

REPORT ON EXAMINATION

OF

EMPIRE HEALTHCHOICE HMO, INC.

AS OF

DECEMBER 31, 2019

DATE OF REPORT

SEPTEMBER 29, 2021

EXAMINERS:

BRAD NEFF, CFE

JEFFREY USHER, CFE

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Department of Financial Services

KATHY HOCHUL
Governor

ADRIENNE A. HARRIS
Acting Superintendent

September 29, 2021

Honorable Adrienne A. Harris
Acting Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and New York State Public Health Law, and acting in accordance with the instructions contained in Appointment Number 32098, dated August 10, 2020 attached hereto, we have made an examination into the condition and affairs of Empire HealthChoice HMO, Inc., a for-profit health maintenance organization with a certificate of authority issued by the New York State Department of Health under the provisions of Section 4403 of the New York State Public Health Law, as of December 31, 2019, and submit the following report thereon.

The examination was conducted remotely due to restrictions relating to the COVID-19 pandemic.

Empire HealthChoice HMO, Inc. is a wholly-owned subsidiary of Empire HealthChoice Assurance, Inc. Empire HealthChoice Assurance, Inc. is an indirect wholly-owned subsidiary of Anthem, Inc.

Wherever the designations “EHC HMO” or the “Plan” appear herein, without qualification, they should be understood to indicate Empire HealthChoice HMO, Inc.

Wherever the designation “EHCA” appears herein, without qualification, it should be understood to indicate 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 EHC HMO’s immediate Parent, Empire HealthChoice Assurance, Inc., a stock insurance company, licensed pursuant to provisions of Article 42 of the New York Insurance Law. A separate report thereon has been submitted.

1. SCOPE OF THE EXAMINATION

EHC HMO was previously examined as of December 31, 2016. This examination of the Plan was a financial examination as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2020 Edition* (“the

Handbook”), and it covered the three-year period, January 1, 2017 through December 31, 2019. 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, 2019 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 EHC HMO’s operations and utilizes that evaluation in formulating the nature and extent of the examination. The examiners planned and performed the examination to evaluate EHC HMO’s current financial condition, as well as identify prospective risks that may threaten the future solvency of EHC HMO.

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 EHC HMO’s organizational structure, business approach and control environment were utilized to develop the examination approach. The examination evaluated EHC HMO’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 EHC HMO'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

EHC HMO was audited annually for the years 2017 through 2019, by the accounting firm of Ernst & Young, LLP ("EY"). EHC HMO received an unmodified opinion in each of those years. Certain audit workpapers 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 Plan.

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, Inc. The examination was led by the state of

Indiana with participation from four (4) other states: New York, Arkansas, Florida, and Kansas. 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, Inc. 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 EHC HMO.

The examiners reviewed the corrective actions taken by the Plan 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 PLAN

EHC HMO is a for-profit health maintenance organization certified pursuant to Article 44 of the New York State Public Health Law. EHC HMO was originally incorporated on March 5, 1996, as Family HealthChoice, Inc., a health maintenance organization certified in the State of New York. Family HealthChoice, Inc. commenced business on March 19, 1996. Family HealthChoice, Inc. was granted a certificate of authority by the New York State Department of

Health under the provisions of Article 44 of the New York State Public Health Law, effective March 7, 1996. Effective June 10, 1996, Family HealthChoice, Inc., changed its name to Empire HealthChoice HMO, Inc. Effective April 10, 2017, Empire HealthChoice HMO was granted a license in the State of Maine to transact the business of Medicare Advantage HMO.

On August 11, 2017, the Department approved Empire HMO's request for exemption pursuant to Section 4406(1) of the New York Public Health Law and Section 4328(a) of the New York Insurance Law. With the exemption, Empire HealthChoice Assurance, Inc. is permitted to meet the obligations of Empire HMO to offer individual direct payment contracts in accordance with Section 4328 of the New York Insurance Law, effective January 1, 2018, both on and off the New York Health Insurance Exchange.

On April 9, 2019, Empire HMO sought the New York Department of Financial Services' ("NYDFS") and Department of Health's ("DOH") approval to have HealthPlus LLC, a Prepaid Health Services Plan, assume EHC HMO's obligation to issue coverage in the individual market, rather than Empire HealthChoice Assurance, Inc. As part of this transaction, HealthPlus LLC submitted a service area expansion application to match EHCA's and EHC HMO's commercial footprint in 28 counties.

On September 18, 2019, the Department approved Empire HMO's request for exemption pursuant to Section 4406(1) of the New York Public Health Law and Section 4328(a) of the New York Insurance Law. With the exemption, EHCA is permitted to meet the obligations of EHC HMO to offer (i) a Healthy New York small group product and (ii) Empire Bronze EPO in the small group market starting January 1, 2020.

On November 21, 2019, the Department approved EHC HMO's request for exemption pursuant to Section 4406(1) of the New York Public Health Law and Section 4328(a) of the New York Insurance Law. With the exemption, HealthPlus LLC is permitted to meet the obligations of EHC HMO to offer an insurance product in the individual market starting January 1, 2020.

EHC HMO is a licensee of the Blue Cross and Blue Shield Association ("BCBSA") and markets its product under the Blue Cross Blue Shield name. EHC HMO has been in operation for over 25 years and offers HMO, point-of-service, Medicare Advantage and state-sponsored products to group accounts in the greater New York metropolitan area and select upstate counties. As a BCBSA licensee, EHC HMO participates in the BlueCard program. BlueCard is a BCBSA nationwide program that enables members who need health care services while traveling or living in another Plan's service area to access their benefits through local BCBSA Plan's providers. It also allows the cost of service to be calculated in accordance with the local Plan's contract with providers. EHC HMO is a wholly-owned subsidiary of EHCA, which is an indirect wholly-owned subsidiary of Anthem, Inc., a publicly traded company.

A. Management and Controls

The EHC HMO Board of Directors ("BOD") is comprised of internal management and external independent directors. As required by Part 98-1.11(g) of the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR 98-1.11(g)), a minimum of twenty percent (20%) of the Board of Directors of the Plan must be comprised of enrollee representatives.

Part 98-1.11(g) of the Administrative Rules and Regulations of Department of Health (10 NYCRR 98-1.11(g)) states in part:

“(g) Except in the case of an HMO operated by a corporation licensed under article 43 of the Insurance Law which also operates a Public Health Law article 44 line of business, no less than one third of the members of the governing authority of an MCO shall be composed of residents of New York State.

(1) Within one year of the MCO becoming operational, no less than 20 percent of the members of the governing authority shall be enrollees of such MCO...”

EHC HMO complied with this requirement during the examination period.

Pursuant to the Plan’s By-laws, management of the Plan is to be vested in a Board of Directors consisting of not less than three (3) and not more than ten (10) Directors. As of December 31, 2019, EHC HMO’s Board of Directors (“BOD”) was comprised of four (4) 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 Plan’s four (4) Directors and their principal business affiliation as of December 31, 2019, were as follows (see the Subsequent Events section for additional information):

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Lois S. Freedman* Allenhurst, NY	Labor Coordinator/Operations Calico Corners
Alan J. Murray Syosset, NY	Chairman, President and CEO Empire HealthChoice HMO, Inc.
Patrick J. O’Keeffe Queensbury, NY	Attorney Anthem, Inc.
Randall V. Pernicone** New Milford, NJ	Financial Executive Anthem, Inc.

*Enrollee representative per Part 98-1.11(g) of the Administrative Rules and Regulations of the Department of Health (10 NYCRR 98-1.11(g)).

**Effective March 5, 2020, Randall V. Pernicone resigned and was replaced by Jennifer Kuhn.

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 Plan as of December 31, 2019, were as follows:

<u>Name</u>	<u>Title</u>
Alan J. Murray	President, Chief Executive Officer and Chairperson
Jay H. Wagner	Secretary
Eric K. Noble	Treasurer
Patrick J. O’Keeffe	Assistant Secretary

B. Corporate Governance

Anthem, Inc. is a publicly traded, diversified health plan subject to the Sarbanes-Oxley Act of 2002. EHC HMO is required to be compliant with Insurance Regulation 203 – Enterprise Risk Management and Own Risk and Solvency Assessment. Controls are identified by management and testing managed and monitored by the Anthem Controls 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 Plan’s BOD and key executives maintain an effective control environment.

ii. Internal Audit Department

Anthem assumed the 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 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 Plan’s corporate governance.

C. Territory and Plan of Operation

EHC HMO is a licensee of the Blue Cross and Blue Shield Association (“BCBSA”) and markets its products under the Blue Cross Blue Shield trade name. EHC HMO has been in operation for over twenty-three (23) years and offers HMO, Point-of-Service and Medicare Advantage products in the greater New York metropolitan area and select upstate counties.

As set forth in its certificate of authority, EHC HMO is permitted to serve the following twenty-eight (28) counties in the State of New York.

New York Region

Bronx
New York

Dutchess
Putnam

Kings
Queens

Nassau
Richmond

Rockland

Suffolk

Westchester

Albany Region

Albany

Clinton

Columbia

Delaware

Essex

Fulton

Greene

Montgomery

Orange

Rensselaer

Saratoga

Schenectady

Schoharie

Sullivan

Ulster

Warren

Washington

The following table displays EHC HMO's net admitted assets, capital and surplus, net premium income, and net income (loss) during the period under examination:

	<u>Net Admitted Assets</u>	<u>Capital and Surplus</u>	<u>Net Premium Income</u>	<u>Net Income (Loss)</u>
2017	\$525,218,643	\$203,598,764	\$1,283,055,054	\$ (38,392,110)
2018	434,637,489	187,011,169	990,349,910	(15,792,130)
2019	408,659,367	157,155,770	975,799,152	(41,118,044)

As of December 31, 2019, health care services were provided to 82,107 members. The following chart shows annual membership changes during the examination period by number and percentage:

	<u>2017</u>	<u>2018</u>	<u>2019</u>
Members	134,609	85,513	82,107
% of Change	(4.98)%	(36.47)%	(3.98)%

The decrease in members from calendar year 2017 to calendar year 2018 was due to an August 11, 2017 Department approval of the Empire HMO's request for an exemption pursuant to Section 4406(1) of the New York Public Health Law and Section 4328(a) of the New York Insurance Law. With the exemption, Empire HealthChoice Assurance, Inc. is permitted to meet the obligations of

Empire HMO to offer individual direct payment contracts in accordance with Insurance Law section 4328, effective January 1, 2018, both on and off the New York Health Insurance Exchange.

D. Risk-Based Capital

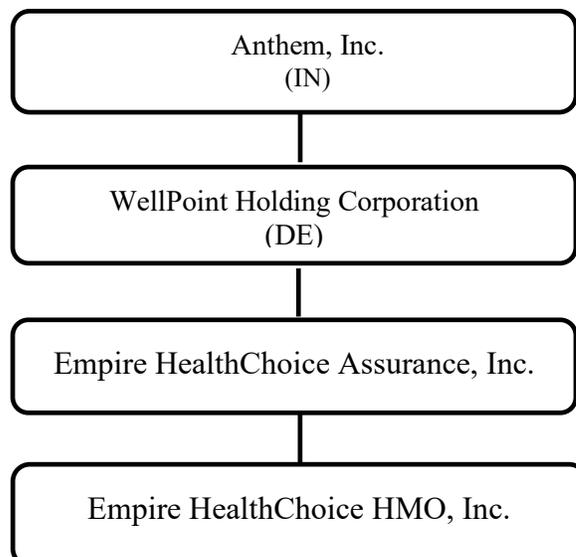
Risk-Based Capital (“RBC”) measures the minimum amount of capital appropriate for the Plan to support its overall business operations in consideration of its size and inherent risks. An RBC of 300 or below can result in regulatory action.

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

E. Holding Company System

EHC HMO is a wholly-owned subsidiary of EHCA. As of the examination date, EHCA was a wholly-owned subsidiary of WellPoint Holding Corporation (“WHC”). WHC was a wholly-owned subsidiary of Anthem, which is a publicly traded company and the largest health benefits plan in terms of members in the United States.

The following chart depicts the Plan’s abbreviated holding company system as of December 31, 2019:



The Plan, during the examination period, was a party to inter-company agreements with its affiliates, which were subject to the New York State Department of Health (“NYSDOH”) and the Department’s review and approval. These agreements involved activities such as administrative services, cash management, investment management, and tax allocation.

Part 98-1.10(c) of the Administrative Rules and Regulations of the NYSDOH (10 NYCRR 98-1.10(c)) states in part:

“... Thirty days prior notice to the commissioner and, except in the case of a PHSP, HIV SNP or PCPCP, the superintendent, is required before entering into the following transactions between a controlled MCO and any person in its holding company system: a reinsurance agreement or an agreement for rendering services on a regular or systematic basis, other than medical or management services that require prior approval under this Subpart. Such transactions may become effective unless the commissioner or the superintendent has disapproved the transaction within such period.”

Inter-company agreements and amendments for EHC HMO that were in place as of December 31, 2019, included the following:

- Amended and Restated WellPoint Master Administrative Services Agreement – The Plan entered into an Amended and Restated Master Administrative Services Agreement (“MASA”) and Attachment NY-02, effective January 1, 2008, with Anthem (fka “WellPoint”) and its subsidiaries and affiliates. This Agreement and the Attachment NY-02 were approved by the Department on July 3, 2008.

The MASA was amended in order to incorporate provisions from the 2010 National Association of Insurance Commissioner’s Model Insurance Holding Company Regulatory Act and Model Insurance Holding Company System Model Regulation with Reporting Forms and Instructions. Approval of the amendment was requested by a letter dated June 14, 2018. This amendment was submitted to the Department pursuant to Section 1505(d)(3) on the New York Insurance Law and New York Health Department Regulation 10 NYCRR 98-1.10(c). The Amendment was revised and resubmitted on July 9, 2018. The Department issued a no objection letter dated July 11, 2018.

- Management Service Agreement (“MSA”) between Empire HealthChoice HMO, Inc. and IngenioRx - This agreement was submitted on October 31, 2019 and approved by the New York Department of Health March 12, 2020. The effective date of the MSA March 12, 2020.

- Federal Income Tax Allocation Agreement – EHC HMO entered into an Amended Consolidated Federal Income Tax Agreement, retroactively effective December 31, 2005, 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 Plan on October 4, 2006.

F. Reinsurance

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

G. Internal Controls

The NAIC Risk 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 EHC HMO, the mitigating controls are housed in “Open Pages,” a vendor purchased software package. Controls related to the Anthem Sarbanes-Oxley (“SOX”) and Insurance Regulation No. 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 EHC HMO were identified by its management.

A thorough review of Anthem’s SOX controls documentation and the Plan’s MAR internal controls were an important component of the examination process. There were no identified material weaknesses or significant deficiencies identified by EY, the Plan’s 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 EHC HMO 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; Virginia Beach, Virginia; Harrisonburg, Virginia; and 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 the Plan’s IT general controls (“ITGC”) environment for the key financial systems that supported the preparation of the Plan’s financial statements supported an ITGC reliance-based financial examination. The IT examiners assessed the ITGC for EHC HMO as effective.

H. Financial risk transfer agreements with health care providers

Part 101.4(c) of Insurance Regulation No. 164 (11 NYCRR 101.4(c)) states in part:

“(c) An insurer who uses a capitation arrangement to transfer all or part of its financial risk to a health care provider must do so by means of a contract approved by the superintendent...”

The following amendments were made, during the examination period, to previously approved health care provider agreements that transferred financial risk:

Quest Diagnostics:

- Seventeenth Amendment to the Amended and Restated Participating Laboratory Services Provider Agreement dated July 1, 2004, effective August 1, 2017.

American Specialty Health IPA of New York, Inc.:

- Thirteenth Amendment to the Independent Practice Association Agreement between EHC HMO and American Specialty Health IPA of New York, Inc. dated March 10, 2016, effective January 1, 2016.
- Fourteenth Amendment to the Independent Practice Associate Agreement between EHC HMO and American Specialty Health IPA of New York, Inc. dated December 22, 2016, effective January 1, 2017.
- Fifteenth Amendment to the Independent Practice Association Agreement between EHC HMO and American Specialty Health IPA of New York, Inc. The agreement extends the term of the IPA Agreement through December 31, 2023 and implements revised PMPM rates. This amendment was submitted to the NYDFS for approval on November 27, 2019 and is currently under review.

I. Conflict of Interest Statements

The examiners requested the Conflict of Interest statements for EHC HMO Board of Directors and officers. It was noted that a board member did not complete a Conflict of Interest statement in accordance with Anthem's policy.

It is recommended that Anthem require all management and non-management associates on each subsidiary's Board of Directors complete a Conflict of Interest statement, in compliance with Anthem's Conflict of Interest Policy, and provide such copies upon request.

J. Investment Policy

Anthem utilizes a single Investment Policy Statement (“IPS”) for all entities that is intentionally broad. In certain instances, the IPS limits are in excess of state investment statutes. As a result, Anthem must provide each external Investment Manager with Investment Guidelines as an Appendix to the Investment Management Agreement, in order to ensure compliance with state investment statutes.

This does not represent best practice as each insurance entity may have several managers and aggregate investment limits for each entity are not specifically stated in a separate IPS. Therefore, it is possible for each manager to be in compliance with its investment guidelines but for the insurance entity to not be in compliance with state investment statutes, due to the lack of aggregate entity level investment limits stated in a separate IPS.

As a good business practice, it is recommended that the Plan review and update its investment policy on a regular basis to ensure that its policy is in compliance with the New York Insurance Law.

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2019, as contained in EHC HMO's 2019 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 Plan's financial condition as presented in the financial statements contained in the December 31, 2019 filed annual statement.

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

EY concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Plan at the respective audit dates. Balances reported in these audited financial statements were reconciled to the 2018 and 2019 annual statements with no discrepancies noted.

A. Balance SheetAssets

Bonds	\$ 313,107,531
Cash and short-term investments	8,646,481
Securities lending reinvested collateral assets	4,274,969
Investment income due and accrued	3,128,426
Uncollected premiums in the course of collection	12,982,349
Accrued retrospective premiums	19,843,232
Amounts receivable relating to uninsured plans	273,028
Current federal income tax recoverable	3,749,005
Health care and other amounts receivable	17,235,073
Aggregate write-ins for other than invested assets	
New York assessment	9,240,020
Medicare receivables	8,797,422
Prepaid expenses	2,643,363
Premium tax recoverable	2,367,110
Stop-loss receivables	1,616,037
City income tax recoverable	510,375
State income tax recoverable	235,938
Blue card receivables	<u>9,008</u>
Total assets	\$ <u>408,659,367</u>

Liabilities

Claims unpaid	\$ 88,963,406
Accrued medical incentive pool and bonus amounts	6,791,641
Unpaid claims adjustment expenses	2,007,118
Aggregate health policy reserves	53,631,925
Aggregate health claim reserves	5,297
Premiums received in advance	962,451
General expenses due or accrued	3,196,323
Amounts withheld or retained for the account of others	687,136
Remittances and items not allocated	4,891,752
Amounts due to parents, subsidiaries and affiliates	77,684,077
Payable for securities	438,646
Payable for securities lending	4,274,969
Aggregate write-ins for other liabilities	
Miscellaneous medicare liabilities	5,795,597
Escheat liability	765,199
Accounts payable – miscellaneous	704,248
Out of area program payable	383,056
Other premium liability	<u>320,756</u>
Total liabilities	\$ <u>251,503,597</u>

Capital and Surplus

Aggregate write-ins for special surplus funds	17,985,713
Common capital stock	2
Gross paid in and contributed surplus	\$ 101,999,998
Aggregate write-ins for other than special surplus funds	121,974,894
Unassigned funds (surplus)	<u>(84,804,837)</u>
Total capital and surplus	\$ <u>157,155,770</u>
Total liabilities, capital and surplus	\$ <u>408,659,367</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, 2017, December 31, 2018 or December 31, 2019. The examiners are unaware of any potential exposure of issues related to EHC HMO for any tax assessments and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Changes in Capital and Surplus

The Plan's capital and surplus decreased by \$66,776,072 during the three-year examination period, January 1, 2017 through December 31, 2019, detailed as follows:

Revenue

Premium income	\$ 3,249,204,116	
Change in unearned premium reserve	<u>5,062,756</u>	
Total revenue		\$ 3,254,266,872

Hospital and medical expenses

Hospital/medical benefits	\$ 2,244,222,788	
Other professional services	150,833,991	
Outside referrals	122,990,404	
Emergency room and out-of-area	94,667,496	
Prescription drugs	352,043,426	
Aggregate write-ins for other hospital and medical	(7,913,077)	
Incentive pool, withhold adjustments and bonus amounts	62,615,018	
Net reinsurance recoveries	<u>(1,060,587)</u>	
Total hospital and medical expenses	\$ 3,018,399,459	
Claims adjustment expenses	138,799,554	
General administrative expenses	259,756,972	
Increase in reserves for life and accident and health contracts	<u>6,515,498</u>	
Total underwriting deductions		\$ <u>3,423,471,483</u>
Net underwriting (loss)		\$ (169,204,611)
Net investment income earned		32,894,967
Net realized capital gains less capital gains tax		<u>597,515</u>
Net investment gains		<u>33,492,482</u>
Net loss from agents' premium balances charged off		(1,024,282)
Aggregate write-ins for other income or expense		<u>(1,522,848)</u>
Net income or (loss) after capital gains tax and before all other federal income taxes		\$ (138,259,259)
Federal and foreign income taxes incurred		<u>(42,956,975)</u>
Net (loss)		\$ <u>(95,302,284)</u>

Changes in Capital and Surplus

Capital and surplus, per report on examination, as of December 31, 2016			\$ 223,931,842
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$ 95,302,284	
Net change in unrealized capital losses	\$ 45,196		
Change in net deferred income tax		4,897,633	
Change in non-admitted assets	3,378,649		
Surplus adjustments: Paid-in	<u>30,000,000</u>	—————	
Net decrease in capital and surplus			\$ <u>(66,776,072)</u>
Capital and surplus, per report on examination, as of December 31, 2016			\$ <u>157,155,770</u>

4. CLAIMS UNPAID

The examination liabilities of \$88,963,406 for the above captioned accounts are the same as the amounts reported by EHC HMO in its filed December 31, 2019 annual statement.

The examination analysis of the aggregate reserves and claims unpaid reserve was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in EHC HMO's internal records and in its filed annual statements as verified during the examination. The examination reserve was based upon actual payments made through a point in time, plus an estimate for claims remaining unpaid at that date. Such estimate was calculated based on actuarial principles, which utilized EHC HMO's past experience in projecting the ultimate cost of claims incurred on or prior to December 31, 2019.

5. SUBSEQUENT EVENTS

In March 2020, the World Health Organization declared the outbreak of a novel strain of coronavirus ("COVID-19") a global health pandemic. At the onset of the pandemic, to prevent its spread, most states issued shelter-in-place or stay-at-home orders, which generally required the businesses not considered essential to close their physical offices. While these orders were largely lifted during the second quarter of 2020, many states and local authorities continued to impose certain restrictions on the conduct of businesses and individuals.

The COVID-19 pandemic continues to evolve, and the virus and mitigation efforts have continued to impact the global economy, cause market instability, increase unemployment and put pressure on the healthcare system. The COVID-19 pandemic has impacted and will continue to impact Anthem companies' membership and benefit expense and has influenced and will likely continue to influence member behavior, impacting how members access healthcare services. The NYDFS

continues to closely monitor the impact of the pandemic on EHC HMO and will take necessary action if a solvency concern arises.

6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2016, contained the following three (3) comments and recommendations pertaining to the financial portion of the examination (page number refers to the prior report on examination):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<u>Holding Company System</u>	
1. It is recommended that the Plan comply with Part 98-1.10(c) of the Administrative Rules and Regulations of the NYSDOH by notifying the NYSDOH and the Department thirty (30) days prior to entering into any affiliated transactions that require such submission.	13
<i>The Plan has complied with this recommendation.</i>	
<u>Financial Risk Transfer Agreements with Health Care Providers</u>	
2. It is recommended that EHC HMO obtains prior approval, from the Department, for all amendments to its financial risk transfer agreements as required by Section 101.4(c) of Insurance Regulation 164.	16
<i>The Plan has complied with this recommendation</i>	
<u>Facilitation of the Examination</u>	
3. It is recommended that the Plan comply with the requirements of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.	17
<i>The Plan has complied with this recommendation.</i>	

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>Page No.</u>
A.	<u>Conflict of Interest Statements</u>	16
	<p>It is recommended that Anthem require all management and non-management associates on each subsidiary's Board of Directors complete a Conflict of Interest statement, in compliance with Anthem's Conflict of Interest Policy, and provide such copies upon request.</p>	
B.	<u>Investment Policy</u>	17
	<p>As a good business practice, it is recommended that the Plan review and update its investment policy on a regular basis to ensure that its policy is in compliance with the New York Insurance Law.</p>	

Respectfully submitted,

Brad Neff, CFE
Examiner in charge

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

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

Brad Neff, CFE

Subscribed and sworn to before me
this _____ day of _____ 2021.

Respectfully submitted,

Jeffrey Usher, CFE

Supervising Examiner

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

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

Jeffrey Usher, CFE
Supervising Examiner

Subscribed and sworn to before me
this _____ day of _____ 2021.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, LINDA A. LACEWELL, 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:

Noble Consulting Services, Inc.

as a proper person to examine the affairs of the

Empire HealthChoice HMO, Inc.

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

HMO

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 10th day of August, 2020

LINDA A. LACEWELL
Superintendent of Financial
Services

By: Alice W. McKenney

Alice McKenney
Deputy Chief
Health Bureau

