefits. Vytra further stated that it did not issue the policy forms associated with the product but did perform the billing for the dental product for an administrative fee. Therefore, neither Dentcare nor Vytra maintained a policy form for this coverage as required by Section 4306 of the Insurance Law, and no form has been submitted pursuant to Section 4308(a) of the Law.

Dentcare did not provide an explanation for the lack of policy forms for the remaining ten groups.

It is recommended that Dentcare reduce all insurance contracts to writing in accordance with Section 4306 of the New York Insurance Law. It is further recommended that Dentcare submit the aforementioned contracts to the Insurance Department for approval in accordance with Section 4308(a) and 4308(b) of the New York Insurance Law.

Regulation No. 152 Maintenance of Insurance Company Records Part 243.2 states:

"(b) Except as otherwise required by law or regulation, an insurer shall maintain...

...(iii) The contract or policy forms issued including the declaration pages, endorsements, riders, and termination notices of the contract or policy..."

It is recommended that Dentcare maintain its policy form submissions including the approval

letter and stamped approved copy of the policy form for all forms submitted to the Department in accordance with Regulation No. 152.

◆ **Small Group and Individual**

The Company issues two individual and/or small group products, CapDent and CapDent Plus. The CapDent product is issued to both individuals and small groups. The CapDent Plus product is issued to small groups only. Dentcare submitted the policy forms used with these products to the Department for approval in the late 1970's through the mid-1980's. Since the date of approval of these policy forms there have been various changes in the Insurance Law that requires the modification and resubmission of these policy forms to the Department for approval. (The same recommendations under the "Large Group" caption, above, regarding inclusion of benefits set forth in Article 43 of the Law and compliance with Section 4308(a) of the Insurance Law are also applicable to the small group and individual contracts.) Included in the packet advertising Dentcare's products and Healthplex's services was an enrollment card titled "New York Capdent - Capdent Plus - Healthplex Preferred Dental Plans Enrollment Card." This card did not state the name "Dentcare Delivery Systems" on it. Also included was an application form (F-2129). Neither of these policy forms products were submitted to the Insurance Department for approval.

Dentcare marketed a product "Healthplex Preferred" in its print advertisements that were requested by the examiners via the Internet (referred to above.) The policy forms associated with this product were not filed with the Department.

Based on the examination review Dentcare is not in compliance with Section 4308(a) of the Insurance Law with regard to the issuance of any policy forms.

It is recommended that Dentcare comply with Section 4308(a) of the Insurance Law by filing all policy forms with the Department prior to marketing the products.

C. Claims

A review of Dentcare's claims accuracy and compliance procedures was performed using a statistical sampling methodology covering the period January 1, 2001 through December 31, 2001. A random sample of claims was selected for review. The random statistical sampling process was devised to test various attributes deemed necessary for successful claims processing.

The review of 167 paid claims revealed thirteen procedural errors. All claims reviewed were financially accurate. The procedural errors included 5 prompt pay violations in which the claim was paid over 45 days from the date of receipt and 8 claims in which the date received could not be determined.

Dentcare was unable to identify the date received on a small number of claims. Normally Dentcare can cross-reference the claim number to the date received. However, if the services performed are submitted more than once, they are resubmitted using the original claim number and claim resubmission are not always stamped to indicate when the date the resubmitted claim was received. This occurs when claims are submitted for pre-authorization of dental benefits or if a claim is resubmitted with additional charges.

Section 3224-a(a) states:

"...such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within forty-five days of receipt of a claim or bill for services rendered."

It is recommended that Dentcare comply with Section 3224-a(a) of the New York Insurance Law and pay undisputed claims within forty-five days of receipt.

It is recommended that Dentcare record the date that resubmitted claims are received.

Dentcare issued Explanation of Benefits Statements (EOBs) to all claimants. Section 3234(b)

of the New York Insurance Law states in part:

"(b) The explanation of benefits form must include at least the following:

(7) a telephone number or address where an insured or subscriber may obtain clarification of the explanation of benefits, as well as a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made."

Dentcare's EOBs did not include the required appeals language. The EOBs did not include a description of the time limit, place and manner in which an appeal of a denial of benefits must be brought under the policy or certificate and a notification that failure to comply with such requirements may lead to forfeiture of a consumer's right to challenge a denial or rejection, even when a request for clarification has been made.

It is recommended that Dentcare modify its EOBs to conform to Section 3234(b) of the Insurance Law by including the appeal language.

D. Fraud prevention and detection

Section 409 of the New York Insurance Law states:

"(a) Every insurer writing private or commercial automobile insurance, workers' compensation insurance, or individual, group or blanket accident and health insurance policies issued or issued for delivery in this state, except for insurers that write less than three thousand of such policies, issued or issued for delivery in this state annually...shall within one hundred twenty days of the effective date of this amended section to be promulgated by the superintendent to implement this section, file with the superintendent a plan for the detection, investigation and prevention of fraudulent insurance activities in this state and those fraudulent insurance activities affecting policies issued or issued for delivery in this state...

(b) The plan shall provide the time and manner in which such plan shall be implemented, including provisions for a full-time special investigations unit and staffing levels within such unit."

The examination review revealed that Dentcare did not file a fraud prevention plan nor did it

have a special investigations unit.

It is recommended that Dentcare establish a special investigations unit and file a fraud prevention plan with the Superintendent, pursuant to Section 409 of the New York Insurance Law.

It is noted that on March 28, 2003, Dentcare paid a \$5,000 fine for its failure to file a fraud prevention plan as required by Section 409 of the New York Insurance Law.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination, as of December 31, 1996 contained eleven comments and recommendations. The current status of these matters is as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Management</u></p> <p>i. It is recommended that the Plan comply with Section 4301(k)(1) of the New York Insurance Law.</p> <p style="padding-left: 40px;">The Plan complied with this recommendation.</p>	<p>4</p>
<p>ii. It is recommended that the Plan comply with Section 4301(k)(2)(D) of the New York Insurance Law.</p> <p style="padding-left: 40px;">The Plan stated that the Board serves as the Executive Committee. A similar recommendation is contained in this Report.</p>	<p>5</p>
<p>iii. It is recommended that the Plan comply with Section 4301(k)(3) of the New York Insurance Law.</p> <p style="padding-left: 40px;">The Plan did not comply with this recommendation. A similar recommendation is contained in this Report.</p>	<p>5</p>
<p>iv. It is recommended that the Plan establish a written agreement with director Robert Muir defining his duties.</p> <p style="padding-left: 40px;">The Plan did not comply with this recommendation. A similar recommendation is contained in this Report.</p>	<p>6</p>

<u>ITEM</u>	<u>PAGE NO.</u>
<p>v. It is recommended that the Plan comply with its by-law provisions and (1) elect the Board of Directors at their annual board meetings, (2) obtain signed written consent forms from every board member when action must be taken without a meeting, (3) elect a qualified board member to the position of Dental Director, (4) develop an executive committee, a grievance committee, and a dental advisory committee and (5) provide contracts to one half of its directors.</p> <p>The Plan complied with items (1), (2) and (5), above. Similar recommendations regarding items (3) and (4) are contained in this Report on Examination.</p>	5-6
<p>B. <u>Service Agreement</u></p> <p>i. It is recommended that the Plan follow the schedule of payments proposed in the Service Agreement when paying Healthplex for its services rendered. It is further recommended that the Plan submit all amendments and changes to its service agreement to the Department for approval.</p> <p>The Plan complied with the recommendation although as noted in this Report, numerous other problems were noted regarding the service agreement.</p>	7-8
<p>C. <u>Accounts and Records</u></p> <p>i. It is recommended that the Plan obtain fidelity insurance coverage.</p> <p>The Plan complied with this recommendation.</p>	8
<p>ii. It is recommended that the Plan safeguard itself against fraud and theft by having two signatories on checks issued over a certain amount.</p> <p>The Plan complied with this recommendation.</p>	8
<p>iii. It is recommended that the Plan have its board members, officers, and key employees, submit a conflict of interest questionnaire on an annual basis.</p> <p>Responses to conflict of interest questionnaires were obtained by Dentcare; however, one of the responses from a director was not accurately completed.</p>	8

<u>ITEM</u>		<u>PAGE NO.</u>
D.	<u>Section 1307 loan</u> It is recommended that the Plan take the necessary procedures in obtaining and maintaining all documentation regarding its Section 1307 loan with Healthplex. The Plan complied with this recommendation.	13-14
E.	<u>Federal Income Taxes</u> It is recommended that the Plan amend its 990 tax form for calendar year 1996, to include all expense allowances given to its board members, key employees and trustees. The Plan complied with this recommendation.	14
F.	<u>Market Conduct Activities</u> It is recommended that the Plan establish and maintain a complaint log as required by Circular Letter No. 11 (1978). The Plan complied with this recommendation.	15

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<u>MANAGEMENT</u>	
A. It is recommended that Dentcare comply with its by-laws and Section 4301(k)(1)(D) of the Insurance Law by establishing an executive committee. It is further recommended that, in accordance with its by-laws, Dentcare establish such other committees as are specified in its by-laws.	4
B. It is recommended that Dentcare implement the necessary procedures to comply with Section 4301(k)(3) of the New York Insurance Law and ensure that no person who has served as a director for ten consecutive years be elected for an additional term of office until at least one year has elapsed since the expiration of his prior term of office. The same recommendation was contained in the previous report on examination.	5
C. It is recommended that Dentcare submit to the Department supporting documentation to justify the monthly expense allowance paid to Director Muir. If such expense allowance is unable to be justified, it is recommended that Dentcare cease such expense reimbursements and take the necessary steps to recover any inappropriate payments.	5
D. It is recommended that Dentcare assure that those directors appointed to represent the public are qualified to represent the broad public interest of the residents of the State of New York.	6
E. It is recommended that Dentcare properly report, in its annual statement filings, all officers in accordance with the NAIC Annual Statement Instructions.	7
F. It is recommended that Dentcare's Board meeting minutes indicate the purpose of attendance of invited guests.	7
<u>CONFLICT OF INTEREST STATEMENT AND RESPONSES</u>	
G. It is recommended that Dentcare ensure management accurately disclose all potential conflicts on their annual conflict of interest statements.	7

ITEM**PAGE NO.****TERRITORY AND PLAN OF OPERATION**

- H. It is recommended that Dentcare accurately report the number of its providers in its filed annual statement. 8

RELATIONSHIP WITH HEALTHPLEX

- I. It is recommended that Dentcare compile the actual expenses incurred under the service agreement with Healthplex through such methods as the determination of actual expenses, cost studies and time allocations of personnel and then submit the results to the Department within sixty days of the filing of this report. 10
- J. It is recommended that Dentcare establish a written agreement with International Healthcare detailing the specific basis for transactions between the companies. 12

ACCOUNTS AND RECORDS

- K. It is recommended that Dentcare report as premium only income that is derived from the sale of its insurance products. 12
- L. It is recommended that Dentcare develop and maintain contracts that specify the nature of the product sold and financial obligations of the parties in these non-insurance arrangements. 14
- M. It is recommended that the Plan report income generated from "leasing" its provider network as Risk Revenue in accordance with the NAIC Annual Statement Instructions. 14
- N. It is further recommended that Dentcare properly record risk revenue derived only from leasing its own provider network and ensure that any income from Healthplex's business is excluded. 14
- O. It is recommended that Dentcare submit a revised Annual Statement for 2002 and revised Quarterly Statements for 2003, that correctly report all risk revenue in the Statement of Revenue and Expenses and exclude all such revenue from premium income. 15

<u>ITEM</u>	<u>PAGE NO.</u>
P. It is recommended that in the future Dentcare comply with the Department's Section 308 requests for information.	16
Q. It is recommended that Dentcare complete its financial statements in accordance with the NAIC instructions and properly classify all administrative expense items.	16
R. It is recommended that Dentcare track administrative expenses related to the risk revenue business separately from the administrative expenses related to the insured business.	17
S. It is recommended that Dentcare review its accounting practices relative to the proper classification of premium income and expense items in 2001 and 2002 for impact on the expense limitation set forth in Section 4309 of the New York Insurance Law. It is further recommended that Dentcare submit its findings to the Department for review within sixty days of the filing of this report.	17
T. It is recommended that any adjustments in the management fee due to Healthplex, pursuant to the administrative services agreement, resulting from application of the Section 4309 limitation to Dentcare's restated premium income be settled immediately.	17
<u>MARKET CONDUCT ACTIVITIES</u>	
U. It is recommended that Dentcare maintain an advertising file that contains all advertisements in accordance with Section 215.17 of Regulation No. 34. This includes but is not limited to direct mailings sent in response to website inquiries and brochures distributed to prospective insureds describing group policies in which Dentcare is an insurer.	21
V. It is recommended that Dentcare maintain a system of control over its advertisements in accordance with Section 215.2(b) of Regulation No. 34.	21
W. It is recommended that Dentcare comply with Regulation No. 34 Section 215.13 by revealing the identity of the insurer in all advertisements sent to prospective insureds who request the information from Healthplex's website.	24

<u>ITEM</u>	<u>PAGE NO.</u>
X	24
Y	25
Z.	25
AA.	25
BB.	26
CC	27
DD.	27
EE.	28
FF.	28

<u>ITEM</u>		<u>PAGE NO.</u>
GG.	It is recommended that Dentcare record the date that resubmitted claims are received.	29
HH.	It is recommended that Dentcare modify its EOBs to conform to Section 3234(b) of the Insurance Law by including the appeal language.	30
II.	It is recommended that Dentcare establish a special investigations unit and file a fraud prevention plan with the Superintendent, pursuant to Section 409 of the New York Insurance Law.	30

Respectfully submitted,

Kathleen Grogan
Associate Insurance Examiner

STATE OF NEW YORK)
)SS
)
COUNTY OF NEW YORK)

Kathleen Grogan, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of her knowledge and belief.

Kathleen Grogan

Subscribed and sworn to before me
this _____ day of _____ 2003

Appointment No. 21852

**STATE OF NEW YORK
INSURANCE DEPARTMENT**

I, **GREGORY V. SERIO**, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

Kathleen Grogan

as a proper person to examine into the affairs of the

Dentcare Delivery Systems

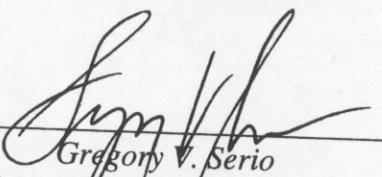
and to make a report to me in writing of the said

Company

with such information as she shall deem requisite.

*In Witness Whereof, I have hereunto subscribed by the name and affixed the official Seal
of this Department, at the City of New York.*

this 11th day of March 2002



Gregory V. Serio
Superintendent of Insurance

