

**SPECIAL MARKET CONDUCT REPORT ON EXAMINATION**

**OF**

**OXFORD HEALTH PLANS OF NEW YORK, INC**

**AND**

**OXFORD HEALTH INSURANCE, INC.**

**AS OF**

**SEPTEMBER 30, 2004**

**DATE OF REPORT**

**JULY 17, 2007**

**EXAMINER**

**BRUCE BOROFSKY**

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Companies	2
3.	Underwriting and rating	3
4.	Commission payments	5
5.	Summary of comments and recommendations	6



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

Eliot Spitzer  
Governor

Eric R. Dinallo  
Superintendent

July 17, 2007

Honorable Eric R. Dinallo  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the provisions of the New York Insurance Law and acting in accordance with directions contained in Appointment Numbers 22266 and 22267, dated December 14, 2004, and annexed hereto, I have made a special market conduct examination into the affairs of Oxford Health Plans of New York, Inc., a for-profit health maintenance organization licensed under Article 44 of the New York Public Health Law and Oxford Health Insurance, Inc. a subsidiary health insurer licensed under Article 42 of the New York Insurance Law, at their home office located at 48 Monroe Turnpike; Trumbull, CT. The following report thereon is respectfully submitted.

Wherever the terms "OHPNY" or "the Plan" appear herein, without qualification, they should be understood to refer to Oxford Health Plans of New York, Inc. Wherever the terms "OHI" or "the Company" appear herein, without qualification, they should be understood to refer to Oxford Health Insurance, Inc. Wherever the term "Oxford" appears herein, without qualification, it should be understood to refer to both Oxford Health Plans of New York, Inc. and Oxford Health Insurance, Inc.

## **1. SCOPE OF EXAMINATION**

This special market conduct examination was conducted to review compliance with Sections 4235(h)(1) and 4308(b) of the New York Insurance Law and Department Regulation 62 ({11 NYCRR 52} Minimum Standards for the Form, Content and Sale of Health Insurance...). The examination targeted Oxford's rating practices for its Large Group Experience Rated business and entailed a review of the compensation for agents and brokers involved with the selling of these products. The examination covered the period January 1, 2003 to September 30, 2004, however, transactions prior to and subsequent to this period were reviewed where deemed appropriate.

The examination encompassed a review of the point-of-service (POS) product offered jointly by OHPNY (in-network benefits) and OHI (out-of-network benefits) and the indemnity PPO product offered solely by OHI. This special examination report is confined to comments on those matters which involve departures from laws, regulations or rules, or which are deemed to require an explanation or description.

## **2. DESCRIPTION OF COMPANIES**

OHPNY is a health maintenance organization ("HMO") incorporated on April 19, 1985 under New York State Law as a for-profit corporation for the purpose of providing comprehensive health care services on a prepaid basis, and for the purpose of establishing and operating an HMO and health care delivery systems.

OHI was incorporated in New York State on January 30, 1987 for the purpose of providing accident and health insurance products. It obtained its license from New York State to do the business of accident and health insurance on July 1, 1987, and it commenced operations on that date.

From its date of incorporation until December 31, 1997, OHI was a wholly-owned subsidiary of Oxford Health Plans, Inc., a Delaware corporation. On that date, Oxford transferred 100% ownership of OHI to Oxford Health Plans of New York, Inc. On July 29, 2004, the Plan was merged with the UnitedHealth Group, Incorporated.

### **3. UNDERWRITING AND RATING**

A review of Oxford's large group experience rating practices and policies was performed to determine compliance with Sections 4308(b) and 4235(h)(1) of the New York Insurance Law and Department Regulation 62 (11 NYCRR 52). The examination encompassed a review of randomly selected samples of the point-of-service (POS) product offered jointly by OHPNY and OHI and the PPO product offered solely by OHI. The samples included new and renewal business.

Section 4235(h)(1) of the New York Insurance Law states in pertinent part:

“Each domestic insurer and each foreign or alien insurer doing business in this state shall file with the superintendent its schedules of premium rates, rules and classification of risks for use in connection with the issuance of its policies of group accident, group health or group accident and health insurance, and of its rates of commissions, compensation or other fees or allowances to agents and brokers...”

Section 4308(b) of the New York Insurance Law states in pertinent part:

“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 schedule of the premiums or, if appropriate, rating formula from which premiums are determined, to be paid under the contracts and shall have obtained the superintendent's approval thereof...”

The examination selected a sample of fifteen (15) Point-of-Service (POS) contracts and fifteen (15) Indemnity/PPO contracts for review. A review of the underwriting folders and supporting documentation for the Groups revealed the following:

- An error was discovered in calculating the factor “pooling charges”, resulting in a lower pooling charge for several groups. Oxford indicated that this was a mechanical error of which it had been aware. The error was in the Experience Rate Model and was caused when 2005 dates were not recognized by the program in the pooling charge formula. This error resulted in 34 (OHPNY & OHI) experience rated renewals being issued with the incorrect pooling charge for 1/1/05 and in each case, the error favored the groups.
- In several additional cases, differences were noted between factors approved from the rating formula and those utilized by Oxford. These factors include the “retention”, “medical trend” factors as well as the weights applied to the experience from previous years. In several cases, these differences were the result of rounding. In other cases, the Plan noted the differences were the result of underwriter judgment.
- In multiple cases, the calculated rate was not the final rate that was adopted for the group. In these instances, the rate was incorrectly transcribed, resulting in the application of an incorrect rate being charged.

It is recommended that OHPNY comply with New York Insurance Law §4308(b) and OHI comply with New York Insurance law 4235(h)(1) and charge rates and utilize formulae that have been submitted to the Superintendent for approval.

It is noted that this recommendation was also made in a previous report on examination.

#### **4. COMMISSION PAYMENTS**

As part of the examination of rates detailed in this report, a review was also completed in regard to Oxford's compliance with New York statutes regarding the payment of commissions.

Part 52.42(e) of New York Insurance Department Regulation 62 (11 NYCRR 52.42(e)) states in pertinent part:

“A health maintenance organization (HMO) issued a certificate of authority pursuant to article 44 of the Public Health Law,...may, as authorized by 10NYCRR Part 98, pay commissions or fees to a licensed insurance broker. Such authority to pay commissions or fees by a corporation, other than a corporation solely holding a certificate of authority from the Commissioner of Health, shall be restricted to its HMO operation only...The actual rate per annum may not exceed four percent of the HMO's approved premium for the contract sold.”

While OHPNY pays no more than a four percent commission on its HMO business as permitted under the cited regulation, the Plan also pays bonuses which have the effect of increasing the amount of commission to a level beyond that permitted by the above mentioned Department regulation.

It is recommended that the Plan comply with the four percent commission rate payment limitation of Part 52.42(e) of New York Insurance Department Regulation 62 (11 NYCRR 52.42(e)).

**5. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<b><u>ITEM</u></b>		<b><u>PAGE NO.</u></b>
i.	It is recommended that OHPNY comply with New York Insurance Law §4308(b) and OHI comply with New York Insurance law 4235(h)(1) and charge rates and utilize formulas that have been submitted to the Superintendent for approval	4
ii.	It is recommended that the Plan comply with the four percent commission rate payment limitation of Part 52.42(e) of New York Insurance Department Regulation 62 (11 NYCRR 52.42(e)).	5

Appointment No. 22266

**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:

**Bruce Borofsky**

*as a proper person to examine into the affairs of the*

**Oxford Health Plans of New York, Inc.**

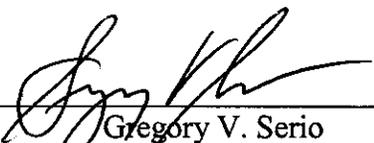
*and to make a report to me in writing of the said*

**Company**

with such information as he 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 14 day of December 2004

  
\_\_\_\_\_  
Gregory V. Serio  
Superintendent of Insurance



Appointment No. 22267

**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:

**Bruce Borofsky**

*as a proper person to examine into the affairs of the*

**Oxford Health Insurance, Inc.**

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

**Company**

with such information as he 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 14 day of December 2004

  
\_\_\_\_\_  
Gregory V. Serio  
Superintendent of Insurance

