



STATE OF NEW YORK INSURANCE DEPARTMENT
REPORT ON EXAMINATION
OF THE
HM LIFE INSURANCE COMPANY OF NEW YORK

CONDITION:

DECEMBER 31, 2009

DATE OF REPORT:

MAY 3, 2011

STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON EXAMINATION

OF THE

HM LIFE INSURANCE COMPANY OF NEW YORK

AS OF

DECEMBER 31, 2009

DATE OF REPORT:

MAY 3, 2011

EXAMINER:

ROBERT H. MOORE

TABLE OF CONTENTS

<u>ITEM</u>	<u>PAGE NO.</u>
1. Executive summary	2
2. Scope of examination	3
3. Description of Company	5
A. History	5
B. Holding company	5
C. Organizational chart	5
D. Service agreements	6
E. Management	8
4. Territory and plan of operations	11
A. Statutory and special deposits	11
B. Direct operations	11
C. Reinsurance	12
5. Significant operating results	13
6. Financial statements	16
A. Independent accountants	16
B. Net admitted assets	16
C. Liabilities, capital and surplus	17
D. Condensed summary of operations	18
E. Capital and surplus account	19
7. Market conduct activities	20
A. Advertising and sales activities	20
B. Underwriting and policy forms	20
C. Treatment of policyholders	20
8. Prior report summary and conclusions	23
9. Summary and conclusions	25



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

Andrew M. Cuomo
Governor

James J. Wrynn
Superintendent

June 17, 2011

Honorable James J. Wrynn
Superintendent of Insurance
Albany, New York 12257

Sir:

In accordance with instructions contained in Appointment No. 35071, dated August 3, 2010 and annexed hereto, an examination has been made into the condition and affairs of HM Life Insurance Company of New York, hereinafter referred to as “the Company,” at its home office located at 420 5th Avenue, 3rd Floor, New York, NY 10018.

Wherever “Department” appears in this report, it refers to the State of New York Insurance Department.

1. EXECUTIVE SUMMARY

The material violations contained in this report are summarized below.

The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent in writing of its intention to receive investment advisory services from Highmark Inc. and administrative services from RBS, both affiliated companies, at least 30 days prior to receiving such services. (See item 3D of this report)

- The Company violated Section 86.4(a) of Department Regulation No. 95 by failing to include the required fraud warning statement on its stop loss claim forms that are utilized by RBS, the Company's Third Party Administrator. (See item 7C of this report)

The Company violated Section 2108(a)(3) of the New York Insurance Law by allowing three Third Party Administrators to adjudicate claims without being licensed as independent adjusters. (See item 7C of this report)

- The Company violated Section 3234(b)(3) of the New York Insurance Law by failing to include an identification of the service for which the claim was made on its explanation of benefits forms. (See item 7C of this report)

2. SCOPE OF EXAMINATION

The examination of the Company was a full scope examination as defined in the NAIC Financial Condition Examiners Handbook, 2009 Edition (the “Handbook”). The examination covers the 3-year period from January 1, 2007 through December 31, 2009. The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2009 but prior to the date of this report (i.e., the completion date of the examination) were also reviewed.

In the course of the examination, a review was also made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. The results of this review are contained in item 7 of this report.

The examination was conducted on a risk focused basis in accordance with the provisions of the Handbook published by the National Association of Insurance Commissioners (“NAIC”). The Handbook guidance provides for the establishment of an examination plan based on the examiner’s assessment of risk in the insurer’s operations and utilizing that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the current financial condition as well as identify prospective risks that may threaten the future solvency of the insurer. The examiner identified key processes, assessed the risks within those processes and evaluated the internal control systems and procedures used to mitigate those risks. The examination also included assessing the principles used and significant estimates made by management, evaluating the overall financial statement presentation, and determining management’s compliance with Department statutes and guidelines, Statutory Accounting Principles as adopted by the Department, and annual statement instructions. Based on the evaluation of residual risks, certain substantive procedures were considered necessary.

Information about the Company’s organizational structure, business approach and control environment were utilized to develop the examination approach. The Company’s risks and management activities were evaluated incorporating the NAIC’s nine branded risk categories. These categories are as follows:

- Pricing/Underwriting
- Reserving

- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2007 through 2009, by the accounting firm of PricewaterhouseCoopers, LLP. The Company received an unqualified opinion in all 3 years under examination. Certain audit work papers of the accounting firm were reviewed and relied upon in conjunction with this examination. The Company's ultimate parent, Highmark Inc., assesses the internal control structure and compliance with the NAIC's Model Audit Rule ("MAR"). Where applicable, MAR work papers and reports were reviewed and portions were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Company with respect to the violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 8 of this report.

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

3. DESCRIPTION OF COMPANY

A. History

The Company was incorporated as a stock life insurance company under the laws of New York on October 16, 1996, under the name of Trans-General Life Insurance Company of New York. The Company was licensed and commenced business on March 26, 1997. On April 1, 1999, the Company changed its name to Highmark Life Insurance Company of New York. On April 1, 2006, the Company changed to its current name, HM Life Insurance Company of New York.

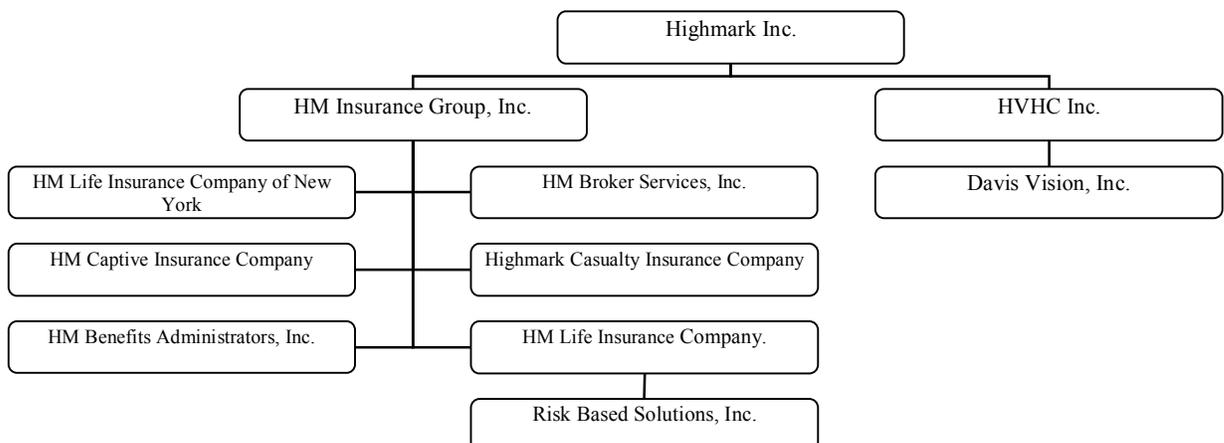
Initial resources of \$10,000,000 consisted of common capital stock of \$2,000,000 and paid in and contributed surplus of \$8,000,000. The capital stock was provided through the sale of 200,000 shares of common stock (with a par value of \$10 each) for \$10 per share. In 2004 the Company received a capital contribution from its ultimate parent, Highmark Inc., of \$5,000,000.

B. Holding Company

The Company is a wholly owned subsidiary of HM Insurance Group, Inc. (“HMIG”), a Pennsylvania holding Company. HMIG is in turn a wholly owned subsidiary of Highmark Inc., a Pennsylvania non-profit corporation, licensed as a hospital plan and professional health services plan. Highmark Inc. is the ultimate parent of the Company.

C. Organizational Chart

An organizational chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2009 follows:



D. Service Agreements

The Company had 11 service agreements in effect with affiliates during the examination period.

Type of Agreement and Department File Number	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense)* For Each Year of the Examination
Optical Laboratory Agreement (No. 29202) (No. 35854)	8/1/2003 Amended 11/1/2007	Davis Vision, Inc.	the Company	Develop, manufacture and market Vision Care products	2007 \$(3,651,436)** 2008 \$(3,793,376)** 2009 \$(4,320,166)**
PPO Network Agreement (No. 29202) (No. 35854)	8/1/2003 Amended 11/1/2006	Davis Vision, Inc.	the Company	Contract with preferred provider networks of optometrists and ophthalmologists and pay providers on behalf of the company	**
Third Party Administrator Agreement (No. 29202) (No. 35854)	8/1/2003 Amended 11/1/2007	Davis Vision, Inc.	the Company	Provide group vision administrative services, billing, premium collection, customer service, claims administration, and record keeping	**
Administrative Agreement (No. 33917)	9/1/2005	Davis Vision, Inc.	the Company	Provide customer service to all group policyholders and participants who are covered under the Company's group vision policies	**
Employee Benefit Plan Administrators Agreement (No. 29380)	1/1/2003	HM Benefit Administrators, Inc.	the Company	Provide employee benefit plan Administration, financial, legal, information technology and other support services	2007 \$(1,491,212) 2008 \$(1,504,013) 2009 \$(1,362,462)
Investment Advisory Agreement*** (No. 29281)	2/1/2001 Terminated 12/31/2007	Highmark Inc.	the Company	Provide supervision and direction of investment of cash, securities, and other assets	2007 \$(3,765) 2008 \$ 0 2009 \$ 0
Investment Advisory Agreement***	1/1/2008	Highmark Inc.	the Company	Provide supervision and direction of investment of cash, securities, and other assets	2007 \$ 0 2008 \$(7,740) 2009 \$(1,844)

Type of Agreement and Dept. File No.	Effective Date	Provider(s) of Service(s)	Recipient(s) of Service(s)	Specific Service(s) Covered	Income/ (Expense) For Each Year of the Examination
Administrative Agreement (No. 29574)	5/1/2001	HM Life Insurance Company	the Company	Provide underwriting, claims, financial, marketing and advertising, actuarial, EDP, and agent-related services	2007 \$(2,476,620) 2008 \$(1,343,164) 2009 \$(1,230,740)
Integrated Database Agreement (No. 29983)	3/1/2002	Highmark Casualty Insurance Company	the Company	Provide the design, development, installation and maintenance of an insurance business application integrated database generating claims records and information pertaining to new accounts	2007 \$(48,017) 2008 \$ (7,797) 2009 \$ 0
Administrative Agreement (No. 33752)	1/1/2003	the Company	HM Benefit Administrators, Inc.	Provide sales and sales administration services	****
Administrative Agreement (No. 33752)	1/1/2003	the Company	Highmark Casualty Insurance Company	Provide sales and sales administration services	2007 \$12,560 2008 \$ 463 2009 \$ 442
Administrative Agreement (No. 33752)	1/1/2003	the Company	HM Life Insurance Company	Provide sales and sales administration services	2007 \$522,703 2008 \$537,492 2009 \$443,190

* Amount of Income or (Expense) Incurred by the Company

** For ease of administration, data of fees paid to Davis Vision, Inc. were supplied on an aggregate basis for all services provided.

*** Replaced by investment advisory agreement effective 1/1/2008. The Agreement was never filed with the Department.

**** No services were provided during the years under examination. The Agreement was established in anticipation of sales support services being provided, which to date has not come to fruition.

The Company also participates in a federal income tax allocation agreement with its parent and affiliates.

Section 1505(d) of the New York Insurance Law states, in part:

“The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period . . .

(3) rendering of services on a regular or systematic basis . . . ”

A review of services received by the Company from affiliates indicated that the Company received investment advisory services from Highmark Inc. on a regular and systematic basis during the examination period. The Company terminated its previous investment advisory agreement with Highmark Inc. on December 31, 2007 and entered into a new investment advisory agreement as of January 1, 2008. The new investment advisory agreement was not submitted to the Superintendent for non-disapproval prior to being put into use. As a result, the Company received investment advisory services from Highmark Inc. on a regular and systematic basis during the years 2008 and 2009 without having submitted a service agreement to the Superintendent.

In addition, the Company received various administrative services from Risk Based Solutions, Inc. ("RBS"), a subsidiary of the Company's parent HM Life Insurance Company. The services provided pertain to the Company's stop loss insurance business and have been provided on a regular and systematic basis since 2008. The Company had not entered into an Agreement with RBS and, as a result, never notified the Superintendent in writing of its intention to receive administrative services at least 30 days prior thereto.

The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent in writing of its intention to receive investment advisory services from Highmark Inc. and administrative services from RBS, both affiliated companies, at least 30 days prior to receiving such services.

Subsequent to the examination date, but prior to the date of this Report, the Company submitted to the Department the Investment Advisory Agreement with Highmark Inc. and a Service Agreement with RBS. Both Agreements are currently under review.

E. Management

The Company's by-laws provide that the Board of Directors shall be comprised of not less than nine (9) and not more than seventeen (17) directors whom are elected for a period of one year at the annual meeting of the stockholders held in April of each year. As of December 31, 2009, the Board of Directors consisted of eleven members. Meetings of the Board are held in February, April, September, and November.

The 11 Board members and their principal business affiliation, as of December 31, 2009, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>	<u>Year First Elected</u>
James Colker* Pittsburgh, PA	Retired	1996
Roseann J. LaRosa* Valley Stream, NY	Attorney	1996
Daniel J. Lebish Pittsburgh, PA	Chief Executive Officer HM Life Insurance Company of New York	2003
Brett C. Moraski Pittsburgh, PA	Retired	2007
Donald L. Morchower New York, NY	Retired	2003
Donald P. Napier* Manlius, NY	Senior Vice President and Chief Operating Officer POMCO	2001
Deborah L. Rice Huntingdon, PA	Executive Vice President Highmark Inc.	2007
John N. Shaffer* Santa Fe, NM	Retired	1996
Warren G. Weber* Fairview, PA	Retired	1999
Thomas White* New Castle, PA	Retired	1996
Doris C. Williams* Pittsburgh, PA	President African American Chamber of Commerce of Western Pennsylvania	2002

* Not affiliated with the Company or any other company in the holding company system

On April 1, 2010, Brett C. Moraski resigned from the Board and was not replaced.

On June 30, 2010, James Colker, Roseann J. LaRosa, Donald L. Morchower, John N. Shaffer, Warren G. Weber, and Thomas White were removed from the Board by the sole shareholder and replaced by Ray H. Carson, Karen L. Hanlon, David M. Matter, Daniel W. O'Malley and William J. Stallkamp. Of the five replacing Directors, only two were not affiliated with the Company or any other company in the holding company system.

On July 8, 2010 and September 16, 2010, Doris C. Williams and Deborah L. Rice resigned from the Board, respectively, reducing the number of directors to seven.

In September 2010, the Company amended its Charter and By-laws to reflect that the required number of directors shall not be less than seven. The Charter and By-laws were revised in accordance with the recent changes in Section 1201 of the Insurance Law which permit a reduction in the minimum size of the board of directors of domestic insurance corporations from 13 (or nine for smaller companies) to seven and a reduction in the New York State residency requirements of the boards of domestic insurers from two to one. On September 28, 2010, the Department approved the Company's amended Charter and By-laws.

The examiner's review of the minutes of the meetings of the Board of Directors and its Committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2009:

<u>Name</u>	<u>Title</u>
Daniel J. Lebish	Chief Executive Officer
Michael W. Sullivan	President & Chief Operating Officer
Edward A. Bittner Jr.	Secretary
Domenic Palmieri *	Treasurer & Chief Financial Officer

* Designated consumer services officer per Section 216.4(c) of Department Regulation No. 64

In January, 2011, Daniel Wright was appointed Treasurer and Chief Financial Officer, replacing Domenic Palmieri who was appointed as a Senior Vice President.

4. TERRITORY AND PLAN OF OPERATIONS

The Company is authorized to write life insurance, annuities and accident and health insurance as defined in paragraphs 1, 2 and 3 of Section 1113(a) of the New York Insurance Law.

The Company is licensed to transact business in three (3) States, namely New York, Rhode Island and the District of Columbia. In 2009, all accident and health premiums were received from New York. Policies are written on a non-participating basis.

A. Statutory and Special Deposits

As of December 31, 2009, the Company had a \$400,000 United States Treasury Note on deposit with the State of New York, its domiciliary state, for the benefit of all policyholders and claimants of the Company.

B. Direct Operations

The Company primarily markets group accident and health insurance coverage. Within the accident and health business lines, the Company markets the following products: Stop Loss, Vision Care, and Student Indemnity. Vision Care and Student Indemnity are marketed through third party administrators. The Company started marketing Work Site products in 2009; however, sales to date have been very minor. The Company's group accident and health insurance policies are issued on a non-participating basis.

The Company ceased writing life and disability insurance coverage in 2008.

The Company's agency operations are conducted on a general agency basis. The Company does not have its own agency staff; it utilizes independent agents and brokers to market its Stop Loss products. The Company does not market its Stop Loss products directly to the public. Individuals employed by the Company (two in its New York City office and one in Syracuse, New York) are in constant contact with various agents and brokers in New York State encouraging them to market their products. Approximately 37.8% of 2009 written premium was derived from the Stop Loss business.

The Vision Care products are marketed through Davis Vision, Inc., an affiliated third party administrator. Approximately 48.3% of 2009 written premium was derived from the Vision Care business.

The Student Indemnity business was marketed through an unaffiliated third party administrator, Worldwide Insurance Services, Inc. Approximately 13.9% of 2009 written premium was derived from the Student Indemnity business. Subsequent to the date of this examination, in December 2010, a mutual agreement was reached between the Company and Worldwide Insurance Services, Inc. to terminate this arrangement effective the end of May 2011.

C. Reinsurance

As of December 31, 2009, the Company had reinsurance treaties in effect with 10 companies, of which six were authorized or accredited. The Company's accident and health business is reinsured on a coinsurance basis. Reinsurance is provided on an automatic basis.

Effective April 1, 2008, the Company entered into an assumption reinsurance agreement (the "Agreement") with Fort Dearborn Life Insurance of New York ("FDLNY"), under which FDLNY assumed both the in-force policies and the run-out claims for the Company's life and disability blocks of business. Pursuant to the Agreement, the Company ceded on a quota share basis 100% of its life and disability business to FDLNY immediately on April 1, 2008, which was followed by assumption of the direct policy liability by FDLNY upon novation by each policyholder.

Also in 2008 the Company assumed some Group Medical Stop loss insurance business from HMA Captive Insurance Co. ("HMA Captive"), an affiliate. HMA Captive reassumed the business on December 31, 2009.

All reinsurance arrangements were submitted to and approved by the New York State Insurance Department.

Reserve credit taken for reinsurance ceded to unauthorized companies, totaling \$3,885,943, was supported by trust agreements and funds withheld.

5. SIGNIFICANT OPERATING RESULTS

Indicated below is significant information concerning the operations of the Company during the period under examination as extracted from its filed annual statements. Failure of items to add to the totals shown in any table in this report is due to rounding.

The following table indicates the Company's financial growth (decline) during the period under review:

	December 31, <u>2006</u>	December 31, <u>2009</u>	Increase (Decrease)
Admitted assets	<u>\$47,722,955</u>	<u>\$41,081,510</u>	<u>\$(6,641,445)</u>
Liabilities	<u>\$28,109,247</u>	<u>\$20,489,658</u>	<u>\$(7,619,589)</u>
Common capital stock	\$ 2,000,000	\$ 2,000,000	\$ 0
Gross paid in and contributed surplus	13,000,000	13,000,000	0
Unassigned funds (surplus)	<u>4,613,708</u>	<u>5,591,852</u>	<u>978,144</u>
Total capital and surplus	<u>\$19,613,708</u>	<u>\$20,591,852</u>	<u>\$ 978,144</u>
Total liabilities, capital and surplus	<u>\$47,722,955</u>	<u>\$41,081,510</u>	<u>\$(6,641,445)</u>

The Company's invested assets as of December 31, 2009, were mainly comprised of bonds (74.8%), and cash and short-term investments (25.1%).

The majority (100%) of the Company's bond portfolio, as of December 31, 2009, was comprised of investment grade obligations.

The decrease in admitted assets and liabilities during the examination period under review was driven primarily by the assumption and novation of the life and disability block of business to Fort Dearborn Life Insurance Company of New York ("FDLNY"). The Company paid approximately \$11.8 million to FDLNY as part of the transaction in 2008. Similarly, net reserves attributable to these lines of business decreased approximately \$12 million as a result of the transaction with FDLNY.

The following indicates, for each of the years listed below, the amount of life insurance issued and in force by type (in thousands of dollars):

<u>Year</u>	<u>Individual Whole Life</u>		<u>Group Life</u>	
	<u>Issued</u>	<u>In Force</u>	<u>Issued & Increases</u>	<u>In Force</u>
2007	\$270	\$155	\$6,011	\$3,072,046
2008	\$0	\$0	\$0	\$0
2009	\$0	\$0	\$0	\$0

The above table reflects the results of the Company's cession of its life and disability business to FDLNY in 2008.

The following has been extracted from the Exhibits of Accident and Health Insurance in the filed annual statements for each of the years under review:

	<u>Group</u>		
	<u>2007</u>	<u>2008</u>	<u>2009</u>
Outstanding, end of previous year	1,900	1,339	353
Issued during the year	137	128	78
Other net changes during the year	<u>(698)</u>	<u>(1,114)</u>	<u>(111)</u>
Outstanding, end of current year	<u>1,339</u>	<u>353</u>	<u>320</u>

The above table reflects the results of the Company's cession of its life and disability business to FDLNY in 2008.

The following is the net gain (loss) from operations by line of business after federal income taxes but before realized capital gains (losses) reported for each of the years under examination in the Company's filed annual statements:

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Ordinary:			
Life insurance	\$ <u>13,127</u>	\$ <u>(864)</u>	\$ <u>0</u>
Total ordinary life	\$ <u>13,127</u>	\$ <u>(864)</u>	\$ <u>0</u>
Group:			
Life	\$(<u>658,631</u>)	\$(<u>393,401</u>)	\$(<u>857</u>)
Total group life	\$(<u>658,631</u>)	\$(<u>393,401</u>)	\$(<u>857</u>)
Accident and health:			
Group	\$ <u>717,954</u>	\$ <u>2,426,290</u>	\$(<u>1,120,414</u>)
Total accident and health	\$ <u>717,954</u>	\$ <u>2,426,290</u>	\$(<u>1,120,414</u>)
Total	\$ <u><u>72,450</u></u>	\$ <u><u>2,032,025</u></u>	\$ <u><u>(1,121,271)</u></u>

The above table reflects the fact that the Company ceded its life and disability business to Fort Dearborn Life in 2008, while retaining certain active disability claims. The loss incurred in 2009 was primarily the result of claims experience in its accident and health business.

6. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2009, as contained in the Company's 2009 filed annual statement, a summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2009 filed annual statement.

A. Independent Accountants

The firm of PriceWaterhouseCoopers LLP ("PWC") was retained by the Company to audit the Company's statutory basis statements of financial position of the Company as of December 31st of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

PWC concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

B. Net Admitted Assets

Bonds	\$28,914,104
Cash, cash equivalents and short term investments	9,687,646
Other invested assets	49,898
Investment income due and accrued	331,996
Premiums and considerations	
Uncollected premiums and agents' balances in the course of collection	1,470,263
Reinsurance:	
Amounts recoverable from reinsurers	180,855
Other amounts receivable under reinsurance contracts	104,581
Net deferred tax asset	266,906
Receivables from parent, subsidiaries and affiliates	42,215
Health care and other amounts receivables	<u>33,046</u>
 Total admitted assets	 <u>\$41,081,510</u>

C. Liabilities, Capital and Surplus

Aggregate reserve for accident and health contracts	\$ 1,296,370
Contract claims:	
Life	106,834
Accident and health	12,905,167
Premiums and annuity considerations for life and accident and health contracts received in advance; including accident and health premiums	98,803
Contract liabilities not included elsewhere:	
Interest Maintenance Reserve	354,208
Commissions to agents due or accrued	378,000
General expenses due or accrued	1,285,020
Taxes licenses and fees due or accrued	61,890
Current federal and foreign income taxes	901,126
Amounts withheld or retained by company as agent or trustee	108,957
Remittances and items not allocated	10,221
Miscellaneous liabilities:	
Asset valuation reserve	120,146
Reinsurance in unauthorized companies	48,065
Funds held under reinsurance treaties with unauthorized reinsurers	1,059,053
Payable to parent, subsidiaries and affiliates	1,194,481
Unclaimed property	<u>561,317</u>
 Total Liabilities	 <u>\$20,489,658</u>
 Common capital stock	 \$ 2,000,000
Gross paid-in and contributed surplus	13,000,000
Unassigned funds (surplus)	<u>5,591,852</u>
Total capital and surplus	<u>\$20,591,852</u>
 Total liabilities, capital and surplus	 <u>\$41,081,510</u>

D. Condensed Summary of Operations

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Premiums and considerations	\$53,665,879	\$53,288,816	\$61,236,027
Investment income	1,959,139	1,543,373	1,388,795
Commission and reserve adjustments on reinsurance ceded	2,510,413	3,208,926	1,442,536
Miscellaneous income	<u>5,929</u>	<u>10,610</u>	<u>805</u>
 Total income	 <u>\$58,141,360</u>	 <u>\$58,051,725</u>	 <u>\$64,068,163</u>
 Benefit payments	 \$43,468,361	 \$39,372,147	 \$50,035,000
Increase in reserves	(977,226)	2,143,633	(1,063,618)
Commissions	4,579,251	3,921,573	4,224,989
General expenses and taxes	11,025,538	9,760,358	12,691,093
Miscellaneous deductions	<u>0</u>	<u>499</u>	<u>169</u>
 Total deductions	 <u>\$58,095,924</u>	 <u>\$55,198,210</u>	 <u>\$65,887,633</u>
 Net gain (Loss)	 \$ 45,436	 \$ 2,853,515	 \$(1,819,470)
Federal and foreign income taxes Incurred	<u>(27,011)</u>	<u>821,489</u>	<u>(698,199)</u>
 Net gain (loss) from operations before net realized capital gains	 \$ 72,447	 \$ 2,032,026	 \$(1,121,271)
Net realized capital gains (losses)	<u>(21,455)</u>	<u>(270)</u>	<u>0</u>
 Net income	 <u>\$ 50,992</u>	 <u>\$ 2,031,756</u>	 <u>\$(1,121,271)</u>

The significant increase in net income in 2008 was primarily due to the Company's divestiture of its life and disability business, coupled with strong results in its stop loss line of business. The significant decrease in net income in 2009 was primarily due to negative stop loss experience.

E. Capital and Surplus Account

	<u>2007</u>	<u>2008</u>	<u>2009</u>
Capital and surplus December 31, prior year	<u>\$19,613,708</u>	<u>\$19,573,846</u>	<u>\$21,550,326</u>
Net income (loss)	\$ 50,992	\$ 2,031,756	\$(1,121,271)
Change in net deferred income tax	(45,793)	(145,499)	(137,975)
Change in non-admitted assets	(114,952)	123,106	324,376
Change in liability for reinsurance in unauthorized companies	75,688	(52,275)	10,974
Change in Asset Valuation Reserve	<u>(5,797)</u>	<u>19,392</u>	<u>(34,578)</u>
Net change in capital and Surplus for the year	\$ <u>(39,862)</u>	\$ <u>1,976,480</u>	\$ <u>(958,474)</u>
Capital and Surplus December 31, current year	<u>\$19,573,846</u>	<u>\$21,550,326</u>	<u>\$20,591,852</u>

7. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Company's market conduct activities affecting policyholders, claimants, and beneficiaries to determine compliance with applicable statutes and regulations and the operating rules of the Company.

A. Advertising and Sales Activities

The examiner reviewed a sample of the Company's advertising files and the sales activities of the agency force including trade practices, solicitation and the replacement of insurance policies.

Based upon the sample reviewed, no significant findings were noted.

B. Underwriting and Policy Forms

The examiner reviewed a sample of underwriting files, both issued and declined, and the applicable policy forms.

Based upon the sample reviewed, no significant findings were noted.

C. Treatment of Policyholders

The examiner reviewed a sample of various types of claims, surrenders, changes and lapses. The examiner also reviewed the various controls involved, checked the accuracy of the computations and traced the accounting data to the books of account.

1. Claim Forms

Section 86.4(a) of Department Regulation No. 95 states, in part:

“(a) ... all claim forms for insurance, ... provided to any person residing or located in this State in connection with insurance policies for issuance or issuance for delivery in this State, shall contain the following statement:

‘Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.’ ...”

A review of claim forms utilized by Risk Based Solutions, Inc. (“RBS”), a Third Party Administrator, in the processing of the Company’s employer stop loss claims, indicated that RBS utilized three claim forms that failed to contain the fraud warning as required by Section 86.4(a) of Department Regulation No. 95.

The Company violated Section 86.4(a) of Department Regulation No. 95 by failing to include the required fraud warning statement on its stop loss claim forms that are utilized by RBS, the Company’s Third Party Administrator.

2. Claim Adjusters Licenses

Section 2108(a) of the New York Insurance Laws states in part:

“(a) (1) Adjusters shall be licensed as independent adjusters or as public adjusters...

(3) No adjuster shall act on behalf of an insurer unless licensed as an independent adjuster, and no adjuster shall act on behalf of an insured unless licensed as a public adjuster.”

A review of the Company’s Third Party Administrators indicated that the Company could not produce independent adjuster’s licenses for Worldwide Insurance Services, Inc. and two affiliated third party administrators, Davis Vision, Inc. and Risk Based Solutions, Inc., all of whom process claims on behalf of the Company.

The Company violated Section 2108(a)(3) of the New York Insurance Law by allowing three Third Party Administrators to adjudicate claims without being licensed as independent adjusters.

3. Explanation of Benefits

Section 3234(b)(3) of the New York Insurance Law states:

“(b) The explanation of benefits form must include at least the following:
(3) an identification of the service for which the claim is made;”

A review of student indemnity accident and health claims processed by Worldwide Insurance Services, Inc., a Third Party Administrator, indicated that the explanation of benefit form disseminated to claimants failed to include an identification of the service for which the claim was made.

The Company violated Section 3234(b)(3) of the New York Insurance Law by failing to include an identification of the service for which the claim was made on its explanation of benefits forms.

8. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and recommendations contained in the prior report on examination and the subsequent actions taken by the Company in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The examiner recommends that the Company obtain the Superintendent's prior approval for surplus contributions in the future.</p> <p>The Company indicates in the examination report acceptance letter to the Department dated April 25, 2008, that in the future prior approval will be sought from the Superintendent of the Department for surplus contributions. No surplus contributions were made during the current period under examination.</p>
B	<p>The Company violated Section 1505(d)(2) of the New York Insurance Law by failing to notify the Superintendent at least thirty days prior to entering into a reinsurance agreement with its affiliate HCI, Inc.</p> <p>In the examination report acceptance letter to the Department dated April 25, 2008, the Company acknowledged its error and indicated that in the future affiliate reinsurance agreements will be filed at least 30 days prior to entering into such transactions. The Company also sought and received approval on the contract with HCI, Inc. in September 2008.</p>
C	<p>The Company violated Section 219.5(a) of Department Regulation No. 34-A, Section 215.17(a) of Department Regulation No. 34 by failing to comply with its Advertising Procedures Manual by failing to maintain at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement disseminated in this state, with a notation indicating the manner and extent of distribution.</p> <p>The examiner's review of the Company's advertising files indicated that the Company maintained at its home office a complete file containing a specimen copy of every printed, published or prepared advertisement disseminated in this state, with a notation indicating the manner and extent of distribution.</p>

<u>Item</u>	<u>Description</u>
D	<p>The Company violated Section 1313(f) of the New York Insurance Law in four brochures by making reference to the assets of Highmark, the combined entity, without disclosing the assets of the Company.</p> <p>The examiner's review of the Company's advertisements did not reveal any instances of advertising materials where the assets of Highmark were included without also disclosing the assets of the Company.</p>
E	<p>The Company violated Section 216.11 of Department Regulation No. 64 by failing to maintain all communications, transactions, notes, and work papers that would allow the examiner to reconstruct all events relating to a claim.</p> <p>The examiner's review of claims did not reveal any instances where relative information pertaining to the reconstruction of all events relating to a filed claim was lacking.</p>

9. SUMMARY AND CONCLUSIONS

Following are the violations contained in this report:

<u>Item</u>	<u>Description</u>	<u>Page No(s).</u>
A	The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent in writing of its intention to receive investment advisory services from Highmark Inc. and administrative services from RBS, both affiliated companies, at least 30 days prior to receiving such services.	8
B	The Company violated Section 86.4(a) of Department Regulation No. 95 by failing to include the required fraud warning statement on its stop loss claim forms that are utilized by RBS, the Company's Third Party Administrator.	21
C	The Company violated Section 2108(a)(3) of the New York Insurance Law by allowing three (3) Third Party Administrators to adjudicate claims without being licensed as independent adjusters.	21
D	The Company violated Section 3234(b)(3) of the New York Insurance Law by failing to include an identification of the service for which the claim was made on its explanation of benefits forms.	22

APPOINTMENT NO. 30571

STATE OF NEW YORK
INSURANCE DEPARTMENT

I, JAMES J. WRYNN, Superintendent of Insurance of the State of New York,
pursuant to the provisions of the Insurance Law, do hereby appoint:

ROBERT MOORE

as a proper person to examine into the affairs of the

HM LIFE INSURANCE COMPANY OF NEW YORK

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

COMPANY

with such other information as he shall deem requisite.

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

this 3rd day of August, 2010

JAMES J. WRYNN
Superintendent of Insurance

James J. Wrynn
Superintendent

