

**SPECIAL MARKET CONDUCT**

**REPORT ON EXAMINATION**

**OF**

**UNITED HEALTHCARE OF NEW YORK, INC.**

**AND**

**UNITED HEALTHCARE INSURANCE COMPANY OF NEW YORK**

**AS OF**

**MARCH 31, 2003**

**DATE OF REPORT:**

**MAY 1, 2003**

**EXAMINER:**

**KATHLEEN GROGAN**

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INSURANCE DEPARTMENT  
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George E. Pataki  
Governor

Gregory V. Serio  
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May 1, 2003

Honorable Gregory V. Serio  
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Sir:

Pursuant to the provisions of the New York Insurance Law and acting in accordance with directions contained in Appointment Numbers 21951 and 21952 dated November 15, 2002, attached hereto, I have made a special market conduct examination into the condition and affairs of UnitedHealthcare of New York, Inc. a health maintenance organization certified under Article 44 of the New York Public Health Law; and United HealthCare Insurance Company of New York, an accident and health insurer licensed pursuant to the provisions of Article 42 of the Insurance Law as of March 31, 2003. The examination was conducted at the Companies' home office located at 2 Pennsylvania Plaza, New York, New York. The following report thereon is respectfully submitted.

Whenever the terms "UHC of NY" or "the HMO" appears in this report without qualification it should be understood to refer to UnitedHealthcare of New York, Inc. Whenever the term "UHC Insurance Co. of NY" appears in this report without qualification it should be understood to refer to United HealthCare Insurance Company of New York. Whenever the terms "the Companies" or "UHC" appear in this report they should be understood collectively to refer to United HealthCare Insurance Company of New York and to UnitedHealthcare of New York, Inc.

## **1. SCOPE OF EXAMINATION**

The special examination was conducted to review compliance with Sections 4308(b) and 4308(g) ("file and use") of the New York Insurance Law. It was targeted toward a review of the manner in which UHC developed and implemented its file and use applications for premium rate increases that were submitted to be effective in the third quarter of 2002 and the first quarter of 2003. The examination scope was expanded to cover the 15-month period January 1, 2002 through March 31, 2003 however; transactions prior to and subsequent to this period were reviewed where deemed appropriate.

The review also concentrated on validating business segment (i.e. individual, small group, large group and Healthy New York) data as presented in UHC of NY's filed 2001 Annual Statement and quarterly statements for the period January 1, 2002 through the first quarter of 2003. In addition, UHC's 2001 "Loss Ratio Report" filing made pursuant to Section 4308(h) of the New York Insurance Law was reviewed.

The examination included a review of the activities of United Healthcare of Upstate New York. Effective December 31, 2002, the business was merged into UHC of NY.

This report on special examination is confined to comments on those issues that involve matters that deviate from laws, regulations and rules, or which are deemed to require an explanation or description.

## **2. DESCRIPTION OF COMPANIES**

UHC of NY is a health maintenance organization (HMO) certified under Article 44 of the New York Public Health Law. UHC Insurance Co. of NY is a for-profit accident and health insurer licensed under Article 42 of the New York Insurance Law. United Healthcare of Upstate New York (UHC of Upstate NY) was an HMO, certified under Article 44 of the Public Health Law. Effective December 31, 2002, UHC of Upstate NY was merged into UHC of NY.

UHC of NY's immediate parent is UnitedHealthcare, Inc., which is a subsidiary of United HealthCare Services, Inc., a Minnesota company. UHC Insurance Company's immediate parent is United HealthCare Insurance Company, a Connecticut company. Both UHC of NY and UHC Insurance Co. of NY are ultimately subsidiaries of the UnitedHealth Group, Inc. (UnitedHealth Group), a publicly traded company.

UHC of NY markets a Health Maintenance Organization ("HMO") product, offering in-network benefits only and a Point of Service ("POS") product offering in-network and out-of-network benefits. The POS contract is split between UHC of NY writing the HMO (in-network) portion of the business and UHC Insurance Co of NY writing the out-of-network (POS) portion of the business. The HMO product is entirely written by UHC of NY. Additionally, a Preferred Provider Organization ("PPO") product is offered via UHC Insurance Co. of NY.

Prior to the merger with UHC of Upstate New York, UHC of NY operated in the following counties: Bronx, Nassau, Putnam, Rockland, Dutchess, New York, Queens, Suffolk, Kings, Orange, Richmond, Ulster and Westchester. After the merger, the following counties were added: Cayuga, Herkimer, Madison, Oneida, Onondaga, and Oswego.

UHC of NY maintains a management services agreement, effective November 1, 1977, with its intermediate parent company, United HealthCare Services Inc. (UHS). Under the service agreement, UHS performs a wide variety of management and administrative services for a fee. The service agreement states that UHC of NY will pay a monthly management fee based on actual costs. The total fees paid under the agreement for the years 2001 and 2002 were \$24,785,000 and \$32,267,000, respectively. The 2002 figure represents the fee paid on behalf of UHC of NY and incorporates the fee paid by UHC of Upstate NY. United Healthcare Service, LLC, and independent adjuster licensed in New York, also performs similar services for UHC Insurance Co. of NY.

### **3. EXECUTIVE SUMMARY**

The findings and recommendations noted herein reflect weakness in internal controls and procedures as they pertain to the integration of the financial reporting and rate making functions. Also highlighted are weaknesses in UHC's ability to segregate data by business segment and UHC's implementation of rate adjustments. Examples of this are reflected in:

- Submission of inaccurate Annual and Quarterly Financial Statements and New York Data Requirements in violation of Sections 307 and 308 of the New York Insurance Law.
- UHC of NY's inability to provide adequate support to justify its business segment expense allocation formulas as utilized during the period under examination.
- Submission of inaccurate Loss Ratio reports in violation of Section 4308(h) of the Insurance Law.
- Incorrect premium rates charged to UHC's individual, small group and Healthy New York policyholders throughout the period January 1, 2002 through March 31, 2003, in violation of Section 4308(g) of the Insurance Law.
- Certain UHC of NY large group HMO policyholders were charged a rate different from those on file, in violation of Section 4308(b) of the Insurance Law.
- Lack of sufficient oversight of UHC's third party administrator ("TPA") which was contracted to administer the billing functions of its direct pay policies.

#### **4. FINANCIAL STATEMENT REPORTING**

Both UHC of NY and UHC Insurance Company of NY file their financial statements on the required NAIC Health Blank. Additionally both companies are required to file additional supplementary data. UHC of NY is required to submit a New York Data Requirements supplement along with the NAIC filing and UHC Insurance Co. of NY is required to submit a "Supplement to Life and Accident and Health Annual Statement."

- New York Data Requirements

A review of UHC of NY's filed Data Requirements, annual and quarterly statements for the calendar year 2001 and the first three quarters of 2002 revealed that UHC of NY incorrectly reported premiums, claims and incorrectly allocated general administrative expenses to business segments. Accordingly, there was a distortion of underwriting results reported on its large group, small group and direct pay business segments. This is particularly troublesome considering that the HMO amended its 2001 Annual Statement five times subsequent to its initial submission. Amendments to certain 2002 Quarterly Statements were also submitted to the Department during 2002 and early 2003.

The amended filings were made primarily in response to correspondence resulting from the Department's review of the statements. The original filing reported identical Per Member per Month ("PMPM") premium income and claims figures across certain lines of business (e.g. HMO, POS). Further, for each of these lines of business, UHC of NY reported identical PMPM figures for HMO Large, Small and Individual business segments. Follow-up correspondence from the Department focused on continued errors in the data presented in the Statement of Revenue and Expenses by business segment. After four revisions submitted to the Department, the inaccuracies within the financial statements were still not corrected. When this matter was discussed at a meeting, held at the Department on January 23, 2003, UHC of NY agreed to again re-file their statements a fifth time in an attempt to finally correct the errors.

Based upon review of the documents submitted to the Department, it was determined that the 2001 Annual New York Data Requirements and the 2002 Quarterly New York Data Requirements contained erroneous data. This resulted in misstatements to the business segment results for all lines of business in violation of Sections 307 and 308 of the New York Insurance Law. These misstatements to the reported gain or loss for each line of business should have been "caught" by the persons preparing these statements beforehand, but they did not affect the total amount of premium income or claims incurred.

The Annual and Quarterly New York Data Requirements is filed with the Department pursuant to Sections 307 and 308 of the New York Insurance Law with a Jurat where the accuracy of the statement and related exhibits, schedules and explanations are attested to by the HMO's principal officers, according to their best knowledge and belief.

Allocation of administrative expenses to lines of business and business segments was also reviewed and found to be identical in a number of cases. UHC of NY's intermediate parent, UHS performs most management and administrative services for UHC of NY under a service agreement approved by the Department that requires that such expenses be allocated on an actual cost basis.

UHC of NY stated that the percentage of expenses allocated to each product line was developed using the total member months on each the following product lines: HMO, HMO in network, Medicaid, Medicare and Child Health Plus. A factor is then applied to the member months figures for each product line. UHC of NY was unable to provide adequate supporting documentation relative to the cost allocation factors used to prepare their financial statements.

It is recommended that UHC of NY present accurate information in its financial statements pursuant to Sections 307 and 308 of the New York Insurance Law.

It is recommended that UHC of NY improve its process of oversight and review of the preparation of its statutory financial statements.

It is recommended that UHC of NY management take immediate steps to develop, and put into use, a methodology for reporting premiums and claims by business segment that is based upon actual data for each such business segment.

It is recommended that when UHC of NY allocates administrative expenses it must either use actual cost allocations for each line of business or business segments reported in its financial statements, or be able to provide adequate support for the appropriate allocation factors which will be the basis for the application of the administrative expenses. Additionally, it is recommended that the basis for allocation be reviewed periodically, at least annually.

UHC of NY submitted a corrected 2001 annual report, as attested to by its officers on the Jurat Page of its filed financial statement, to the Department in March of 2003. Similarly, corrected 2002 reports were submitted to the Department in April of 2003.

- Loss Ratio Report

Healthcare companies are required to file a "Loss Ratio Report" with the Department, annually, on May first, pursuant to Section 4308(h), which states:

"Corporations subject to the provisions of this article shall annually report, no later than May first of each year, the loss ratio calculated pursuant to this subsection for each such contract form for the previous calendar year."

The 2001 loss ratio report was filed with the Department on May 1, 2002 with the required actuarial certification duly signed by its in-house actuary. The 2001 loss ratio report was revised on April 3, 2003. The following chart is a comparison of the loss ratios for the direct pay contracts as presented in the loss ratio report, filed with the Department on May 1, 2002 and the April 3, 2002 revised loss ratio report:

<u>Line of Business</u>	<u>Loss Ratio Report</u>	<u>Revised Loss Ratio Report</u>
<b>HMO</b>	148.25%	103%
<b>POS (In Network)</b>	249.08%	143%
<b>Combined</b>	181.98%	118%

It is recommended that UHC take the necessary steps to ensure that the submission of its Loss Ratio Reports filed pursuant to Section 4308(h) of the Insurance Law are accurate.

- Rate Application

UHC submitted a rate application filing dated November 5, 2002, pursuant to Section 4308(g) of the New York Insurance Law, which contained a certification by its actuary that the filing is in compliance with the prescribed loss ratios. The rate application submission was to be effective January 1, 2003 and indicated a rate increase of 45.1% for the HMO line of business and 68% on the POS line of business relative to direct pay subscribers. The rate application also denoted increases for all small and large group HMO and POS products in differing amounts ranging from 16% - 43% as well as rate increases on prescription drug riders.

UHC of NY amended its 2001 annual New York Data Requirements statement filing three times prior to the filing of its November 5, 2002 rate application. The original April 1, 2001 annual statement filing showed a loss ratio of 86.14% on the direct pay lines of business (HMO and POS in-network). The loss ratio report, filed May 1, 2002, reflected a combined loss ratio of 181.98% on the direct pay line of business and the October 24, 2002 amended filing; the last filing prior to the November 5, 2002 rate application, showed a loss ratio of 118.38%.

In response to the examiner's questions regarding the sources of the data supporting each of the statutory filings, UHC stated that the same underlying data was used in its financial statement presentation, loss ratio reports and to develop the premium rates. However, the significant inconsistencies noted between the loss ratios as indicated by the results reported in the filed financial statement and the filed loss ratio reports call into question the size and frequency of the rate increases filed by UHC during this period.

Recommendations regarding the need to file accurate financial statement and loss ratio filings have been made earlier herein.

The following chart is a comparison of the loss ratios as presented in the original annual statement filing, the October 24, 2002 amended (third revision) annual statement filing, 2001 Loss Ratio Report and the 2001 revised Loss Ratio Report submitted April 3, 2003.

**Comparison of Direct Pay Loss Ratios**

<u>Line of Business</u>	<u>Original 2001 annual statement filing</u>	<u>Revised 2001 annual statement filed October 24, 2002</u>	<u>2001 Loss Ratio Report</u>	<u>2001 revised Loss Ratio Report</u>
HMO	88.12%	132.17%	148.25%	103%
POS (In-Network)	82.19%	104.99%	249.08%	143%
HMO & POS (combined)	86.14%	118.38%	181.98%	118%

The 2001 Annual Statement was re-filed on March 12, 2003 (5<sup>th</sup> revision) and the 2002 quarterly statements were re-filed on May 1, 2003. The data contained in the most recent filing in March of 2003 showed a combined loss ratio of 116.14%. The statements are currently under review by the Health Bureau's Company Regulatory Unit.

Discrepancies between the annual statement filings and the loss ratio report, although not to the same degree, were noted on the small and large group lines of business.

UHC subsequently withdrew the November 5, 2002 filing for its direct pay policyholders.

It is recommended that UHC's filed rate applications for rate changes be consistent with the filed financial statements and loss ratio reports and that the actuary conduct sufficient reviews, including a review of the results set forth on the latest available financial statement before certifying the rate application.

## **5. UNDERWRITING AND RATING**

A targeted review was performed of UHC's rating practices relative to its community rated policies. Included in this review were direct pay, small group and large group policies. A limited review of large group experience rated policies was also performed.

Section 4308(b) of the New York Insurance Law requires that companies only charge those rates that are approved by the Department. Section 4308(g) of the Insurance Law allows health care companies to file rate increases and decreases with the Department ("file and use"), in lieu of obtaining the Superintendent's prior approval prior to the implementation of such rates. Section 4308(g)(2) requires health care companies availing themselves of the "file and use" option to notify policyholders of rate increases 30 days prior to implementation.

The review initially focused on the UHC's compliance with Section 4308(g) as it pertained to "file and use" submissions to be effective in the third quarter of 2002 and the first quarter of 2003. Specifically, the examiners tested whether UHC was charging the filed rates and had given policyholders the required 30-day notification prior to any rate increase. The scope of the examination was subsequently expanded to include general compliance with Section 4308(b) of the New York Insurance Law for all community rated products that renewed between January 1, 2002 through March 31, 2003. The review encompassed the various tiers (e.g. individual, husband/wife, parent/child, family) and geographical rating regions of UHC's community rated policies.

Section 4317 of the New York Insurance Law requires individual and small group insurance policies to be community rated and allows for rating variations according to a tier structure and geographic region.

UHC generally employs a four-tier rate structure however; certain contracts that were issued by UHC of Upstate New York were issued as and continue to have a two and three-tier rate structure. UHC maintains four different geographic rating regions. The premium rates for

UHC's Downstate and Long Island regions are rated identical. The following summarizes UHC's geographical rating structure:

1. Downstate - includes New York City and part of Westchester County.
2. Long Island – includes Nassau and Suffolk Counties
3. Mid-Hudson - includes five counties in the Mid-Hudson region and part of Westchester County.
4. Upstate – includes the counties serviced by UHC of Upstate New York, which consists of the counties of Cayuga, Herkimer, Madison, Oneida, Onondaga, and Oswego.

With the exception of certain large group contracts UHC utilizes quarterly rolling rates in accordance with Part 52.42 of Department Regulation 62 {11 NYCRR 52}. This rating mechanism allows for rates to escalate each calendar quarter. Groups or individuals enrolling or renewing in a particular calendar quarter will have their rates guaranteed for one year. UHC generally files for rate increases to be effective on the beginning of a calendar quarter.

Random samples of UHC's HMO and POS contracts were selected from each calendar quarter in the examination period for the various tier structures, and regions. Separate samples were selected for direct pay, small group and large group contracts. Except where noted, the examiners chose the samples from premium data provided by UHC.

A. Direct Payment

Random samples were selected from the population of 79 July (third quarter) 2002 renewals and 188 January (first quarter) 2003 renewals. The sample consisted of both the HMO and POS products and each of the tiers and regions. The following was noted from the review of the 3<sup>rd</sup> quarter renewals:

- On May 31, 2002, UHC sent a letter to all of their direct payment policyholders notifying them of a rate increase to be effective July 1, 2002. The examination review revealed that for nine of eleven items selected for review, the letter quoted the policyholder's existing rate in effect therefore, the prior renewal rate was incorrectly

- quoted as the new rate. Accordingly, policyholders were not properly notified of the rate increase. Additionally, UHC was unable to provide supporting documentation that the required notification was actually sent for two of the eleven policies sampled.
- In July 2002, UHC stated that it sent a second letter to notify the policyholders renewing in the third quarter of 2003, of an amended rate adjustment since it had decided to utilize its filed second quarter 2002 rates in lieu of implementing the submitted third quarter 2002 rate adjustment. The examination review revealed that again, the existing rate in effect was quoted in the notification letter. Further, UHC did not retain copies of the letters. UHC was able to produce the template used. The letter date was indicated as "July XX, 2002."
- UHC incorrectly charged the second quarter 2002 rate to members who enrolled or renewed during the third quarter of 2003. This was after its rate submission in May, and mailing of original notices to July renewals. UHC did not withdraw its submission, and new third quarter rates were placed on file by the Department on June 27, 2002. UHC should have then provided direct pay members renewing in August and September with the required 30-day notification of the rate increase to implement the new filed rates, and adjusted rates charged to July renewals to the new rates. UHC should not have sent a second notice indicating that it was implementing rates other than those resulting from its rate submission.

The following was noted from a review of the 1<sup>st</sup> quarter 2003 renewals:

- UHC sent out a letter notifying its direct payment policyholders of a 1<sup>st</sup> Quarter 2003 rate adjustment. However, UHC then decided not to implement this new rate adjustment and accordingly, a second letter was sent out. The second notification letter quoted the 4<sup>th</sup> quarter 2002 rate. As described below for 17 of the 20 policies sampled, the implemented rate was lower than the rate quoted in the notification letter. UHC did not retain copies of the second letter, but did retain the template.
- UHC did not implement the planned 1<sup>st</sup> Quarter rate increase because their rate application was withdrawn. UHC's intention was to implement the 4<sup>th</sup> quarter rate increase that had been previously placed on file.
- However, in seventeen of the twenty policies sampled, UHC implemented the 4<sup>th</sup> quarter 2001 rate rather than the 4<sup>th</sup> quarter 2002 rate.

As a result of the first sample's findings the examiner expanded the scope of the examination, and an additional review of 2002 direct pay renewals was performed for each calendar quarter.

From its premium database UHC provided two separate populations of direct pay policies: one consisting of upstate policies and the other of downstate policies. The Downstate file was composed of files from three rating regions: Downstate, Long Island and Mid-Hudson. Downstate and Long Island were combined for sampling purposes for the review since their filed rates were identical. The Upstate and Mid-Hudson rating regions were sampled and reviewed separately

The following chart shows the results of the review of the Upstate population of direct pay policies:

**Upstate Rating Region**

Quarter & Product	Total Population	Sample Size	Rating Error	Rating Error Percentage	No. of times notification letter was not provided or was incorrect
<b>POS</b>					
Q1 – 2002	16	2	0	0	1
Q2 – 2002	8	2	0	0	0
Q3 – 2002	7	2	2	100%	2
Q4 – 2002	8	6	6	100%	2
<b>HMO</b>					
Q1 – 2002	20	2	0	0	1
Q2 – 2002	12	2	0	0	0
Q3 – 2002	13	2	2	100%	1
Q4 – 2002	5	5	0	0	2
<b>Total</b>	<b>89</b>	<b>23</b>	<b>10</b>	<b>43%</b>	<b>9</b>

- UHC incorrectly implemented the 2<sup>nd</sup> quarter 2002 rate for POS policyholders renewing in the 4<sup>th</sup> quarter 2002.
- UHC incorrectly implemented the 2<sup>nd</sup> quarter 2002 rate in the 3<sup>rd</sup> quarter for HMO and POS policyholders.
- All rating errors were undercharges.

The Mid-Hudson and Downstate territories employ a four tier rating structure. The examiner randomly selected policies from each of the various tiers. The following is a chart showing the results of the review of the Mid-Hudson regions:

### Mid-Hudson Rating Region

Quarter & Product	Total Population	Sample Size	Rating Error	Rating Error Percentage	No. of times notification letter was not provided or was incorrect
<b>POS</b>					
Q1 – 2002	8	4	2	50.00%	1
Q2 – 2002	11	9	0	0.00%	0
Q3 – 2002	11	5	5	100.00%	2
Q4 – 2002	12	5	1	20.00%	2
<b>HMO</b>					
Q1 – 2002	26	6	0	0.00%	1
Q2 – 2002	79	15	7	46.67%	0
Q3 – 2002	46	10	10	100.00%	4
Q4 – 2002	40	9	3	33.33%	1
<b>Total</b>	<b>233</b>	<b>63</b>	<b>28</b>	<b>44.44%</b>	<b>11</b>

- Sixteen of the twenty-eight errors were because UHC incorrectly rated certain policyholders as if he or she was a resident in the Mid-Hudson rating territory. UHC stated that the determination of the rating territory is by zip code. According to the insured's zip codes contained within the policies reviewed, these policyholders were residents of the Downstate region and should have been rated as such. Two of these errors occurred in the 1<sup>st</sup> quarter 2002 (including one that was charged the parent/child rate when the husband/wife rate should have been charged), seven occurred in the 2<sup>nd</sup> quarter 2002, three occurred in the 3<sup>rd</sup> quarter 2002, and four occurred in the 4<sup>th</sup> quarter 2002.
- The remaining twelve 3<sup>rd</sup> quarter renewal errors were comprised of cases where UHC incorrectly charged the second quarter rate.
- All rating errors were undercharges.

The following chart shows the results of the review of the Downstate/Long Island territory:

### Downstate/Long Island Rating Region

Renewal Quarter	Total Population	Sample Size	Rating Error	Rating Error Percentage	No. of times notification letter was not provided or was incorrect
<b>POS</b>					
Q1 – 2002	291	15	0	0	9
Q2 – 2002	362	16	1	6.25%	0
Q3 – 2002	247	16	16	100.00%	9
Q4 – 2002	236	14	1	7.14%	11
<b>HMO</b>					
Q1 – 2002	451	16	0	0	6
Q2 – 2002	686	14	0	0	1
Q3 – 2002	559	12	12	100.00%	6
Q4 – 2002	515	15	1	6.67%	4
<b>Total</b>	<b>3,347</b>	<b>118</b>	<b>31</b>	<b>26.67%</b>	<b>46</b>

- UHC improperly billed the 2nd quarter 2002 filed rate for the entire policy year for all twenty-eight 3<sup>rd</sup> Quarter 2002 renewals sampled.
- The remaining three errors pertained to the policyholder being improperly charged the Mid-Hudson rate.
- All rating errors were undercharges.

It is noted that UHC uses a third party administrator (TPA) for the administration of its direct pay policies. Notwithstanding the billing functions performed by the TPA, UHC retains the ultimate responsibility to assure satisfactory administration of direct pay policies and compliance with the Insurance Law. In view of the findings it is apparent that UHC was not sufficiently monitoring the performance of its TPA.

For approximately one-third of the examiner's sample (204 contracts) the HMO either could not provide evidence that the required rate increase notification letter was mailed or the letter quoted the wrong rate.

It is recommended that UHC submit a plan for correcting all direct pay billing errors.

It is recommended that UHC take better care in the preparation and retention of correspondence notifying direct payment policyholders of rate adjustments and assure that the letters accurately quote the rate to be charged.

It is recommended that UHC comply with Section 4308(g) of the New York Insurance Law and only charge those rates, to its direct payment policyholders, that have been placed on file with the Department.

It is recommended that UHC management fulfill its responsibility for compliance with New York Insurance Law and Department rules and regulations as regards its rating practices via stronger oversight of its TPA.

B. Small group

Compliance was tested in each of the five quarters during the examination period. The small group sample results as presented, include both HMO and POS products. The 2002 population of HMO and POS policies was 512 and 566, respectively. The population of first quarter 2003 policies was limited to January renewals.

The following chart shows the results of the review of the small group sample:

### Small Group

Renewal Quarter	Population	Sample Size	No. of Errors Found	Error Percentage Rate
<b>POS</b>				
Q1 – 2002	138	12	1	8.33%
Q2 – 2002	182	11	3	27.27%
Q3 – 2002	137	11	11	100.00%
Q4 – 2002	109	10	10	100.00%
<b>Subtotal 2002</b>	<b>566</b>	<b>44</b>	<b>25</b>	<b>56.82%</b>
Q1 – 2003	11	8	8	100.00%
<b>Total POS</b>	<b>577</b>	<b>52</b>	<b>33</b>	<b>63.46%</b>
<b>HMO</b>				
Q1 – 2002	124	16	15	93.75%
Q2 – 2002	149	14	6	42.86%
Q3 – 2002	102	11	11	100.00%
Q4 – 2002	134	11	11	100.00%
<b>Subtotal 2002</b>	<b>509</b>	<b>52</b>	<b>43</b>	<b>82.69%</b>
Q1 – 2003	28	8	7	87.50%
<b>Total HMO</b>	<b>537</b>	<b>60</b>	<b>50</b>	<b>83.33%</b>

- First Quarter 2002 - Sixteen errors found:
  - Fifteen errors resulted from the incorrect rate being loaded into the billing system.
  - One error occurred due to a policyholder being incorrectly charged for a dental coverage rider. UHC could not provide documentation pertaining to the rider.
- Second Quarter 2002 - nine errors found:
  - All nine errors resulted from the wrong rates being loaded.
- Third Quarter 2002 - twenty-two errors found:
  - Twenty errors resulted from the incorrect rate being loaded into the billing system.
  - UHC could not explain the reason for the discrepancy for the remaining two errors.
- Fourth Quarter 2002 – twenty-one errors found:
  - Twenty errors resulted from the incorrect rate being loaded into the billing system.
  - One was unexplained.

- First Quarter 2003 - fifteen errors found:
  - Twelve were because UHC used rates increased for a drug rider, which had not been included in the rates filed with the Department.
  - Three errors resulted from the incorrect rate being loaded into the billing system.

It is recommended that UHC comply with Section 4308(g) of the New York Insurance Law and only charge those rates relative to its small group business that are placed on file with the Department.

C. Healthy New York

Premium rates of renewed policies during the year 2002 and the first quarter of 2003 were reviewed. The findings with regard to the Healthy NY sample are shown below:

**Healthy New York**

<b>Renewal Year</b>	<b>Population</b>	<b>Sample Size</b>	<b>No. of Errors Found</b>	<b>Error Percentage Rate</b>
2002	37	10	2	20.00%
2003	18	9	6	66.67%

- The two policies in error for renewal year 2002 were renewed at the wrong rate.
- All six of the errors occurring in 2003 were due to the wrong rate being charged.

UHC of NY administers the Healthy New York business on the same platform as the small groups. UHC of NY was unable to separate the Healthy New York from the small group business during the sampling process. Therefore fifteen Healthy New York policies were inadvertently selected in the random sampling of small group policies. These policies were also reviewed. Of the fifteen reviewed three errors were found.

It is recommended that UHC of NY comply with Section 4308(g) of the New York Insurance Law and only charge those rates relative to Healthy New York that are placed on file by the Department.

D. Large group

Random samples of UHC of NY's large group business were selected for review by rating region for groups renewing in each calendar quarter during the examination period. The population consisted of HMO contracts only, from the four rating regions: Downstate (New York City), Long Island, Mid-Hudson and Upstate. Due to the small population of large groups, there were several instances where the same group was selected for more than one region. Since the errors are calculated by sampled region this resulted in some cases of multiple errors for a single group.

The findings with regard to the large group HMO sample are shown below:

**Large Group – HMO**

Quarter	Population	Sample Size	No. of Rating Errors Found	Rating Error Percentage Rate	No. of times notification letter was not provided or was incorrect
Q1 – 2002	42	10	5	50.00%	5
Q2 – 2002	13	9	7	77.78%	7
Q3 – 2002	15	7	3	42.86%	2
Q4 – 2002	8	4	4	100.00%	4
Subtotal 2002	79	30	19	63.33%	18
Q1 – 2003	31	13	13	100.00%	5
<b>Total</b>	<b>109</b>	<b>43</b>	<b>32</b>	<b>74.42%</b>	<b>23</b>

- First Quarter - 2002

- UHC could not explain the difference between the filed rate and the amount billed for the five errors found by the examiner. The examiner believes that these errors were probably attributable to the use of “guaranteed rates” (as discussed on page 22 of this Report).
- In five of the ten items selected for review, UHC of NY could not produce evidence that the required thirty day rate adjustment notification letter was mailed to the group contract holders as required by Section 4308(g)(2) of the New York Insurance Law.

- Second Quarter 2002

- Five errors involved the implementation of incorrect rates for two multi-region groups. A three-tier rating structure was used with both groups. The rates charged to members residing in the Long Island and New York City regions of one group were selected for review. For both regions the individual tier was overcharged by 4.04% and the family and individual plus one tier were undercharged by 4.08%. For the second group, the review included members residing in three rating regions: the Long Island, New York City and Mid-Hudson regions. The Long Island and New York City tier rates were each undercharged by 27.95%.

With regard to the Mid-Hudson region:

the individual tier was undercharged by 26.67%;  
the individual plus one tier was undercharged by 34.73%;  
the family tier was undercharged by 20.82%.

- Two additional groups were not charged the filed rate. Both of these were Upstate region groups. The difference between the rate charged and the filed rate was less than \$1 per month in each tier of both groups.
- In all seven cases, UHC of NY could not produce evidence that the required rate adjustment notification letter was mailed.

- Third Quarter 2002

There were three rating errors for three different groups as follows:

- Mid-Hudson tier members of one group were incorrectly charged the Downstate (New York City) rate.
- The remaining two groups were charged tier rates different than those on file
- In two cases UHC of NY could not produce evidence that they mailed the required rate adjustment notification letter.

- Fourth Quarter 2002

There were four rating errors for three different groups as follows:

- For one group with a four-tier rating structure, the Long Island and New York City regions were sampled. UHC of NY undercharged each of the 4 tiers in both regions by 41% due to coding errors that caused the group to be rated using New Jersey rates.

- The members of one group residing in Long Island were under charged 1% for each tier.
  - The other sampled group was in the Upstate region only and had membership across all tiers and was over charged by .04% for the individual, husband-wife and parent-child tiers. For the family tier, the members were under charged by .41%.
  - In all cases UHC of NY could not produce evidence that they mailed the required rate adjustment notification letter.
- First Quarter 2003

There were thirteen rating errors for ten different groups as follows:

- Six errors related to three groups with members in two sampled rating regions. The groups were undercharged for each tier in both regions. The undercharges ranged from 1.21% to 1.38%
- Seven groups with members in one rating region were found to have tier rates different than those on file. The errors ranges from an undercharge of 11.37% to an overcharge of 35.95%
- For five of the groups selected, UHCof NY could not produce evidence that they mailed out the required rate adjustment notification letter as required by Section 4308(g)(2) of the New York insurance Law.

It is recommended that UHC of NY comply with Section 4308(g) of the New York Insurance Law and only charge those rates relative to its large group business that are placed on file with the Department.

It is recommended that UHC take better care in the preparation and retention of correspondence notifying large group policyholders of a rate adjustments and assure that the letters accurately quote the rate to be charged.

Of the errors noted above in 1<sup>st</sup> quarter 2003, the errors pertaining to seven of the groups were due to the fact that UHC implemented a rate based on a quoted estimate in advance of the renewal date. The quote was based on rates included in a February 28, 2002 rate filing. UHC made a subsequent rate filing on November 5, 2002 that changed the 1<sup>st</sup> quarter 2003 rates. The quote was made before the filing of the November 5, 2002 rate application which increased the

previously filed January 1, 2003 rates by 1.3% on average. The January 1, 2003 rates were implemented based on the original quote without considering the subsequent change.

In similar fashion UHC made two rate filings in the year 2001 and each filing contained large group HMO rates for the first quarter of 2002. On average the rates in the second filing resulted in rates that were 5.2% (on average) higher than the rates set forth in the earlier 2001 filing. Therefore groups renewing on January 1, 2002 who received a quote based on the earlier filing period paid on average 5.2% less than rate charged to other groups with the same renewal date.

In the absence of a "guaranteed rate" rider (as discussed below) all community rated groups must be charged the same rate. UHC practices are a violation of Section 4308(b) since the rate charged to certain groups was inadequate and the rate differentials on community rated business constitute a discriminatory rating practice.

Use of "guaranteed rates" is only permitted within the framework of Part 52.42 of Department Regulation No. 62, {11 NYCRR 52} which states, in part:

"(b) Guaranteed rates. (1) An HMO may guarantee a subscriber a rate if such rate is based upon an approved rate at the effective date of the contract and satisfied the requirements of this subdivision. Any HMO that guarantees a rate without first obtaining an approved rate will be in violation of Section 4308 of the Insurance Law.

(2) To guarantee rates the HMO must obtain the superintendent's approval for any contract provision, remitting agent agreement or rider which limits the HMO to adjustment of rates only on a policy anniversary date. This requirement applies to both group contracts and group remittance contracts

(3) Permissible methods to guarantee the rates include the following:  
 ... (a) By use of an approved rider or remitting agent agreement an HMO may establish an estimated annual subscriber rate to accommodate employers who prefer a level monthly premium payment for the contract year..."

A guaranteed rate rider, as described in Department Regulation No. 62 provides health insurers and HMOs with the flexibility to implement fixed rates based on quotes made well in advance of the contract effective date, and then settle any difference between the "guaranteed

rate” and the actual community rate during the corresponding period during the next contract year. UHC of NY does not use a guaranteed rate rider.

It is recommended that UHC of NY comply with Section 4308(b) of the New York Insurance Law and charge the same rate to all similarly situated large group community rated policyholders.

It is recommended that UHC of NY file a "guaranteed rate" rider in compliance with Department Regulation No. 62 Part 52.42.

It is recommended that UHC of NY recoup any difference between the quoted rate and the latest filed community rates.

## **6. BROKER'S COMMISSIONS**

A review was performed of commissions paid to broker's on small business products. Section 4312(a)(1) of the New York Insurance states:

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

The examination findings reveal that UHC was using a commission plan that was not filed with the Department.

It is recommended that UHC file its commission plan with the Department in accordance with Section 4312(a) of the New York Insurance Law.

## **7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<b><u>ITEM</u></b>	<b><u>PAGE NO.</u></b>
<b><u>FINANCIAL STATEMENT REPORTING</u></b>	
A. It is recommended that UHC of NY present accurate information in its financial statements pursuant to Sections 307 and 308 of the New York Insurance Law.	6
B. It is further recommended that UHC of NY improve its process of oversight and review of the preparation of its statutory financial statements.	6
C. It is recommended that UHC of NY management take immediate steps to develop, and put into use, a methodology for reporting premiums and claims by business segment that is based upon actual data for each such business segment.	7
D. It is recommended that when UHC of NY allocates administrative expenses it must either use actual cost allocations for each line of business or business segments reported in its financial statements or be able to provide adequate support for the appropriate allocation factors which will be the basis for the application of the administrative expenses. Additionally, it is recommended that the basis for allocation be reviewed periodically, at least annually.	7
E. It is recommended that UHC take the necessary steps to ensure that the submission of its Loss Ratio Reports filed pursuant to Section 4308(h) of the Insurance Law are accurate.	8
F. It is recommended that UHC's filed rate applications for rate changes be consistent with the filed financial statement and loss ratio reports and that the actuary conduct sufficient reviews, including the results set forth on the latest available financial statement before certifying the rate application.	9
<b><u>UNDERWRITING AND RATING</u></b>	
G. It is recommended that UHC submit a plan for correcting all direct pay billing errors.	16

<b><u>ITEM</u></b>	<b><u>PAGE NO.</u></b>
H. It is recommended that UHC take better care in the preparation and retention of correspondence notifying direct payment policyholders of a rate adjustments and assure that the letters accurately quote the rate to be charged.	16
I. It is recommended that UHC comply with Section 4308(g) of the New York Insurance Law and only charge those rates to its direct payment policyholders, that have been placed on file with the Department.	16
J. It is recommended that UHC management fulfill its responsibility for compliance with New York Insurance Law and Department rules and regulations as regards its rating practices via stronger oversight of its TPA.	16
K. It is recommended that UHC comply with Section 4308(g) of the New York Insurance Law and file and charge correct rates relative to its small group business.	18
L. It is recommended that UHC of NY comply with Section 4308(g) of the New York Insurance Law and file and charge correct rates relative to Healthy New York.	18
M. It is recommended that UHC comply with Section 4308(g) of the New York Insurance Law and charge those rates relative to its large group that are placed on file with the Department.	21
N. It is recommended that UHC take better care in the preparation and retention of correspondence notifying large group policyholders of a rate adjustments and assure that the letters accurately quote the rate to be charged.	21

<b><u>ITEM</u></b>		<b><u>PAGE NO.</u></b>
O.	It is recommended that UHC of NY comply with Section 4308(b) and charge the same rate to all similarly situated large group community rated policyholders.	23
P.	It is recommended that UHC of NY file a “guaranteed rate” rider in compliance with Department Regulation No. 62 Part 52.42	23
Q.	It is recommended that UHC of NY recoup any difference between the quoted rate and the latest filed community rates.	23
R.	It is recommended that UHC file its commission plan with the Department in accordance with Section 4312(a) of the New York Insurance Law.	23

Respectfully submitted,

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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.

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Kathleen Grogan

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2003

Appointment No. 21951

**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*

**UNITED HEALTHCARE INSURANCE COMPANY OF NEW YORK**

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

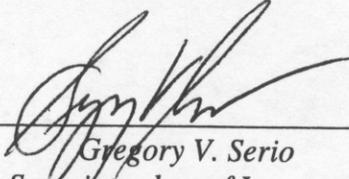
**Company**

*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 15th day of November 2002*



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

Appointment No. 21952

**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*

**UNITED HEALTHCARE OF NEW YORK, INC.**

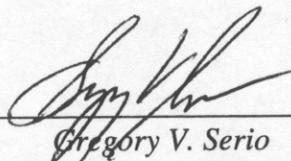
*and to make a report to me in writing of the said*

**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 15th day of November 2002*



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

