STATE OF NEW YORK INSURANCE DEPARTMENT

REPORT ON FINANCIAL CONDITION EXAMINATION

OF THE

AMERICAN PROGRESSIVE LIFE AND HEALTH INSURANCE COMPANY

OF NEW YORK

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| CONDITION: | DECEMBER 31, 2006 |
| DATE OF REPORT: | APRIL 29, 2008 |

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| DATE OF REPORT: | APRIL 29, 2008 |
| EXAMINER: | CHONG KIM |

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

David A. Paterson
Governor

Eric R. Dinallo
Superintendent

November 3, 2008

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

Sir:

In accordance with instructions contained in Appointment No. 22639, dated May 15, 2007 and annexed hereto, an examination has been made into the financial condition and affairs of American Progressive Life and Health Insurance Company of New York, hereinafter referred to as “the Company”, at its home office located at 6 International Drive, Rye Brook, New York 10573.

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

The report indicating the results of this examination is respectfully submitted.

## 1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2006 filed annual statement. (See item 5 of this report)

## 2. SCOPE OF EXAMINATION

The prior examination was conducted as of December 31, 2003. This examination covers the period from January 1, 2004 through December 31, 2006. As necessary, the examiner reviewed transactions occurring subsequent to December 31, 2006 but prior to the date of this report (i.e., the completion date of the examination).

The examination comprised a verification of assets and liabilities as of December 31, 2006 to determine whether the Company's 2006 filed annual statement fairly presents its financial condition. The examiner reviewed the Company's income and disbursements necessary to accomplish such verification and utilized the National Association of Insurance Commissioners' Examiners Handbook or such other examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

Company history
Management and control
Corporate records
Fidelity bond and other insurance
Territory and plan of operation
Growth of Company
Business in force by states
Mortality and loss experience
Reinsurance
Accounts and records
Financial statements

The examiner reviewed the corrective actions taken by the Company with respect to the financial condition violations and recommendations contained in the prior report on examination. The results of the examiner's review are contained in item 7 of this report.

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

## 3. DESCRIPTION OF COMPANY

### A. History

The Company was incorporated under the laws of the State of New York as a for-profit health insurance company on September 22, 1945 under the name American Progressive Health Insurance Company of New York. It was licensed and commenced business on March 26, 1946. On January 25, 1979, its charter was amended to include the writing of life insurance and annuities. The Company's present name was adopted at that time.

Initial resources of $151,800, consisting of common capital stock of $101,200 and paid in and contributed surplus of $50,600, were provided through the sale of 1,012 shares of common stock (with a par value of $100 each) for $150 per share. As of December 31, 2006, authorized capital was $2,500,050, consisting of 16,667 shares of common stock with a par value of $150 per share. The Company received surplus contributions from American Exchange Life Insurance Company ("American Exchange") of $7,000,000, $7,500,000 and $16,000,000 in 2004, 2005 and 2006, respectively, increasing its capital and surplus to $34,507,718 as of December 31, 2006. Subsequent to the examination period, the Company received an additional contribution of $44,000,000 in 2007.

On July 30, 1999, American Exchange completed an acquisition of various subsidiaries of the former PennCorp Financial Group, Inc. ("PennCorp"), an insurance holding company. The following six insurers, collectively referred to as "PennUnion", were acquired: Pennsylvania Life Insurance Company, Constitution Life Insurance Company, Union Bankers Insurance Company ("Union Bankers"), Marquette National Life Insurance Company, PennCorp Life Insurance Company (Canada), and Peninsula Life Insurance Company.

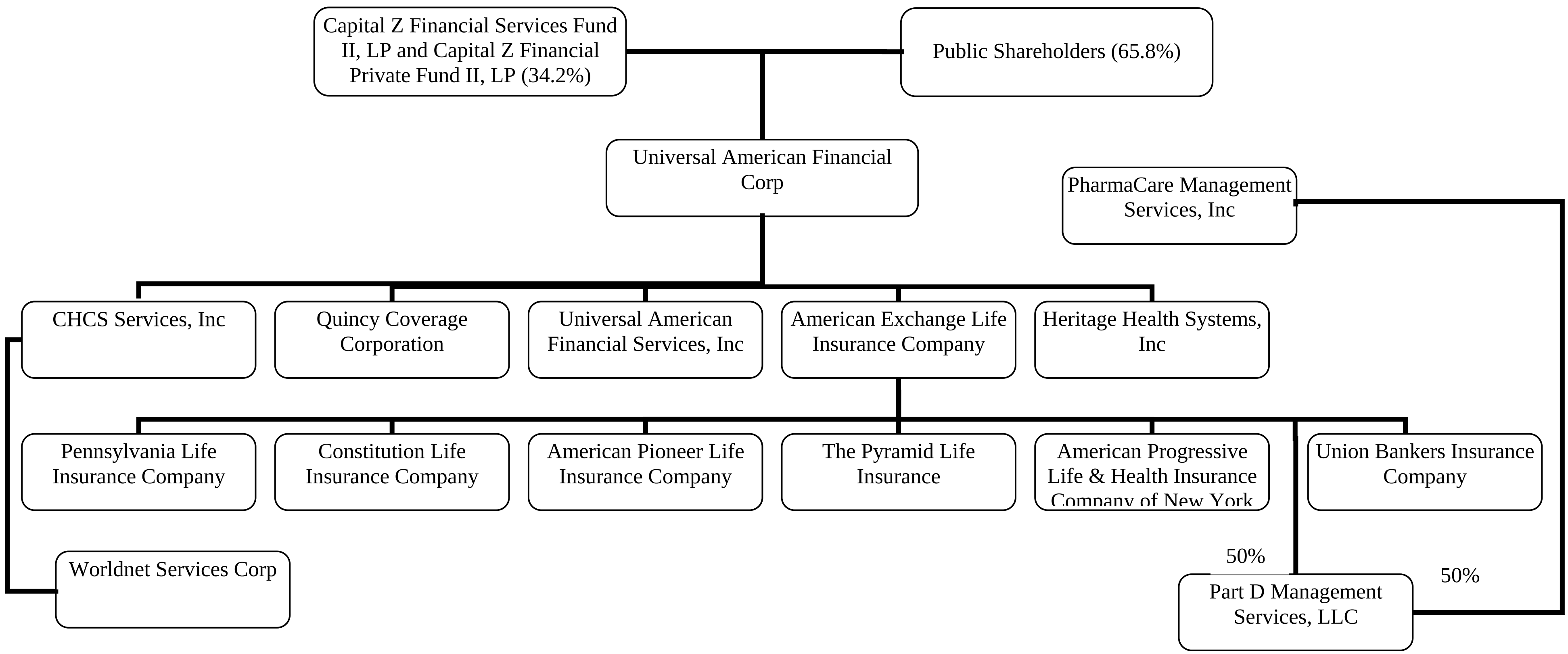
To help finance the acquisition of PennUnion, Universal American Financial Corporation ("UAFC") entered into a Share Purchase Agreement ("SPA") with Capital Z Financial Services Fund II ("Capital Z"), dated December 31, 1998. In accordance with the SPA, Capital Z purchased a majority of UAFC shares, investing approximately $81 million, and acquiring an approximate 59.7% controlling interest in UAFC. As of December 31, 2006, Capital Z's interest in UAFC was 34.2%; the remainder was owned by individual shareholders.

In 2007, UAFC acquired MemberHealth, a privately held pharmacy benefit manager ("PBM") and sponsor of Community Care Rx ("CCRx"), a national Medicare Part D plan with more than 1.1 million members. MemberHealth offers Medicare prescription drug plans in 50 states, the

District of Columbia, Puerto Rico, and the U.S. Virgin Islands. MemberHealth is currently operating its Medicare Part D business under a waiver from the Centers for Medicare and Medicaid Services ("CMS") and, as a result, is not licensed in any states. In connection with the acquisition, MemberHealth transferred its NY business to the Company, and business in all other states transferred to Pennsylvania Life, a subsidiary who also provides Medicare Part D. The Department approved the MemberHealth's transfer of NY business to the Company on September 7, 2007.

B. Holding Company

The Company is a wholly owned subsidiary of American Exchange, a life and accident and health insurance company domiciled in Texas, which, in turn, is a wholly owned subsidiary of the Universal American Financial Corporation, a publicly traded corporation located in New York (Nasdaq ticker symbol UHCO). As of December 31, 2006, Capital Z, a Bermuda limited partnership based in New York, held a 34.2% interest in UAFC; the remainder was owned by individual shareholders. Capital Z is managed by Capital Z Partners, LP, a New York-based global alternative asset management firm. An organization chart reflecting the relationship between the Company and significant entities in its holding company system as of December 31, 2006 follows:



Capital Z Financial Services Fund II, LP and Capital Z Financial Private Fund II, LP (34.2%)
Public Shareholders (65.8%)
Universal American Financial Corp
PharmaCare Management Services, Inc
CHCS Services, Inc
Quincy Coverage Corporation
Universal American Financial Services, Inc
American Exchange Life Insurance Company
Heritage Health Systems, Inc
Pennsylvania Life Insurance Company
Constitution Life Insurance Company
American Pioneer Life Insurance Company
The Pyramid Life Insurance
American Progressive Life & Health Insurance Company of New York
Union Bankers Insurance Company
Worldnet Services Corp
50%
50%
Part D Management Services, LLC

The Company had 5 service agreements in effect with affiliates during the examination period.

| Type of Agreement and Department File Number | Effective Date | Provider(s) of Service(s) | Recipient(s) of Service(s) | Specific Service(s) Covered | Income/ (Expense)* For Each Year of the Examination |
|---|---|---|---|---|---|
| Services Agreement File #25327<br><br>Amendment #2 File #33267 | 4/13/1998<br><br>4/1/2005 | CHCS Services, Inc. | The Company | Phone services and various other administrative services | 2004 $(2,919,000)<br>2005 $(3,375,000)<br>2006 $(3,038,000) |
| Network Agreement File #32552 | 6/1/2004 | CHCS Services, Inc. | The Company | Network Services for Medicare Select insurance products "Ameriplus" | 2004 $(4,517)<br>2005 $(1,392)<br>2006 $ (361) |
| Services Management Agreement. File #32032<br><br>Amendment File #34001<br><br>Amendment File #36078 | 8/1/2004<br><br>9/12/2005<br><br>12/07/2006 | CHCS Services, Inc. | The Company | Management and administrative services related to Medicare Advantage and Medicare Part D | 2004 $0<br>2005 $0<br>2006 $(3,890,000) |
| Management and Marketing Agreement File #34002 | 9/12/2005 | Part D Management Services, LLC | The Company | Management and marketing services related to Medicare Part D | 2004 N/A<br>2005 $0<br>2006 $(1,334,000) |
| Services Management Agreement File #34771 | 12/31/2005 | HHS Texas Management, Inc. | The Company | Certain management and administrative services related to Medicare Part D | 2004 N/A<br>2005 N/A<br>2006 $0 |

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

The Company has service agreement with CHCS Services, Inc. ("CHCS") and Part D Management Services, LLC ("PDMS"), to process all the administrative work for Part D business pursuant to the Service Management Agreements effective September 12, 2005. The Company had intention to reassign all administrative services for Part D business to HHS Texas Management, Inc. ("HHS"), pursuant to the Services Management Agreement effective December 31, 2005. Instead, the Company decided to retain the services for Part D business with CHCS and PDMS. As a result, the Company did not allocate any expenses to HHS since the execution of the agreement, and does not intend to receive future services from HHS for the administration of Part D business.

The examiner recommends that the Company formally withdraw the Services Management Agreement entered into with HHS as no services were provided by HHS under such Agreement during the examination period, and the Company has advised that it has no intention of receiving Part D administrative services from HHS in the future.

Section 1505(c) of the New York Insurance Law states:

> "The superintendent's prior approval shall be required for the following transactions between a domestic controlled insurer and any person in its holding company system: sales, purchases, exchanges, loans or extensions of credit, or investments, involving five percent or more of the insurer's admitted assets at last year-end."

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

> "The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:
> (1) sales, purchases, exchanges, loans or extensions of credit, or investments, involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end . . . "

During the examination period, American Exchange, the Company's parent, made capital cash contributions to the Company in the amounts of $1,500,000, $6,000,000 and $16,000,000 on September 30, 2005, December 22, 2005 and December 29, 2006, respectively. The 2005 capital contributions involved approximately 0.81% and 3.24% of the Company's 2004 admitted assets, while the 2006 capital contribution represented approximately 8.06% of the Company's 2005 admitted assets. The Company did not notify the Department prior to the receipt of these contributions.

The Company violated Section 1505(c) of the New York Insurance Law by failing to obtain the superintendent's approval prior to receiving a cash contribution from its parent in 2006 involving five percent or more of the insurer's admitted assets at last year-end.

The Company violated Section 1505(d)(1) of the New York Insurance Law by failing to notify the superintendent in writing prior to receiving two cash contributions from its parent in 2005 involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end.

## C. Management

The Company's by-laws provide that the board of directors shall be comprised of not less than 9 and not more than 21 directors, provided that within one year following the end of the calendar year in which the Company exceeds $500,000,000 in admitted assets, the number of directors shall be increased to not less than 13 directors. Directors are elected for a period of one year at the annual meeting of the stockholders held each March. As of December 31, 2006, the board of directors consisted of 10 members. Meetings of the board are held twice each year.

The 10 board members and their principal business affiliation, as of December 31, 2006, were as follows:

| Name and Residence | Principal Business Affiliation | Year First Elected |
|---|---|---|
| Richard Barasch<br>New York, NY | Chairman of the Board, President and Chief Executive Officer<br>American Progressive Life and Health Insurance Company of New York<br>Chairman of the Board and Chief Executive Officer<br>Universal American Financial Corporation | 1991 |
| David Bolger*<br>Ridgewood, NJ | President<br>Bolger & Company | 1999 |

| Name and Residence | Principal Business Affiliation | Year First Elected |
| --- | --- | --- |
| Gary Bryant<br>Longwood, FL | Executive Vice President<br>American Progressive Life and Health Insurance Company of New York<br>Executive Vice President and Chief Operating Officer<br>Universal American Financial Corporation | 2000 |
| William Cushman<br>New Hartford, CT | Vice President<br>American Progressive Life and Health Insurance Company of New York | 2001 |
| Walter Harris*<br>New York, NY | President<br>Tanenbaum-Harber Co. | 1991 |
| Harry Henshel*<br>Scarsdale, NY | Vice Chairman<br>Bulova Corporation | 1999 |
| Jeffrey Laikind*<br>New York, NY | Managing Director<br>Shikiar Asset Management | 1995 |
| Linda Lamel*<br>New York, NY | Sole Proprietor<br>Law Office of Linda Lamel | 2005 |
| Steven Najjar<br>Longwood, FL | Executive Vice President and General Counsel<br>American Progressive Life and Health Insurance Company of New York | 2006 |
| Robert Waegelein<br>Pawling, NY | Executive Vice President and Chief Financial Officer<br>American Progressive Life and Health Insurance Company of New York<br>Executive Vice President and Chief Financial Officer<br>Universal American Financial Corporation | 1991 |

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

In June 2007, Harry Henshel passed away and the Company has yet to designate his position on the board. Currently, the Company has 4 outside directors on the board.

In August 2007, William Cushman resigned from the board, and was replaced by John Squarok.

The examiner’s review of the minutes of the meetings of the board of directors and its committees indicated that meetings were well attended and that each director attended a majority of meetings.

The following is a listing of the principal officers of the Company as of December 31, 2006:

| Name | Title |
|---|---|
| Richard Barasch | Chairman, President and Chief Executive Officer |
| Robert Waegelein | Executive Vice President and Chief Financial Officer |
| Steven Najjar | Executive Vice President and General Counsel |
| Gary Bryant | Executive Vice President |
| Harold Lund | Senior Vice President and Chief Actuary |
| Carl Cochrans | Vice President |
| Richard Cannone | Vice President |
| Frederick Rook III | Vice President |
| Donald Gray | Treasurer |
| Lisa Spivack | Corporate Secretary |

Judy Borrell, Vice President of Market Conduct Compliance, is the designated consumer services officer per Section 216.4 of Department Regulation No. 64.

In 2007, John Squarok replaced Donald Gray as Treasurer, and Steven Najjar replaced Lisa Spivack as Secretary.

D. Territory and Plan of Operation

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

The Company is licensed to transact business in 23 states and the District of Columbia. In 2006, 67.4% of life premiums, 60.8% of annuity considerations and 69.3% of accident and health premiums were received from New York and 18.1% of life premiums, 37% of annuity considerations and 16.1% of accident and health premiums were received from Pennsylvania. 94.5% of the total premiums received in 2006 were derived from the sale of accident and health insurance products. Policies are written on a non-participating basis.

The Company primarily markets accident and health products on both an individual and group basis. The targeted population is the senior age group, ages 65 and over. Specifically, the primary health insurance products, (Medicare Supplemental, Medicare Advantage and Medicare Part D), are offered to individual seniors who attain eligibility; i.e. they are enrolled in Medicare Parts A & B.

The Company also sells whole life policies with face amounts of less than $35,000, and annuities. The whole life products are offered on a simplified issue basis and are targeted toward the senior market. Nonqualified and qualified annuity products are offered. The Company does not issue new life or annuity products to individuals over age 85.

The Company initially marketed its business to people living in rural areas. However, since the introduction of Today's Options Medicare Advantage Private Fee-for-Service Plan ("Medicare Advantage") in 2004, the Company expanded its marketing coverage to include metropolitan areas.

The Company's agency operations are conducted on a general agency basis, utilizing the services of both General and Independent Agents. The Company compensates the agents by either using a percent of premium method, which includes commissions and overrides, on sales of traditional insurance products; or on a per application fee for sales of its Medicare Advantage plans.

Since the inception of the Medicare Advantage Plan, the Company has experienced a significant surge in sales of non-traditional accident and health insurance products. Conversely, the Company has experienced a decline in product sales of its traditional insurance products, i.e. annuity and Medicare Supplement. While the Company initially limited its sales focus of Medicare Advantage to residents of New York and Pennsylvania, it has since broadened its target markets to include several other northeastern states, such as Maine, New Hampshire, and Vermont. Also contributing to the Company's increasing sales in non-traditional markets is its offering of a stand alone prescription drug benefits plan, named Prescription Pathway.

E. Reinsurance

As of December 31, 2006, the Company had reinsurance treaties in effect with 16 companies, of which 12 were authorized or accredited. The Company's life and accident health insurance business is reinsured on a coinsurance, modified-coinsurance, and yearly renewable term basis. Reinsurance is provided on an automatic and facultative basis.

The maximum retention limit for individual life contracts is $50,000. At December 31, 2006, the total face amount of life insurance ceded was $124,835,724, which represents 32.3% of the total face amount of life insurance in force. The Company primarily ceded its life business to

Swiss Re Life & Health America, Inc., and Security Life of Denver Insurance Company. These cessions comprised 97.3% of the total ceded face amount.

For the accident and health business, the Company's ceded premium amounts increased from $23.3 million in 2005 to $61.9 million in 2006. The increase was mainly due to an alliance forged with PharmaCare Captive Re Ltd. ("PharmaCare Captive"), a subsidiary of PharmaCare Management Services Inc., which is a directly owned subsidiary of CVS. The Company began offering Prescription Pathway in 2006. In conjunction with this program, the Company entered into a coinsurance agreement with PharmaCare Captive to reinsure 50% of all risks associated with this product. The PharmaCare Captive is an unauthorized reinsurer. No reserve credit was taken against the $35.7 million of reinsurance ceded under this agreement

In 2006, reserve credit taken for reinsurance ceded to unauthorized companies, totaling $3,928,747, was supported by a letter of credit and funds withheld.

As of December 31, 2006, the Company assumed life business from one insurer, Wilton Reassurance Company of New York. The total face amount of life insurance assumed as of December 31, 2006, was $13,507,512.

## 4. SIGNIFICANT OPERATING RESULTS

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

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

| | December 31, 2003 | December 31, 2006 | Increase (Decrease) |
|---|---|---|---|
| Admitted assets | $166,266,148 | $259,057,364 | $92,791,216 |
| Liabilities | $156,074,613 | $224,549,646 | $68,475,033 |
| Common capital stock | $ 2,500,050 | $ 2,500,050 | $ 0 |
| Gross paid in and contributed surplus | 19,966,498 | 50,466,498 | 30,500,000 |
| Unassigned funds (surplus) | (12,275,013) | (18,458,830) | (6,183,817) |
| Total capital and surplus | $ 10,191,535 | $ 34,507,718 | $24,316,183 |
| Total liabilities, capital and surplus | $166,266,148 | $259,057,364 | $92,791,216 |

The Company's invested assets as of December 31, 2006, exclusive of separate accounts, were mainly comprised of bonds (81.9%), cash and short-term investments (17.3%), and policy loans (0.8%). The investments consisted of 93.1% NAIC Class 1, 6.3% NAIC Class 2, and 0.6% NAIC Class 3 obligations. All investments were publicly traded

As of December 31, 2006, the Company had 10 subprime holdings with a book value of $18.5 million and a market value of $18.2 million. The Company advised that all its subprime holdings maintained a high credit rating, and that such holdings were not deemed to present any high risk exposure. As of December 31, 2007, the holdings maintained a NAIC Designation 1FE, but experienced a decline of $7.3 million in market value since year-end 2006. The Company reported total capital and surplus of $93.1 million in 2007.

The following has been extracted from the Exhibits of Annuities in the filed annual statements for each of the years under review:

| | Ordinary Annuities | | |
|---|---|---|---|
| | 2004 | 2005 | 2006 |
| Outstanding, end of previous year | 2,824 | 3,005 | 2,933 |
| Issued during the year | 312 | 154 | 50 |
| Other net changes during the year | (131) | (226) | (203) |
| Outstanding, end of current year | 3,005 | 2,933 | 2,780 |

The decrease in ordinary annuities issued is primarily due to the Company's withdrawal of an annuity product with a 4% guaranteed interest rate, which was subsequently replaced with a product offering a 1.5% guaranteed interest rate in August 2003.

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

| | Ordinary | | | Group | | |
|---|---|---|---|---|---|---|
| | 2004 | 2005 | 2006 | 2004 | 2005 | 2006 |
| Outstanding, end of previous year | 68,800 | 68,769 | 67,432 | 1,409 | 1,212 | 1,024 |
| Issued during the year | 11,742 | 11,506 | 72,834 | 45 | 24 | 2 |
| Other net changes During the year | (11,773) | (12,843) | ( 13,579) | ( 242) | ( 212) | ( 159) |
| Outstanding, end of current year | 68,769 | 67,432 | 126,687 | 1,212 | 1,024 | 867 |

Ordinary accident and health sales have steadily increased since the inception of the Company's Medicare Advantage program, with a huge spike experienced in 2006 due to the Company's expansion of its target market to include metropolitan areas. Further contributing to the sales increase in 2006 was the introduction of Medicare Part D plans.

During the examination, the Company was unable to produce a listing of in-force files for the Medicare Advantage and Part D plans that reconciled to the Exhibit of Accident and Health Insurance, shown above. The Company attributed this failure to the complexity of the retroactive enrollment and disenrollment by its members under the guidance of CMS.

The Company advised that all membership data in the Medicare Advantage and Prescription Pathway is a moving target. CMS allows retroactivity to be processed for up to 36 months. This means that a member could have enrolled into a plan in the year 2007, and still be retroactively enrolled for the year 2006 or earlier. The Company has many thousands of members who enrolled, terminated, and reinstated retroactively under the guidance of CMS.

The examiner recommends that the Company implement a procedure to maintain a periodic snapshot of its enrollment data and that any retroactive changes to such enrollment be tracked so that an accurate in-force count, reconcilable to the Annual Statement, is available for the examiner's review.

In response the Company advised that, in the future, it will create a listing of in-force files that can be run at the end of each year to reconcile to the data reported in the annual statement, and archive the files into the system.

The group accident and health insurance policies reported were comprised of association groups. The decrease in group accident and health insurance was due to the withdrawal of several associations.

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

| | 2004 | 2005 | 2006 |
|---|---|---|---|
| Ordinary: | | | |
| Life insurance | $ (542,659) | $ (394,446) | $(1,080,785) |
| Individual annuities | (81,443) | 551,132 | 1,660,457 |
| Total ordinary | $ (624,102) | $ 156,686 | $ 579,672 |
| Accident and health: | | | |
| Group | $ 19,889 | $ 231,771 | $ 183,428 |
| Other | (1,899,142) | (3,162,386) | (1,812,599) |
| Total accident and health | $(1,879,253) | $(2,930,615) | $(1,629,171) |
| All other lines | 0 | (338,822) | 0 |
| Total | $(2,503,355) | $(3,112,751) | $(1,049,499) |

During the examination period, the Company continuously reported net losses from its operations. This is due to losses in its core lines of business, ordinary life and health. Although life premiums grew from $5.2 million in 2004 to $10.0 million in 2006, the Company experienced losses in senior life sales due to the expansion into additional states, resulting in new business strain on this product. Also, beginning in 2003, the Company began retaining 100% of newly written ordinary life business, which had previously been reinsured at 50%.

The Company had significant increase of health sales after the introduction of Medicare Advantage in 2004. The Medicare Advantage net premium grew from $3.3 million in 2004 to $102 million in 2006. Also, in 2006 the Company's introduction of Prescription Pathway generated net premiums of $71 million. As with life products, operating losses were reported during the examination period due to new business strain. The health lines also experienced higher loss ratios due to the maturing of existing business.

The following ratios, applicable to the accident and health business of the Company, have been extracted from Schedule H for each of the indicated years:

| | 2004 | 2005 | 2006 |
|---|---|---|---|
| Premiums earned | 100.0% | 100.0% | 100.0% |
| Incurred losses | 70.4% | 76.7% | 79.1% |
| Commissions | 14.0 | 12.9 | 5.2 |
| Expenses | 19.6 | 16.4 | 17.9 |
| | 104.0% | 106.0% | 102.2% |
| Underwriting results | (4.0)% | (6.0)% | (2.2)% |

## 5. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, capital and surplus as of December 31, 2006, as contained in the Company's 2006 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 examiner's review of a sample of transactions did not reveal any differences which materially affected the Company's financial condition as presented in its financial statements contained in the December 31, 2006 filed annual statement.

### A. ASSETS, LIABILITIES, CAPITAL AND SURPLUS AS OF DECEMBER 31, 2006

Admitted Assets

| | |
|---|---|
| Bonds | $182,256,806 |
| Stocks: | |
| Common stocks | 9,298 |
| Cash, cash equivalents and short term investments | 38,406,764 |
| Contract loans | 1,791,410 |
| Investment income due and accrued | 2,032,826 |
| Premiums and considerations: | |
| Uncollected premiums and agents' balances in the course of collection | 4,480,213 |
| Deferred premiums, agents' balances and installments booked but deferred and not yet due | 4,054,415 |
| Accrued retrospective premiums | 405,951 |
| Reinsurance: | |
| Amounts recoverable from reinsurers | 28,254 |
| Other amounts receivable under reinsurance contracts | 98,235 |
| Amounts receivable relating to uninsured plans | 6,872,320 |
| Current federal and foreign income tax recoverable and interest thereon | 2,439,932 |
| Net deferred tax asset | 1,558,658 |
| Guaranty funds receivable or on deposit | 1,706 |
| Receivables from parent, subsidiaries and affiliates | 2,174,920 |
| Health care and other amounts receivable | 12,445,656 |
| Total admitted assets | $259,057,364 |

Liabilities, Capital and Surplus

| | |
|---|---|
| Aggregate reserve for life policies and contracts | $138,609,105 |
| Aggregate reserve for accident and health contracts | 20,856,613 |
| Liability for deposit-type contracts | 307,800 |
| Contract claims: | |
| Life | 1,574,490 |
| Accident and health | 34,268,682 |
| Premiums and annuity considerations for life and accident and health contracts received in advance | 1,074,579 |
| Contract liabilities not included elsewhere: | |
| Provision for experience rating refunds | 811,904 |
| Other amounts payable on reinsurance | 247,740 |
| Interest maintenance reserve | 968,076 |
| General expenses due or accrued | 2,643,993 |
| Taxes, licenses and fees due or accrued, excluding federal income taxes | 483,982 |
| Amounts withheld or retained by company as agent or trustee | 111,110 |
| Amounts held for agents' account | 304,320 |
| Remittances and items not allocated | 1,224,168 |
| Liability for benefits for employees and agents if not included above | 75,572 |
| Miscellaneous liabilities: | |
| Asset valuation reserve | 570,087 |
| Funds held under reinsurance treaties with unauthorized reinsurers | 8,114,806 |
| Payable to parent, subsidiaries and affiliates | 5,875,478 |
| Due to TPA | 6,427,141 |
| Total liabilities | $224,549,646 |
| Common capital stock | $ 2,500,050 |
| Gross paid in and contributed surplus | 50,466,498 |
| Unassigned funds (surplus) | (18,458,830) |
| Surplus | $ 32,007,668 |
| Total capital and surplus | $ 34,507,718 |
| Total liabilities, capital and surplus | $259,057,364 |

## B. CONDENSED SUMMARY OF OPERATIONS

| | 2004 | 2005 | 2006 |
|---|---|---|---|
| Premiums and considerations | $ 83,767,981 | $ 96,297,353 | $191,012,183 |
| Investment income | 8,574,901 | 9,457,064 | 11,096,883 |
| Commissions and reserve adjustments on reinsurance ceded | 7,201,871 | 5,529,590 | 8,352,707 |
| Miscellaneous income | 180,438 | 106,914 | 256,008 |
| Total income | $ 99,725,191 | $111,390,921 | $210,717,781 |
| Benefit payments | $ 55,242,916 | $ 74,006,581 | $155,795,831 |
| Increase in reserves | 12,516,246 | 4,611,179 | (587,087) |
| Commissions | 18,375,702 | 18,994,183 | 20,404,738 |
| General expenses and taxes | 14,705,443 | 17,176,307 | 35,928,255 |
| Increase in loading on deferred and Uncollected premium | 493,859 | (123,045) | 72,512 |
| Total deductions | $101,334,166 | $114,665,205 | $211,614,249 |
| Net gain (loss) | $ (1,608,975) | $ (3,274,284) | $ (896,468) |
| Federal and foreign income taxes incurred | 894,380 | (161,530) | 153,031 |
| Net gain (loss) from operations Before net realized capital gains | $ (2,503,355) | $ (3,112,754) | $ (1,049,499) |
| Net realized capital gains (losses) | 167,530 | 0 | 0 |
| Net income | $ (2,335,825) | $ (3,112,754) | $ (1,049,499) |

Since the introduction of the Medicare Advantage in 2004, the Company had significant increase of health sales. The Medicare Advantage net premium grew from $3.3 million in 2004 to $102 million in 2006. Also, in 2006 the Company's introduction of Prescription Pathway generated net premiums of $71 million.

As a result of the Company's significant surge in sales of the Medicare Advantage Plan and Prescription Pathway, the Company experienced a substantial increase in benefit payments and general expenses for its accident and health business.

## C. CAPITAL AND SURPLUS ACCOUNT

| | 2004 | 2005 | 2006 |
|---|---|---|---|
| Capital and surplus, December 31, prior year | $10,191,535 | $14,971,482 | $19,443,014 |
| Net income | $ (2,335,825) | $ (3,112,754) | $ (1,049,499) |
| Change in net unrealized capital gains (losses) | | (130) | 0 |
| Change in net deferred income tax | 7,230,523 | 182,977 | 609,228 |
| Change in non-admitted assets and related items | (6,874,013) | 32,325 | (386,818) |
| Change in asset valuation reserve | (240,738) | (130,886) | (108,207) |
| Paid in surplus | 7,000,000 | 7,500,000 | 16,000,000 |
| Net change in capital and surplus for the year | $ 4,779,947 | $ 4,471,532 | $15,064,704 |
| Capital and surplus, December 31, current year | $14,971,482 | $19,443,014 | $34,507,718 |

The Company reported an increase of 89% in total capital and surplus from $19.4 million in 2005 to $34.5 million in 2006. The increase can be primarily attributed to the receipt of a $16 million surplus contribution from American Exchange. Such contribution has been earmarked to assist the Company with continued growth and increased retention of the Medicare Advantage and Prescription Pathway plan participants. In 2007, the Company received an additional contribution of $44 million from American Exchange.

## 6. ABANDONED PROPERTY

Section 701.1 of the New York Abandoned Property Law states, in part:

> "On or before the first day of April in each year every life insurance corporation shall make a verified written report to the state comptroller . . . of all abandoned property . . . held or owing by it . . ."

The examiner's review of outstanding checks for the months of December 2006 and January 2007 revealed that the Company failed to escheat unpaid checks issued in 2005 and prior.

The examiner recommends that the Company void and escheat any unclaimed funds in its possession to the State, as required by the New York Abandoned Property Law.

## 7. PRIOR REPORT SUMMARY AND CONCLUSIONS

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

| Item | Description |
|---|---|
| A | The Company violated Section 1505(d)(3) of the New York Insurance Law by failing to notify the Superintendent of its participation in the Service Expense Reimbursement and Cost Sharing Agreement with its affiliate CHCS. This is a repeat violation from the prior report on examination.<br><br>The Company submitted the Service Expense Reimbursement and Cost Sharing Agreement with its affiliate CHCS to the Department. The agreement was approved on May 4, 2005. |
| B | The examiner recommends that the Company recoup from CHCS all monies paid under the aforementioned service agreement with CHCS since the last examination period.<br><br>The Company recouped $6 million through a surplus contribution from UAFC. |
| C | The Company violated Section 325(a) of New York Insurance Law by failing to keep and maintain the minutes of the board committee meetings.<br><br>The Company has kept and maintained the minutes of the board committee meetings. |
| D | The Company violated Section 1202(b)(2) of the New York Insurance Law when its audit committee failed to meet and fulfill its responsibilities during the examination period.<br><br>The Company has kept and maintained the minutes of the audit committee meetings to indicate that the audit committee fulfilled its responsibilities required under the New York Insurance Law. |
| E | The Company violated Section 325(a) of the New York Insurance Law by failing to maintain its books of accounts at its principal office in this state.<br><br>The Company kept and maintained its books of accounts at the principal office in this state. |

| Item | Description |
|---|---|
| F | The examiner recommends that the Company establish and maintain an independent, adequately resourced, and competently staffed internal audit function to provide management and the audit committee with ongoing assessments of the Company's risk management processes and the accompanying system of internal control. This is a repeat recommendation from the prior report on examination.<br><br>The Company has hired an additional staff in the internal audit department. In addition a co-sourcing arrangement is in place with Protiviti, an Independent Risk Consulting Firm. Internal Audit is totally separate and independent of any operations of the Company. Internal Audit reports directly to the Board of Directors of the Company through the Audit Committee and administratively to the CFO. |
| G | The examiner recommends that the Company augment its current disaster recovery plan.<br><br>The Company has refined its disaster recover plan to operate without any interruption during disaster events. The Company periodically tests and management reviews the plan, and the results of such tests are reported to the Audit Committee. |

## 8. SUMMARY AND CONCLUSIONS

Following are the financial condition violations, recommendations and comment contained in this report:

| Item | Description | Page No(s). |
|---|---|---|
| A | The examiner recommends that the Company formally withdraw the service agreement with HHS since the Company has no intention of using services provided by HHS as agreed upon. | 8 |
| B | The Company violated Section 1505(c) of the New York Insurance Law by failing to obtain the superintendent’s approval prior to receiving a cash contribution from its parent in 2006 involving five percent or more of the insurer's admitted assets at last year-end. | 9 |
| C | The Company violated Section 1505(d)(1) of the New York Insurance Law by failing to notify the superintendent in writing prior to receiving two cash contributions from its parent in 2005 involving more than one-half of one percent but less than five percent of the insurer's admitted assets at last year-end. | 9 |
| D | The Company was unable to produce a listing of in-force files for the Medicare Advantage and Part D plans for the year-end 2006 that reconcile precisely to the Exhibit of Accident and Health Insurance. | 15 |
| E | The examiner recommends that the Company implement a procedure to maintain a periodic snapshot of its enrollment data and that any retroactive changes to such enrollment be tracked so that an accurate in-force count, reconcilable to the Annual Statement, is available for the examiner’s review. | 15 |
| F | The examiner recommends that the Company void and escheat any unclaimed funds in its possession to the State, as required by the New York Abandoned Property Law. | 21 |

Respectfully submitted,

_____________/s/____________
Chong Kim
Senior Insurance Examiner

STATE OF NEW YORK )
)SS:
COUNTY OF NEW YORK )

Chong Kim, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

_____________/s/____________
Chong Kim

Subscribed and sworn to before me

this__________ day of ____________________

*APPOINTMENT NO.* *22639*

***STATE OF NEW YORK***

# ***INSURANCE DEPARTMENT***

*I, **ERIC R. DINALLO**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:*

***CHONG KIM***

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

***AMERICAN PROGRESSIVE LIFE & HEALTH INSURANCE COMPANY OF NEW YORK***

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

***COMPANY***

*with such other information as he shall deem requisite.*

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

*this 15th day of May, 2007*

*ERIC R. DINALLO*
*Superintendent of Insurance*

*Superintendent*