

INSURANCE DEPARTMENT OF THE STATE OF NEW YORK  
(11 NYCRR 83)  
Regulation 172

FINANCIAL STATEMENT FILINGS AND ACCOUNTING  
PRACTICES AND PROCEDURES

I, Gregory V. Serio, Acting Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 107(a)(2), 201, 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1411, 1414, 1501, 4117, 4233, 4239, 4301 and 6404 of the Insurance Law, and Sections 4403-(c)(12), 4403-d(11)(e), 4408(2), and 4408-a of the Public Health Law, do hereby promulgate a new Part 83 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 172, to take effect upon publication in the State Register as follows:

(ALL MATERIAL IS NEW)

Section 83.1 Purpose.

The purpose of this Part is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject hereto, by setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law.

Section 83.2 Background.

(a) Certain provisions of the Insurance Law provide that authorized insurers, accredited reinsurers, authorized fraternal benefit societies, and Public Health Law Article 44 Health Maintenance Organizations and Integrated Delivery Systems shall file financial statements annually and quarterly with the superintendent. These entities are subject to the provisions of Sections 307 and 308 of the Insurance Law and are required to file what are known as Annual and Quarterly Statement Blanks on forms prescribed by the superintendent ("Financial Statements"). Except in regard to filings made by Underwriters at Lloyd's, London, the superintendent has prescribed forms and Annual and Quarterly Statement Instructions ("Instructions") that are adopted from time to time by the National Association of Insurance Commissioners ("NAIC"), as supplemented by additional New York forms and instructions.

(b) To assist in the completion of the Financial Statements, the NAIC also adopts and publishes from time to time certain policy, procedure and instruction manuals. One of these manuals, the *Accounting Practices and Procedures Manual Effective January 1, 2001 As Of March 2000*\* ("Accounting Manual") includes a body of accounting guidelines referred to as *Statements of Statutory Accounting Principles* ("SSAPs").

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\* ACCOUNTING PRACTICES AND PROCEDURES MANUAL EFFECTIVE JANUARY 1, 2001 AS OF MARCH 2000. Copyright © 1999, 2000 by National Association of Insurance Commissioners, in Kansas City, Missouri.

(c) Section 1109(e) of the Insurance Law authorizes the superintendent to promulgate regulations in effectuating the purposes and provisions of the Insurance Law and Article 44 of the Public Health Law regarding Health Maintenance Organizations, and Section 4301(e)(5) authorizes the superintendent to modify any regulatory requirement in order to encourage the development of Health Maintenance Organizations in this state. Section 4408-a of the Public Health Law authorizes the superintendent to establish standards governing the fiscal solvency of Integrated Delivery Systems, and Sections 4408(2), 4403-c(12) and 4403-d(11)(e) require the filing of financial reports by Prepaid Health Service Plans and Comprehensive Special Needs Plans. In accordance with these sections, this Part sets forth certain accounting rules applicable to Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans and Comprehensive Special Needs Plans. This Part does not apply to managed long term programs licensed pursuant to Section 4403-f of the Public Health Law.

### Section 83.3 Accounting practices and procedures.

(a) The Financial Statements of all authorized insurers, accredited reinsurers (except Underwriters at Lloyd's, London), authorized fraternal benefit societies, and Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans and Comprehensive Special Needs Plans (all defined as "insurers" for the purposes of this Part) shall be completed in accordance with statutory accounting practices and procedures as prescribed by applicable provisions of the Insurance Law and this Title.

(b) Pursuant to Sections 307 and 308 of the Insurance Law, Financial Statements required to be submitted to the superintendent shall be in a form prescribed by the superintendent and shall be prepared in accordance with instructions prescribed by the superintendent.

(c) Notwithstanding any other provision of this Title, the Accounting Manual is adopted in its entirety, except as provided in Section 83.4 of this Part, and, subject to such conflicts and exceptions, insurers shall follow the accounting practices and procedures prescribed by the Accounting Manual. The document may also be viewed at the New York State Insurance Department's New York City office at 25 Beaver Street, New York, NY 10004.

### Section 83.4 Conflicts and exceptions.

The following are SSAPs or sections of SSAPs that conflict with provisions of the Insurance Law in whole or in part. These SSAPs or sections thereof are either not adopted, or modified and insurers shall follow the additional guidance, as indicated:

(a)(1) Paragraph 6 of SSAP No. 6 *Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers* is adopted with the following addition:

Premium accruals pertaining to guaranteed rates in the form of annual level subscriber rates, as permitted by Section 52.42 (b)(3)(ii) of this Title (Regulation No. 62) for Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans and Comprehensive Special Needs Plans, meet the definition of assets in SSAP No. 4 *Assets and Nonadmitted Assets* and are admitted if evidenced by an approved contract provision or rider. In the event of the termination of a group, any premium due on such guaranteed rates shall be nonadmitted as prescribed in Paragraph 9 of SSAP No. 6 or written off as prescribed in Paragraph 10 of SSAP No. 6.

(2) Paragraph 9(a) of SSAP No. 6 *Uncollected Premium Balances, Bills Receivable for Premiums, and Amounts Due From Agents and Brokers* is adopted with the following addition:

Overdue premiums (either direct or indirectly due) from the United States government or any of its instrumentalities shall be admitted assets, in accordance with Section 1301(a)(11) of the Insurance Law. Instrumentalities as used herein shall also include state and local governments.

(b) The guidance prescribed in Paragraphs 5 through 11 and 17 through 19 of SSAP No. 10 *Income Taxes* is not adopted. A refund due from the Treasury should be collectible within a brief period after the statement date, in order to be considered an admitted asset. A balance due as a result of participation in a consolidated tax return should be paid over promptly by the parent. An open account or promissory note from the parent would not be an admissible asset, and may violate the provisions of Section 1407(a)(4) of the Insurance Law. In addition, all requirements related to deferred tax assets (“DTAs”) and deferred tax liabilities (“DTLs”) in Paragraphs 20 and 21 are not adopted. DTAs or DTLs shall not be recorded or disclosed except as required in Appendix A-205 *Illustrative Disclosure of Differences Between NAIC Statutory Accounting Practices and Procedures and Accounting Practice Prescribed or Permitted by the State of Domicile* of the Accounting Manual, which is adopted.

(c) SSAP No. 16 *Electronic Data Processing Equipment and Software* is not adopted. Section 1301(a)(18) of the Insurance Law shall apply. In addition, nonoperating system software shall be nonadmitted and shall be depreciated over the lesser of its useful life or 5 years.

(d) Paragraph 5 of SSAP No. 19 *Furniture, Fixtures and Equipment; Leasehold Improvements Paid by the Reporting Entity as Lessee; Depreciation of Property and Amortization of Leasehold Improvements* is adopted with the following addition:

Leasehold improvements, relating to home office space of Article 43 corporations and Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans and Comprehensive Special Needs Plans as lessees, approved for capitalization by the superintendent prior to January 1, 2001, shall be admitted. Effective January 1, 2001, all new leasehold improvements shall be accounted for in accordance with Paragraph 5 of SSAP No. 19.

(e)(1) Except as provided in paragraphs (2) and (3) of this subdivision, Paragraph 4 of SSAP No. 20 *Nonadmitted Assets* is adopted with the following addition:

Pharmaceutical rebates estimated by a health entity shall be admitted assets. In accordance with SSAP No. 5, amounts determined to be uncollectible, or otherwise impaired, shall be written off.

All unsecured receivables from health care providers shall be nonadmitted. Secured shall be defined herein as evidenced by an executed note. In accordance with SSAP No. 5, amounts determined to be uncollectible, or otherwise impaired, shall be written off.

(2) Paragraph 4(c) of SSAP No. 20 is adopted with the following addition:

Section 1411(f)(1) and (2) of the Insurance Law prohibits loans to officers or directors.

(3) Paragraph 4(f) of SSAP No. 20 is adopted, except that aircraft may be recorded as an admitted asset if the requirements of Section 1301(a)(19) of the Insurance Law are met.

(f) Paragraph 3 of SSAP No. 22 *Leases* is adopted with the following addition:

Leases entered into by Article 43 corporations and Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Service Plans and Comprehensive Special Needs Plans, approved for capitalization by the superintendent prior to January 1, 2001, shall be admitted. Effective January 1, 2001, all new leases shall be accounted for in accordance with Paragraph 3 of SSAP No. 22.

(g)(1) Paragraph 5 of SSAP No. 25 is not adopted. Section 1501(c) of the Insurance Law provides that the superintendent may determine upon application that any person does not, or will not upon the taking of some

proposed action control another person.

(2) Paragraph 7 of SSAP No. 25 is adopted with the following addition:

Section 1411(f)(1) and (2) of the Insurance Law prohibits loans to officers or directors.

(h) SSAP No. 29 *Prepaid Expenses* is not adopted. Sections 1301(a)(9) and 1302(a)(2) of the Insurance Law shall apply.

(i) Paragraphs 5 and 6 of SSAP No. 34 *Investment Income Due and Accrued* are not adopted. Sections 1301(a)(4), 1301(a)(5), 1301(a)(6) and 1301(a)(7) of the Insurance Law shall apply.

(j) Paragraph 5 of SSAP No. 35 *Guaranty Fund and Other Assessments* is adopted with the following addition:

The following shall be admitted assets of Article 43 Corporations, Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans and Comprehensive Special Needs Plans with or without notification of refund or payment:

- (i) Estimated market stabilization reinsurance or pooling recoverables under Section 3233 of the Insurance Law;
- (ii) Estimated stop-loss recoverables under Sections 4321-a, 4322-a and 4327 of the Insurance Law; and
- (iii) Estimated reinsurance recoverables under Department of Health New York State Medicaid Managed Care Reinsurance Program.

In accordance with SSAP No. 5, amounts determined to be uncollectible, or otherwise impaired, shall be written off.

(k) Paragraph 14 of SSAP No. 37 *Mortgage Loans* is not adopted. The limitations on amounts of accrued interest prescribed in Section 1301(a)(7) of the Insurance Law shall apply.

(l) For life insurers, Paragraph 8 of SSAP No. 40 *Real Estate Investments* is not adopted. Depreciation on real estate investments owned by life insurers shall be computed at a rate no greater than two and one-half percent per annum, in accordance Section 1405(b)(1)(C) of the Insurance Law.

(m) Paragraph 5 of SSAP No. 46 *Investments in Subsidiary, Controlled, and Affiliated Entities* is not adopted. Pursuant to Section 1501(c) of the Insurance Law, the superintendent may determine upon application that any person does not, or will not upon the taking of some proposed action, control another person.

(n) Paragraph 19(g) of SSAP No. 57 *Title Insurance* is not adopted. Pursuant to Section 6404(a) of the Insurance Law, a title insurance corporation may claim an admitted asset of up to five percent of its admitted assets for its investment in its title plant acquired after December 31, 1969.

(o) Paragraph 53 of SSAP No. 61 *Life, Deposit-Type and Accident and Health Reinsurance* is not adopted. Pursuant to Section 1302(a)(1) of the Insurance Law, all goodwill resulting from assumption reinsurance transactions shall be nonadmitted.

(p)(1) Paragraph 36 of SSAP No. 62 *Property and Casualty Reinsurance* is adopted with the following addition:

Insurers shall apply the additional restrictions as to admitted reinsurance premiums past due prescribed in Section 1301(a)(11) of the Insurance Law.

(2) The accounting treatment for loss portfolio transfers effective January 1, 2001 and subsequent shall follow the guidelines set forth in Paragraphs 27 through 34 of SSAP No. 62. All loss portfolio transfers effective prior to January 1, 2001 shall continue to be governed by the provisions of Part 112 of this Title (Regulation No. 108).

(q) Paragraph 4 of SSAP No. 64 *Offsetting and Netting of Assets and Liabilities* is adopted with the following addition:

Claims paid in error by health entities to providers may not be fully recoverable. To the extent that the claim overpayments meet the setoff conditions in SSAP No. 64, the right of offset is supported by a contractual agreement, and the overpayments are specific identifiable payments and not high level estimates, the receivable shall be offset against the related liability. In accordance with SSAP No. 5, any amounts not reasonably expected to be recovered shall be written off. Amounts in excess of that written off that do not meet the right of offset shall be nonadmitted as they are not available to satisfy policyholder obligations.

(r) Paragraphs 10, 11 and 14 of SSAP No. 65 *Property and Casualty Contracts* are not adopted. In accordance with Section 4117(d)(1) and (2) of the Insurance Law, non-tabular reserves and medical claims shall be discounted, and Incurred But Not Reported reserves and unpaid loss adjustment expenses shall not be discounted.

(s) Paragraph 7 of SSAP No. 68 *Business Combinations and Goodwill* is not adopted. Section 1302(a)(1) of the Insurance Law shall apply. Goodwill recorded as an admitted asset on the books of a Public Health Law Article 44 Health Maintenance Organization, Integrated Delivery System, Prepaid Health Services Plan or Comprehensive Special Needs Plan as of December 31, 2000, which is in compliance

with Generally Accepted Accounting Principles, shall continue to be treated as an admitted asset on Financial Statements filed with the superintendent.

(t) Paragraphs 15, 16, and 17 (Quasi-reorganizations) of SSAP No. 72 *Surplus and Quasi-reorganizations* are not adopted for domestic stock property/casualty insurance companies. Section 4105(a) of the Insurance Law permits dividends to be declared or distributed only out of earned surplus as defined in Section 4105(a)(1).

(u) Paragraph 9 of SSAP No. 73 *Health Care Delivery Assets – Supplies, Pharmaceutical and Surgical Supplies, Durable Medical Equipment, Furniture, Medical Equipment and Fixtures, and Leasehold Improvements in Health Care Facilities* is not adopted. Durable medical equipment, furniture, medical equipment and fixtures, and leasehold improvements shall be depreciated utilizing a depreciation schedule no less conservative than that set forth in the latest revision of *Estimated Useful Lives of Depreciable Hospital Assets (Revised 1998 Edition)\*\**. The document may also be viewed at the New York State Insurance Department's New York City office at 25 Beaver Street, New York, NY 10004. Leasehold improvements in health care facilities shall be amortized against net income over the shorter of their estimated useful life or the remaining life of the original lease excluding renewal or option periods, using methods detailed in SSAP No. 19.

Section 83.5 Special report - 2001 quarterly statement filing requirement.

In addition to the Quarterly Statement filings required by the Insurance Law or elsewhere in this Title, authorized insurers, accredited reinsurers (except Underwriters at Lloyd's, London), authorized fraternal benefit societies, and Public Health Law Article 44 Health Maintenance Organizations, Integrated Delivery Systems, Prepaid Health Services Plans or Comprehensive Special Needs Plans shall prepare the reconciliations required under Appendix A-205 of the Accounting Manual for the quarters ended March 31<sup>st</sup>, June 30<sup>th</sup> and September 30<sup>th</sup>, 2001. Such reconciliations shall accompany the 2001 quarterly financial statements filed with the superintendent.

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I, GREGORY V. SERIO, Acting Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is Regulation 172 (11 NYCRR 83), promulgated on May 3, 2001, pursuant to the authority granted by Sections 107(a)(2), 201, 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1411, 1414, 1501, 4117, 4233, 4239, 4301 and 6404 of the Insurance Law, and Sections 4403-(c)(12), 4403-d(11)(e), 4408(2), and 4408-a of the Public Health, to be effective upon publication in the State Register. Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed amendment was published in the State Register on February 7, 2001. No other publication or prior notice is required by statute.

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GREGORY V. SERIO  
Acting Superintendent of Insurance

May 3, 2001