

**REPORT ON EXAMINATION**

**OF**

**EMPIRE HEALTHCHOICE ASSURANCE, INC.**

**AS OF**

**DECEMBER 31, 2016**

**DATE OF REPORT**

**OCTOBER 3, 2018**

**EXAMINERS**

**SHAWN TOWCHIK, CFE**

**SYLVIA D. LAWSON, AIE, AINS, ARM,  
CLU, MBA**

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of the examination	3
2.	Description of the Company	6
	A. Management and controls	7
	B. Corporate governance	8
	i. Enterprise risk management	8
	ii. Internal Audit Department	9
	C. Territory and plan of operation	9
	D. Risk-based capital	11
	E. Holding company system	11
	F. Reinsurance	13
	G. Internal controls	13
	H. Facilitation of the examination	15
3.	Financial statements	16
	A. Balance sheet	17
	B. Statement of revenue and expenses and capital and surplus	19
4.	Subsequent events	21
5.	Compliance with prior report on examination	22
6.	Summary of comments and recommendations	23



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

October 3, 2018

Honorable Maria T. Vullo  
Superintendent of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and acting in accordance with the instructions contained in Appointment Number 31677, dated October 18, 2017, attached hereto, we have made an examination into the condition and affairs of Empire HealthChoice Assurance, Inc., an accident and health insurer licensed pursuant to Article 42 of the New York Insurance Law, as of December 31, 2016, and submit the following report thereon.

The examination was conducted at the home office of Empire HealthChoice Assurance, Inc.'s ultimate parent, Anthem, Inc., located at 120 Monument Circle, Indianapolis, Indiana.

Empire HealthChoice Assurance, Inc. is a wholly-owned subsidiary of WellPoint Holding Corporation ("WHC"). WHC is a wholly-owned subsidiary of Anthem, Inc.

Wherever the designations "EHCA" or the "Company" appear herein, without qualification, they should be understood to indicate Empire HealthChoice Assurance, Inc.

Wherever the designation "EHC HMO" appears herein, without qualification, it should be understood to indicate Empire HealthChoice HMO, Inc., a wholly-owned subsidiary of Empire HealthChoice Assurance, Inc.

Wherever the designations “WellPoint Holding Corporation” or “WHC” appear herein, without qualification, they should be understood to indicate WellPoint Holding Corporation, the Parent of EHCA.

Wherever the designation “Anthem” appears herein, without qualification, it should be understood to indicate Anthem, Inc., the ultimate Parent of WHC. On December 2, 2014, WellPoint, Inc. changed its corporate name to Anthem, Inc.

Wherever the designation the “Department” appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services.

Wherever the designation the “Companies” appears herein, without qualification, it should be understood to indicate Empire HealthChoice Assurance, Inc., and Empire HealthChoice HMO, Inc., collectively.

A concurrent examination was made of Empire HealthChoice HMO, Inc., a subsidiary health maintenance organization, certified pursuant to the provisions of Article 44 of the New York State Public Health Law. A separate report thereon has been submitted.

## 1. SCOPE OF THE EXAMINATION

EHCA was previously examined as of December 31, 2013. This examination of the Company was a financial examination as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2017 Edition* (“the Handbook”) and it covered the three-year period, January 1, 2014 through December 31, 2016. The examination was conducted observing the guidelines and procedures in the Handbook, and where deemed appropriate by the examiners, transactions occurring subsequent to December 31, 2016 were also reviewed.

The examination was conducted on a risk-focused basis in accordance with the provisions of the Handbook, which provides guidance for the establishment of an examination plan based on the examiners’ assessment of risk in EHCA’s operations and utilizes that evaluation in formulating the nature and extent of the examination. The examiners planned and performed the examination to evaluate EHCA’s current financial condition, as well as identify prospective risks that may threaten the future solvency of EHCA.

The examiners identified key processes, assessed the risks within those processes and assessed the internal control systems and procedures used to mitigate those risks. The examination also included an assessment of the principles used and significant estimates made by management, an evaluation of the overall financial statement presentation, and determined management’s compliance with the Department’s statutes and guidelines, Statutory Accounting Principles, as adopted by the Department, and annual statement instructions.

Information concerning EHCA's organizational structure, business approach and control environment were utilized to develop the examination approach. The examination evaluated EHCA's risks and management activities in accordance with the NAIC's nine branded risk categories.

These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The examination also evaluated EHCA's critical risk categories in accordance with the NAIC's ten critical risk categories. These categories are as follows:

- Valuation/Impairment of Complex or Subjectively Valued Invested Assets
- Liquidity Considerations
- Appropriateness of Investment Portfolio and Strategy
- Appropriateness/Adequacy of Reinsurance Program
- Reinsurance Reporting and Collectability
- Underwriting and Pricing Strategy/Quality
- Reserve Data
- Reserve Adequacy
- Related Party/Holding Company Considerations
- Capital Management

EHCA was audited annually for the years 2014 through 2016, by the accounting firm of Ernst & Young, LLP ("EY"). EHCA received an unmodified opinion in each of those years. Certain audit work papers of EY were reviewed and relied upon in conjunction with this examination. A review was also made of Anthem, Inc.'s Internal Audit function, Sarbanes-

Oxley/Model Audit Rule (“SOX/MAR”) function, and Enterprise Risk Management program, as they relate to the Company.

This examination was conducted as a coordinated examination, as such term is defined in the Handbook (an examination of one insurer or a group of insurers performed by examiners from more than one state whereby the participating states share resources and allocate work among the examiners), of the insurance subsidiaries of Anthem. The examination was led by the state of Indiana with participation from three (3) other states: New York, New Hampshire, and Texas. Since the lead and participating states are accredited by the NAIC, all states deemed it appropriate to rely on each other’s work. The examination team, representing the participating states, identified and assessed the risks for key functional activities across all of the Anthem insurance subsidiaries. The examination team also assessed the relevant prospective risks as they related to the insurance entities.

Additionally, as part of this coordinated examination and in accordance with the provisions of the Handbook, an information systems review was made on a risk-focused basis, of Anthem’s computer systems and operations that support EHCA.

The examiners reviewed the corrective actions taken by the Company with respect to the recommendations concerning financial issues contained in the prior report on examination. The results of the examiners’ review are contained in Item 5 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.

## **2. DESCRIPTION OF THE COMPANY**

EHCA is a New York domiciled accident and health insurance company licensed under Article 42 of the New York Insurance Law. EHCA is a wholly-owned subsidiary of Anthem, a publicly traded company. Effective December 2, 2014, Anthem changed its corporate name from WellPoint, Inc. Effective November 7, 2002, Empire Blue Cross Blue Shield converted from an Article 43 non-profit health service corporation to an Article 42 for-profit accident and health insurer. Simultaneously with the conversion, Empire Blue Cross and Blue Shield merged with its subsidiary, EHCA with Empire Blue Cross and Blue Shield being the surviving corporation and taking the name of the subsidiary, Empire HealthChoice Assurance, Inc. EHCA wholly owns Empire HealthChoice HMO, Inc., a for-profit New York domiciled health maintenance organization (“HMO”), licensed under Article 44 of the New York State Public Health Law.

EHCA incurs expenses primarily from health benefit costs, such as outpatient and inpatient care, physician visits, and pharmacy benefits and administrative expenses. The Company also provides administrative services, such as claims processing, underwriting, provider network access and medical cost management under self-insured agreements. Under these contracts, the insureds retain the risk of funding payments for health benefits; however, EHCA is subject to credit risk derived from the time of the claim payment until the time of the claim reimbursement from the customer. In accordance with statutory accounting principles, the Company excludes such claim payments and subsequent reimbursements from revenue and claims on the statutory basis income statement, and the net administrative fees earned are deducted from operating expenses.



A. Management and Controls

Pursuant to the Company's By-laws, management of the Company is to be vested in a Board of Directors ("BOD") consisting of not less than seven (7) and not more than eleven (11) Directors. As of December 31, 2016, EHCA's Board of Directors was comprised of seven (7) Directors. The Audit Committee for Anthem, which is composed of outside Directors, assumes responsibility for all entities in the holding company structure. With the independent auditors, internal auditors, and the Risk Assessment and Controls group, the Anthem Audit Committee reviews the effectiveness of the accounting and financial controls and elicits recommendations that may improve controls. The Anthem Audit Committee meets each quarter and minutes of the meetings are prepared and retained.

The seven (7) Directors of EHCA and their principal business affiliation as of December 31, 2016, are as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Carter A. Beck Manchester, NH	Senior Vice-President and Counsel, Anthem, Inc.
William A. Corrigan Deer Park, NY	Regional Vice-President, Underwriting II, Anthem, Inc.
Ethel A. Graber Niskayuna, NY	Vice-President and General Manager, Upstate New York, Anthem, Inc.
William B. Hartman Slingerlands, NY	Staff Vice President, Claims, Anthem, Inc.
Patrick J. O'Keeffe Summit, NJ	Associate General Counsel, Anthem, Inc.
Randall V. Pernicone New Milford, NJ	Financial Executive, Controller, Anthem, Inc.
Lawrence G. Schreiber* New York, NY	President, Chief Executive Officer and Chairman Empire HealthChoice Assurance, Inc.

\*Effective September 5, 2018, Lawrence G. Schreiber resigned and was replaced by Alan Murray.

A review of the minutes of the BOD meetings held during the examination period revealed that the meetings were generally well attended, with all members attending at least 50% of the meetings they were eligible to attend.

The principal officers of the Company as of December 31, 2016, were as follows:

<u>Name</u>	<u>Title</u>
Lawrence G. Schreiber*	President, Chief Executive Officer and Chairman
Jay H. Wagner	Secretary
Eric K. Noble	Treasurer
Patrick J. O’Keeffe	Assistant Secretary

\*Effective September 5, 2018, Lawrence G. Schreiber resigned and was replaced by Alan Murray.

## B. Corporate Governance

Anthem, Inc. is a publicly traded, diversified health company subject to the Sarbanes-Oxley Act of 2002, EHCA is required to be compliant with Insurance Regulation 203 (11 NYCRR 82) – Enterprise Risk Management and Own Risk and Solvency Assessment. Controls are identified by management and testing is managed and monitored by the Anthem Risk Control and Assurance Group that reports up through the Anthem Internal Audit Department (“IAD”). Shared services are managed by Anthem and include information technology, risk management, investments, accounting, and internal audit.

### i. Enterprise Risk Management

Anthem has adopted an Enterprise Risk Management (“ERM”) framework for proactively addressing and mitigating risks, including prospective business risks. Exhibit M of the Handbook (*Understanding the Corporate Governance Structure*) was utilized by the examiners as guidance for assessing corporate governance. It appears that the Company’s BOD and key executives maintain an effective control environment.

ii. Internal Audit Department

Anthem has an established Internal Audit Department (“IAD”) function, which is independent of management, to serve the Anthem Audit Committee of the BOD (“the Audit Committee” or “AC”). In addition, Anthem has established an Audit Council to address the requirements of Insurance Regulation 118 (11 NYCRR 89) – Audited Financial Statements, New York’s version of the NAIC’s Model Audit Rule, and to assist management at the local level with any insurance regulatory reviews.

During the course of this examination, consideration was given to the significance and potential impact of certain IAD and Risk Control and Assurance (“RCA”) findings. To the extent possible, the examiners relied upon the work performed by the IAD, as prescribed by the Handbook.

No exceptions were noted by the examiners relative to the Company’s corporate governance.

C. Territory and Plan of Operation

EHCA is licensed in New York State pursuant to the provisions of Article 42 of the New York Insurance Law. EHCA is licensed to sell accident and health insurance in the State of New York and primarily issues group accident and health insurance contracts to employers and associations.

The Company is a licensee of the Blue Cross and Blue Shield Association (“BCBSA”) and markets its products under the Blue Cross/Blue Shield trade name. EHCA, including its predecessor company, has been in operation over forty (40) years and offers traditional indemnity products, including prescription drug and dental coverage, and a diversified mix of managed care

products, including preferred provider organizations (“PPOs”), to employers and individuals in the Greater New York City metropolitan region and select upstate counties in New York State. Additionally, the Company provides administrative services, including claim processing, underwriting and provider network access, to certain health plans, as well as medical cost management, under self-insured agreements, to other insurers.

As a BCBSA licensee, the Company participates in the Federal Employee Program (“FEP”) and the Blue Card program. The FEP is a nationwide contract with the Federal Office of Personnel Management (“OPM”) that provides health benefit coverage to Federal employees and their dependents. The BlueCard program is a BCBSA nationwide program that enables members who need health care services while traveling or living outside their service area to access their benefits through local BCBSA plan providers. It also allows the cost of the service to be calculated in accordance with the local plan’s contract with providers.

The following table displays EHCA’s net admitted assets, capital and surplus, net premium income, and net income during the period under examination:

	<u>Net Admitted Assets</u>	<u>Capital and Surplus</u>	<u>Net Premium Income</u>	<u>Net Income</u>
2016	\$2,501,034,279	\$ 877,405,379	\$2,195,945,044	\$192,963,432
2015	2,378,894,775	928,503,236	2,586,385,405	145,075,250
2014	2,709,039,709	1,130,708,665	2,438,853,413	326,028,086

As of December 31, 2016, health care services were provided to 775,400 members. The following chart shows annual membership changes during the examination period by number and percentage:

	<u>2014</u>	<u>2015</u>	<u>2016</u>
Members	860,685	862,703	775,400
% of Change	(51.97)%	0.23%	(10.12)%

D. Risk-Based Capital

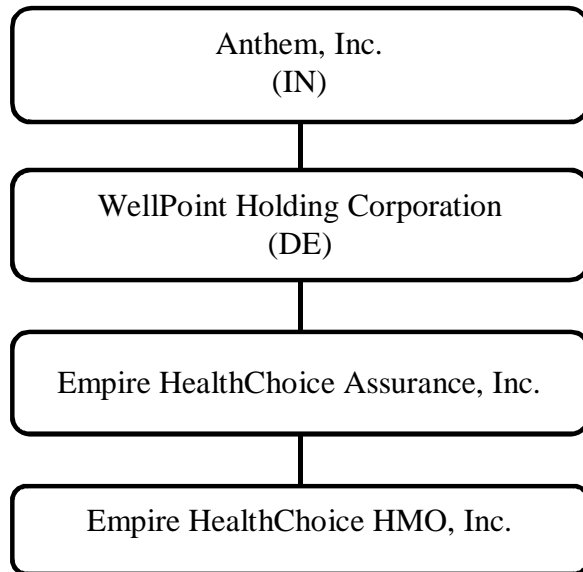
Risk-Based Capital (“RBC”) measures the minimum amount of capital appropriate for the Company to support its overall business operations in consideration of its size and inherent risks. An RBC of 300 or below can result in regulatory action.

The Company’s RBC during the examination period was above the regulatory action level.

E. Holding Company System

As of the examination date, EHCA was a wholly-owned subsidiary of WHC, which is a wholly-owned subsidiary of Anthem, a publicly traded company. As a member of a holding company system, EHCA is required to file registration statements pursuant to Article 15 of the New York Insurance Law and Insurance Regulation 52 (11 NYCRR 80). All pertinent filings made during the examination period, regarding the aforementioned statute and regulation were reviewed. No problem areas were noted.

The following chart depicts the Company’s abbreviated holding company system as of December 31, 2016:



The Company, during the examination period, was a party to inter-company agreements with its affiliates, which were subject to the Department’s review and approval. These agreements involved activities such as administrative services, cash management, investment management, and tax allocation.

Section 1505(d)(3) 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 (30) days prior thereto... and the superintendent has not disapproved it within such period...

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

Inter-company agreements and amendments for EHCA that were in place as of December 31, 2016, included the following:

- Amended and Restated WellPoint Master Administrative Services Agreement – The Company entered into an Amended and Restated Master Administrative Services Agreement, effective August 1, 2007, with Anthem (fka “WellPoint”) and its subsidiaries

and affiliates. This agreement was submitted to the Department on April 3, 2006 and was approved by the Department on July 3, 2008.

The Company subsequently amended this agreement and as such the amended agreement became effective January 1, 2014. This amendment was not filed with the Department, as required by Section 1505(d)(3) of the New York Insurance Law.

It is recommended that the Company comply with Section 1505(d)(3) of the New York Insurance Law by notifying the Department thirty (30) days prior to entering into any affiliated transactions that require such submission.

- Master Services Agreement – The Company entered into an established Master Services Agreement between WellPoint and Bloom Health Corporation (Bloom) via a joinder agreement effective July 1, 2013. This agreement permitted the Parent and subsidiaries to utilize a web-based software application that was developed by Bloom. Further, this joinder agreement was submitted to the Department on April 18, 2013, and a letter of no objection was sent to EHCA on July 2, 2013.

Effective, June 30, 2016, Bloom was acquired by Empyrean Benefit Solutions, Inc., its Texas based strategic partner. Prior to the acquisition, Anthem owned majority shares of Bloom. As of the acquisition date, Bloom was no longer a related party with the Companies.

On July 1, 2018, subsequent to the examination period, this agreement was terminated.

- Federal Income Tax Allocation Agreement – The Company entered into an Amended Consolidated Federal Income Tax Agreement, effective December 15, 2006, with Anthem (fka “WellPoint”) and its subsidiaries. This agreement was submitted to the Department on September 28, 2006, and a letter of no objection was sent to the Company on October 4, 2006.

F. Reinsurance

There was no reinsurance assumed or ceded during the period under examination.

G. Internal Controls

The NAIC Risk Focused Surveillance approach to financial examinations relies on the review of mitigating controls applicable to the inherent risks of the companies examined. In the

case of Anthem and EHCA, the mitigating controls are housed in “Open Pages”, a vendor purchased software package. Controls related to the Anthem Sarbanes-Oxley (“SOX”) and Insurance Regulation 118 (11 NYCRR 89) are tested and monitored by Anthem’s Risk Control and Assurance (“RCA”) group. Within Anthem’s SOX records, the internal controls applicable to EHCA were identified by its management.

A thorough review of Anthem’s SOX controls documentation and the Companies’ MAR internal controls were an important component of the examination process. There were no identified material weaknesses or significant deficiencies identified by EY, the Companies’ Auditor. Additionally, there were no material control deficiencies or internal control observations noted by the examiners during the review of Anthem’s and the Companies’ internal controls that warranted attention.

The information technology (“IT”) environment for EHCA is managed in a shared services model by Anthem, Inc. Under this model, Anthem manages all aspects of information technology for the entire holding company.

IT infrastructure and operations for the financially significant systems identified were managed at the data centers located in Richmond, Virginia, and in St. Louis, Missouri.

The examination encompassed a review of the controls for financially significant applications, systems and infrastructure. The IT portion of the examination was performed in accordance with the Handbook and utilized applicable procedures found in Exhibit C – *Evaluation of Controls in Information Technology* – of the Handbook.



Controls for financially significant applications, systems, and underlying infrastructure in each of the NAIC Exhibit C Information Technology Work Program areas listed below represent the framework for the scope of this examination. The following control areas were reviewed:

- Align, Plan and Organize;
- Build, Acquire and Implement;
- Deliver, Service and Support; and
- Monitor, Evaluate, and Assess.

It was determined that the overall assessment of EHCA's IT General Controls ("ITGC") environment for the key financial systems that supported the preparation of the Company's financial statements supported an ITGC reliance-based financial examination. The IT examiners assessed the ITGC for EHCA as effective.

#### H. Facilitation of the Examination

Section 310(a)(3) of the New York Insurance Law states:

"The officers and agents of such insurer or other person shall facilitate such examination and aid such examiners in conducting the same so far as it is in the power to do so."

Various requests for data were made by the examiners to management of the Company. It should be noted that the Company's management failed to provide the examiners with the requested documentation in a timely manner. Failure to provide the documentation in a timely manner led to numerous delays in the examination process.

It is recommended that the Company comply with the provisions of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.

A similar recommendation was cited in the prior report on examination.

### 3. **FINANCIAL STATEMENTS**

The following statements show the assets, liabilities, capital and surplus as of December 31, 2016, as contained in the Company's 2016 filed annual statement, a condensed summary of operations and a reconciliation of the capital and surplus account for each of the years under review. The examiners' review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in the financial statements contained in the December 31, 2016 filed annual statement.

The firm of EY was retained by Anthem to audit EHCA's statutory basis statements of financial position as of December 31<sup>st</sup> 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.

EY 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.

A. Balance SheetAssets

Bonds	\$ 923,560,928
Preferred stocks	7,931,338
Common stocks	223,931,842
Cash and short-term investments	(48,711,326)
Other invested assets	232,501,546
Receivables for securities	140,001
Securities lending reinvested collateral assets	103,440,896
Aggregate write-ins for invested assets	3,497,715
Investment income due and accrued	11,407,915
Uncollected premiums in the course of collection	55,518,778
Deferred premiums, agents' balances and installments booked but deferred and not yet due	120,123,751
Accrued retrospective premiums	1,567,941
Amounts receivable relating to uninsured plans	398,978,610
Net deferred tax asset	49,769,883
Receivables from parent, subsidiaries and affiliates	56,220,463
Health care and other amounts receivable	8,258,863
Aggregate write-ins for other than invested assets:	
New York assessment	221,054,852
FEP assets held by agent	88,184,377
Accounts receivable inter plan activity	34,102,435
Medicare receivables	4,052,409
Demographic pooling receivables (Insurance Regulation 146)	3,347,714
Premium taxes recoverable	1,357,469
Miscellaneous receivables	788,299
Prepaid expenses	<u>7,580</u>
Total assets	\$ <u>2,501,034,279</u>

Liabilities

Claims unpaid	\$ 346,846,698
Accrued medical incentive pool and bonus amounts	8,908,348
Unpaid claims adjustment expenses	7,999,000
Aggregate health policy reserves including liability of \$0 for medical loss ratio rebate per the Public Health Service Act	98,569,362
Aggregate health claim reserves	161,784
Premiums received in advance	7,768,615
General expenses due and accrued	59,013,495
Current federal and foreign income tax payable and interest thereon	13,781,881
Amounts withheld or retained for the account of others	23,127,192
Remittances and items not allocated	32,487,101
Amounts due to parents, subsidiaries and affiliate affiliates	241,689,293
Payable for securities	1,372,416
Payable for securities lending	103,440,896
Liability for amounts held under uninsured plans	544,217,524
Aggregate write-ins for other liabilities:	
Escheat liability	74,089,345
Accounts payable – out-of-area program – Home Plan	45,433,230
Accounts payable – miscellaneous	9,983,292
Other premium liability	2,578,891
Pooling payable – (Insurance Regulation 146)	1,985,403
Low income housing credits	<u>175,134</u>
Total liabilities	\$ <u>1,623,628,900</u>

Capital and Surplus

Common capital stock	\$ 300,000
Gross paid-in and contributed surplus	188,082,137
Unassigned funds (surplus)	<u>689,023,242</u>
Total capital and surplus	\$ <u>877,405,379</u>
Total liabilities, capital and surplus	\$ <u>2,501,034,279</u>

**NOTE:** The Internal Revenue Service (“IRS”) routinely conducts a Compliance Assurance evaluation of tax returns for Anthem and its affiliates. There were no known IRS findings reported from the Compliance Assurance evaluation completed for December 31, 2014, December 31, 2015 or December 31, 2016. The examiners are unaware of any potential exposure of issues related to EHCA for any tax assessments and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Capital and Surplus

The Company's capital and surplus decreased by \$834,473,607 during the three-year examination period, January 1, 2014 through December 31, 2016, detailed as follows:

Revenue

Premium income	\$ 7,221,183,862	
Change in unearned premium reserve	<u>98,667,066</u>	
Total revenue		\$ 7,319,850,928

Hospital and medical expenses

Hospital/medical benefits	\$ 4,046,383,657	
Other professional services	210,540,667	
Outside referrals	432,978,305	
Emergency room and out-of-area	732,637,490	
Prescription drugs	864,815,628	
Aggregate write-ins for other hospital and medical	(26,201,332)	
Incentive pool, withhold adjustments and bonus amounts	<u>31,928,883</u>	
Total hospital and medical expenses	\$ 6,293,083,298	
Claims adjustment expenses	115,071,331	
General administrative expenses	531,614,695	
Increase in reserves for life and accident and health contracts	<u>(30,997,805)</u>	
Total underwriting deductions		<u>6,908,771,519</u>
Net underwriting gains		\$ 411,079,409
Net investment income earned		320,594,579
Net realized capital gains less capital gains tax		<u>45,101,580</u>
Net investment gains		<u>365,696,159</u>
Net loss from agents' premium balances charged off		(141,453)
Aggregate write-ins for other income or expense		<u>85,832,688</u>
Net income before federal and foreign income taxes		\$ 862,466,803
Federal and foreign income taxes incurred		<u>198,400,035</u>
Net income		\$ <u>664,066,768</u>

Changes in Capital and Surplus

Capital and surplus, per report on examination, as of December 31, 2013			\$ 1,711,878,986
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 664,066,768		
Net change in unrealized capital gains		\$ 229,202,252	
Change in net deferred income tax		16,051,079	
Change in non-admitted assets	16,712,956		
Dividends to stockholders	<u>                    </u>	<u>1,270,000,000</u>	
Net change in capital and surplus			\$ <u>(834,473,607)</u>
Capital and surplus, per report on examination, as of December 31, 2016			\$ <u>877,405,379</u>

#### **4. SUBSEQUENT EVENTS**

On August 11, 2017, the Department granted EHC HMO an exemption pursuant to Section 4406(1) of the New York State Public Health Law and Section 4328(a) of the New York Insurance Law, which permits EHCA to meet the obligations of EHC HMO to offer individual direct payment contracts in accordance with Section 4328 of the New York Insurance Law. The exemption is conditioned upon EHCA's ongoing compliance with the applicable statutes, which includes providing all the consumer protections required to be provided by an HMO, including those set forth in Sections 4406 and 4408(a) of the New York State Public Health Law. Effective January 1, 2018, EHCA began offering individual direct payment contracts both within and outside the New York State of Health ("NYSOH"), New York state's health insurance marketplace.

In November 2017, Joseph Swedish retired as CEO of Anthem and was succeeded by Gail Boudreaux, the former CEO of UnitedHealth Group's insurance division, effective November 20, 2017. It should be noted that Mr. Swedish later served as Executive Chairman of Anthem from November 2017 to May 2018.

Effective September 5, 2018, Lawrence G. Schreiber resigned as the Companies' President, Chairman of the Board and Chief Executive Officer; he was replaced by Alan Murray.

## 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2013, contained the following five (5) comments and recommendations pertaining to the financial portion of the examination (page number refers to the prior report on examination):

### ITEM NO.

### PAGE NO.

#### Facilitation of the Examination

- |    |   |    |
|----|---|----|
| 1. | It is recommended that the Company comply with the requirements of Section 310(a)(3) of the New York Insurance Law by providing the requested documentation in a timely manner. | 18 |
|    | <i>The Company has not complied with this recommendation. A similar recommendation appears in this report.</i>  |    |

#### Accounts and Records

- |    |  |    |
|----|--|----|
| 2. | It is recommended that the Appointed Actuary's technical component of the Actuarial Memoranda include the analysis from the basic data, (e.g., claim lags) to the conclusions, as is required by the NAIC Health Annual Statement Instructions.                | 18 |
|    | <i>The Company has complied with this recommendation.</i>  |    |
| 3. | It is also recommended that the Appointed Actuary organize the technical appendices in a manner such that the analysis can be followed from data to conclusions.   | 18 |
|    | <i>The Company has complied with this recommendation.</i>  |    |
| 4. | It is further recommended that the Company establish and implement a control to prevent the omission of required components during the preparation of the Actuarial Memoranda.   | 19 |
|    | <i>The Company has complied with this recommendation.</i>  |    |
| 5. | It is recommended that the Appointed Actuary include in all Actuarial Memoranda an exhibit that reconciles the Annual Statement and compares the Actuary's conclusions to the carried amounts as is required by the NAIC Health Annual Statement Instructions. | 19 |
|    | <i>The Company has complied with this recommendation</i>   |    |



**6. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<b><u>ITEM</u></b>		<b><u>PAGE NO.</u></b>
A.	<u>Holding Company System</u>	
	It is recommended that the Company comply with Section 1505(d)(3) of the New York Insurance Law by notifying the Department thirty (30) days prior to entering into any affiliated transactions that require such submission.	13
B.	<u>Facilitation of the Examination</u>	
	It is recommended that the Company comply with the provisions of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.	15
	A similar recommendation was cited in the prior report on examination.	

Respectfully submitted,

---

Shawn Towchik, CFE  
Insurance Examiner

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

**Shawn Towchik**, being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

---

Shawn Towchik, CFE

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Respectfully submitted,

\_\_\_\_\_  
Sylvia D. Lawson, AIE, AINS, ARM, CLU, MBA  
Principal Insurance Examiner

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

**Sylvia D. Lawson**, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of her knowledge and belief.

\_\_\_\_\_  
Sylvia D. Lawson, AIE, AINS, ARM, CLU, MBA  
Principal Insurance Examiner

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

**Risk & Regulatory Consulting, LLC**

as a proper person to examine the affairs of the

**Empire HealthChoice Assurance, Inc.**

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

**Company**

with such other information as they shall deem requisite.

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

this 18th day of October, 2017

MARIA T. VULLO  
Superintendent of Financial Services

By:



---

Lisette Johnson  
Bureau Chief  
Health Bureau

