

REPORT ON EXAMINATION  
OF THE  
GENTIVA INSURANCE CORPORATION  
AS OF  
DECEMBER 31, 2010

DATE OF REPORT

JULY 17, 2012

EXAMINER

WEI CAO

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	2
	A. Articles of incorporation	2
	B. By-Laws	2
	C. Capital structure	3
	D. Corporate records	3
	E. Reinsurance	3
	F. Management and control	3
	G. Certified public accountant and actuarial services	5
	H. Growth of the Company	5
3.	Financial statements	6
	A. Balance sheet	6
	B. Statement of income	7
	C. Capital and surplus account	8
4.	Losses and loss adjustment expenses	8
5.	Article 70 compliance	9
6.	Organizational structure	9
7.	Insurance program	9
8.	Summary of comments and recommendations	10



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

July 17, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30843 dated April 19, 2012, attached hereto, I have made an examination into the condition and affairs of Gentiva Insurance Corporation as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Gentiva Insurance Corporation.

Wherever the designation “the Parent” appears herein without qualification, it should be understood to indicate Gentiva Health Services Holding Corp.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## 1. SCOPE OF EXAMINATION

The examination covered the period from December 12, 2005 through December 31, 2010. The examination comprised a verification of assets and liabilities as of December 31, 2010. This included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountant ("CPA") and its opining actuary. Additionally, a review was performed to determine whether the Company was operating within its by-laws, conforming with its plan of operation, as submitted to the New York State Department of Financial Services, and was in compliance with Article 70 of the New York Insurance Law.

Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the New York Insurance Law.

## 2. DESCRIPTION OF ASSOCIATION

The Company is a wholly owned subsidiary of Gentiva Health Services Holding Corp. It operates as a pure captive insurance company formed under the regulations of the New York State Department of Financial Services to provide workers' compensation and professional liability coverage to the Parent and its subsidiary. Gentiva Health Services Holding Corp. provides home health care and related services in the United States. The captive Company was incorporated on December 12, 2005, and commenced business on December 30, 2005.

### A. Articles of Incorporation

The Company is organized to transact the kinds of insurance specified in Section 7003 of the New York Insurance Law, subject at all times to the limitation on the business of a pure captive insurance company set forth in Article 70 of the New York Insurance Law.

### B. By-laws

It appears that the Company, in all material respects, is in compliance with its by-laws.

C. Capital Structure

Pursuant to Section 7004(a)(1) of the New York Insurance Law, in order to be issued a license to do captive insurance business in New York State, a pure captive insurance company incorporated as a stock insurer is required to possess and thereafter maintain, unimpaired paid-in capital and surplus as regards policyholders of not less than \$250,000, of which \$100,000 shall represent paid-in capital. Gentiva Insurance Corporation is a pure captive company that was incorporated as a stock insurer. On December 28, 2005, the Parent contributed cash of \$3,500,000. As of December 31, 2010, the Company has paid in capital of \$100,000, which is comprised of 100,000 shares of authorized issued and outstanding capital stock with a par value of \$1 per share. Therefore, the Company is in compliance with Section 7004(a)(1) of the New York Insurance Law. The Company received additional paid in capital of \$1,597,575 in 2006.

D. Corporate Records

Section 7003(b)(2) of the New York Insurance Law states that no captive insurance company shall do any captive insurance business in this state unless its board of directors holds at least one meeting each year in this state. A review of the meeting minutes indicated that the Company is in compliance with the Article 70, and all the board meetings were generally well attended.

E. Reinsurance

The Company does not assume business nor cede any of its captive insurance business.

F. Management and Control

According to Section 7003(b)(4) of the New York Insurance Law states:

“No captive insurance company shall do any captive insurance business in this state unless it utilizes a captive manager resident in this state who is licensed as an agent or a broker under the provisions of article twenty-one of this chapter; or any person approved by the superintendent. . . .”

The Company is managed by Willis of New York Inc., an insurance consultant licensed by the New York Department of Financial Services. The manager’s duties, pursuant to the “Management Agreement,” include maintaining the Company’s books and records, arranging for the investment of funds, maintaining and operating bank accounts, and assisting the Company in complying with the rules, regulations pursuant to the Article 70 of New York Insurance Law.

(i) Board of Directors

The business of this corporation is managed under the direction of its board of directors. At December 31, 2010, the board of directors was comprised of the following six members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Camperlengo Roswell, GA	General Counsel, Gentiva Health Services Holding Corp.
Kimberly Hill Powder Springs, GA	Vice President – Tax, Gentiva Health Services Holding Corp.
Kevin Marrazzo New York, NY	Assistant General Counsel, Gentiva Health Services Holding Corp.
Robert Morse Westbury, NY	Assistant Vice President of Risk Management, Gentiva Health Services Holding Corp.
John Potapchuk Rockville Centre, NY	Chief Financial Officer, Gentiva Health Services Holding Corp.
Eric Slusser Marietta, GA	Executive Vice President & Chief Financial Officer, Gentiva Health Services Holding Corp.

(ii) Officers

As of December 31, 2010, the principal officers of Gentiva Insurance Corporation were as follows:

<u>Name</u>	<u>Title</u>
Eric Slusser	President
Kevin Marrazzo	Secretary
Kimberly Hill	Treasurer
John Potapchuk	Executive Vice President
Robert Morse	Vice President
John Camperlengo	General Counsel

G. Certified Public Accountant and Actuarial Services

The Company was audited each year during the examination by the certified public accounting firm of Saslow Lufkin & Buggy, LLP, 10 Tower Lane, Avon, CT 06001. The Company's opening actuary as of December 31, 2010, was from the Actuarial Division of Willis of Tennessee, Inc., 26 Century Boulevard, Suite 2600, Nashville, TN 37214.

H. Growth of the Company

<u>Year</u>	<u>Net Premiums Earned</u>	<u>Net Income</u>	<u>Assets</u>	<u>Shareholders Equity</u>
2006	\$41,342,502	\$ 298,830	\$41,309,648	\$ 3,798,830
2007	\$13,148,895	\$3,959,134	\$45,103,519	\$ 9,355,539
2008	\$11,367,917	\$1,108,008	\$45,473,517	\$10,463,547
2009	\$11,806,250	\$2,179,395	\$48,970,997	\$12,642,942
2010	\$12,237,500	\$2,327,942	\$51,176,302	\$14,970,884

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010, as determined by this examination and as reported by the Company:

<u>Assets</u>		
Cash and cash equivalents	\$ 33,772,307	
Investments in and advanced to affiliates	2,280,664	
Accounts and premiums receivable	12,018,094	
Deferred tax asset	1,859,502	
Investment income due and accrued	5,580	
Deferred acquisition costs	9,975	
Paid loss recoverable	1,127,860	
Prepared expenses	<u>102,320</u>	
Total assets		\$ <u>51,176,302</u>
 <u>Liabilities</u>		
Losses and loss adjustment expenses	\$ 32,531,655	
Unearned premiums	2,562,500	
Accrued expenses	27,400	
Taxes payable	<u>1,083,863</u>	
Total liabilities		\$ 36,205,418
 <u>Capital and Surplus</u>		
Paid in capital (par value)	\$ 100,000	
Additional paid in capital	4,997,575	
Surplus (accumulated earnings)	<u>9,873,309</u>	
Total capital and surplus		<u>14,970,884</u>
Total liabilities, capital and surplus		\$ <u>51,176,302</u>

B. Statement of incomeUnderwriting Income

Net premiums earned		\$89,903,064
---------------------	--	--------------

## Deductions:

Net losses and net loss adjustment expense incurred	\$75,430,816	
General and administrative expenses	\$639,676	
Amortization of deferred policy acquisition costs	142,924	
Premium tax	<u>106,942</u>	

Total underwriting deductions		<u>76,320,358</u>
-------------------------------	--	-------------------

Net underwriting gain or (loss)		\$13,582,706
---------------------------------	--	--------------

Investment Income

Impairment gain (loss) on investments	\$ (450,000)	
Net interest income	<u>1,650,979</u>	

Net investment gain		<u>1,200,979</u>
---------------------	--	------------------

Net income before taxes		\$14,783,685
-------------------------	--	--------------

Taxes		<u>4,910,376</u>
-------	--	------------------

Net income		\$ <u>9,873,309</u>
------------	--	---------------------

C. Capital and Surplus Account

Capital and surplus as of December 28, 2005		\$ 3,500,000
	<u>Gains in Surplus</u>	
Net income	\$9,873,309	
Paid in capital	<u>1,597,575</u>	
Total gains and losses	<u>\$11,470,884</u>	
Net increase in surplus		<u>11,470,884</u>
Capital and surplus per report on examination as of December 31, 2010		<u>\$14,970,884</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$34,308,795 is the same as reported by the Company as of December 31, 2010. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and was based on the Company's actuarial information contained in the statement of actuarial opinion.

Gentiva Insurance Corporation is a wholly-owned captive company of Gentiva Health Services. The Company has been providing direct coverage under occurrence contracts for Gentiva's workers compensation and professional liability losses. Gentiva Health Services acquired Odyssey Healthcare, Inc. in August 2010. Gentiva Insurance Corporation did not assume the risk from Odyssey Healthcare Inc. until 2011. The loss and allocated loss adjustment expense reserves do not include the estimated liabilities from Odyssey Healthcare, Inc.

The Company's opining actuary states the following in its "Statement of Actuarial Opinion":

"In my opinion, the amounts of Loss and loss adjustment expenses of \$34,308,795:

- Meet the requirements of the insurance laws of New York;
- Are computed in accordance with accepted loss reserving standards and principles; and
- Make a reasonable provision for all unpaid loss and loss adjustment expense obligations of Gentiva Insurance Corporation as of December 31, 2010, relating to Healthcare workers compensation and professional liability loss and allocated loss adjustment exposure for the periods.

## 5. ARTICLE 70 COMPLIANCE

Article 70 of the New York State Insurance Law is the governing section of the law for the formation and continued operation of captive insurers in New York State. A review was performed to test the Company's compliance with all applicable parts of Article 70 of the New York Insurance Law. No significant areas of non-compliance were found.

## 6. ORGANIZATIONAL STRUCTURE

Gentiva Health Services Holding Corp. operates as a subsidiary of Gentiva Health Services Inc. the ultimate parent. The holding corporation is licensed in Delaware and includes numerous subsidiaries in the medical services sector.

## 7. INSURANCE PROGRAM

The Company currently provides workers' compensation and professional liability coverage to the Parent and its subsidiaries. Limits provided are \$1,000,000 per occurrence with no annual aggregate.

Effective December 31, 2005, the Company entered into a loss portfolio transfer ("LPT") agreement with the Parent, whereby the Company assumed the remaining liabilities associated with the self-insured retention portion of the Parent's professional liability and workers' compensation exposures. The LPT agreement covers professional liability for the period March 1, 1992 through March 15, 2006. Per occurrence limits vary. No annual aggregate exists except for the period March 1, 1998 through March 1, 1999 and March 1, 1999 through March 15, 2000, of \$500,000 and \$750,000, respectively. The LPT agreement covers workers' compensation for the period from July 1, 1989 to June 30, 1994, for the Kimberly Quality Acquisition and from March 1, 1993 through March 15, 2006, for Gentiva Health Services, Inc. The Company renewed its policy in March of every year.

<u>Coverage</u>	<u>Retention</u>
Workers' Compensation	\$1,000,000
Professional Liability	\$1,000,000

**8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

There are no comments or recommendations in this report.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao  
Senior Insurance Examiner

STATE OF NEW YORK     )  
  )ss:  
COUNTY OF NEW YORK    )

WEI CAO, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

REPORT ON EXAMINATION  
OF THE  
GENTIVA INSURANCE CORPORATION  
AS OF  
DECEMBER 31, 2010

DATE OF REPORT

JULY 17, 2012

EXAMINER

WEI CAO

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	2
	A. Articles of incorporation	2
	B. By-Laws	2
	C. Capital structure	3
	D. Corporate records	3
	E. Reinsurance	3
	F. Management and control	3
	G. Certified public accountant and actuarial services	5
	H. Growth of the Company	5
3.	Financial statements	6
	A. Balance sheet	6
	B. Statement of income	7
	C. Capital and surplus account	8
4.	Losses and loss adjustment expenses	8
5.	Article 70 compliance	9
6.	Organizational structure	9
7.	Insurance program	9
8.	Summary of comments and recommendations	10



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

July 17, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30843 dated April 19, 2012, attached hereto, I have made an examination into the condition and affairs of Gentiva Insurance Corporation as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Gentiva Insurance Corporation.

Wherever the designation “the Parent” appears herein without qualification, it should be understood to indicate Gentiva Health Services Holding Corp.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## **1. SCOPE OF EXAMINATION**

The examination covered the period from December 12, 2005 through December 31, 2010. The examination comprised a verification of assets and liabilities as of December 31, 2010. This included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountant ("CPA") and its opining actuary. Additionally, a review was performed to determine whether the Company was operating within its by-laws, conforming with its plan of operation, as submitted to the New York State Department of Financial Services, and was in compliance with Article 70 of the New York Insurance Law.

Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the New York Insurance Law.

## **2. DESCRIPTION OF ASSOCIATION**

The Company is a wholly owned subsidiary of Gentiva Health Services Holding Corp. It operates as a pure captive insurance company formed under the regulations of the New York State Department of Financial Services to provide workers' compensation and professional liability coverage to the Parent and its subsidiary. Gentiva Health Services Holding Corp. provides home health care and related services in the United States. The captive Company was incorporated on December 12, 2005, and commenced business on December 30, 2005.

### **A. Articles of Incorporation**

The Company is organized to transact the kinds of insurance specified in Section 7003 of the New York Insurance Law, subject at all times to the limitation on the business of a pure captive insurance company set forth in Article 70 of the New York Insurance Law.

### **B. By-laws**

It appears that the Company, in all material respects, is in compliance with its by-laws.

C. Capital Structure

Pursuant to Section 7004(a)(1) of the New York Insurance Law, in order to be issued a license to do captive insurance business in New York State, a pure captive insurance company incorporated as a stock insurer is required to possess and thereafter maintain, unimpaired paid-in capital and surplus as regards policyholders of not less than \$250,000, of which \$100,000 shall represent paid-in capital. Gentiva Insurance Corporation is a pure captive company that was incorporated as a stock insurer. On December 28, 2005, the Parent contributed cash of \$3,500,000. As of December 31, 2010, the Company has paid in capital of \$100,000, which is comprised of 100,000 shares of authorized issued and outstanding capital stock with a par value of \$1 per share. Therefore, the Company is in compliance with Section 7004(a)(1) of the New York Insurance Law. The Company received additional paid in capital of \$1,597,575 in 2006.

D. Corporate Records

Section 7003(b)(2) of the New York Insurance Law states that no captive insurance company shall do any captive insurance business in this state unless its board of directors holds at least one meeting each year in this state. A review of the meeting minutes indicated that the Company is in compliance with the Article 70, and all the board meetings were generally well attended.

E. Reinsurance

The Company does not assume business nor cede any of its captive insurance business.

F. Management and Control

According to Section 7003(b)(4) of the New York Insurance Law states:

“No captive insurance company shall do any captive insurance business in this state unless it utilizes a captive manager resident in this state who is licensed as an agent or a broker under the provisions of article twenty-one of this chapter; or any person approved by the superintendent. . . .”

The Company is managed by Willis of New York Inc., an insurance consultant licensed by the New York Department of Financial Services. The manager’s duties, pursuant to the “Management Agreement,” include maintaining the Company’s books and records, arranging for the investment of funds, maintaining and operating bank accounts, and assisting the Company in complying with the rules, regulations pursuant to the Article 70 of New York Insurance Law.

(i) Board of Directors

The business of this corporation is managed under the direction of its board of directors. At December 31, 2010, the board of directors was comprised of the following six members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Camperlengo Roswell, GA	General Counsel, Gentiva Health Services Holding Corp.
Kimberly Hill Powder Springs, GA	Vice President – Tax, Gentiva Health Services Holding Corp.
Kevin Marrazzo New York, NY	Assistant General Counsel, Gentiva Health Services Holding Corp.
Robert Morse Westbury, NY	Assistant Vice President of Risk Management, Gentiva Health Services Holding Corp.
John Potapchuk Rockville Centre, NY	Chief Financial Officer, Gentiva Health Services Holding Corp.
Eric Slusser Marietta, GA	Executive Vice President & Chief Financial Officer, Gentiva Health Services Holding Corp.

(ii) Officers

As of December 31, 2010, the principal officers of Gentiva Insurance Corporation were as follows:

<u>Name</u>	<u>Title</u>
Eric Slusser	President
Kevin Marrazzo	Secretary
Kimberly Hill	Treasurer
John Potapchuk	Executive Vice President
Robert Morse	Vice President
John Camperlengo	General Counsel

G. Certified Public Accountant and Actuarial Services

The Company was audited each year during the examination by the certified public accounting firm of Saslow Lufkin & Buggy, LLP, 10 Tower Lane, Avon, CT 06001. The Company's opining actuary as of December 31, 2010, was from the Actuarial Division of Willis of Tennessee, Inc., 26 Century Boulevard, Suite 2600, Nashville, TN 37214.

H. Growth of the Company

<u>Year</u>	<u>Net Premiums Earned</u>	<u>Net Income</u>	<u>Assets</u>	<u>Shareholders Equity</u>
2006	\$41,342,502	\$ 298,830	\$41,309,648	\$ 3,798,830
2007	\$13,148,895	\$3,959,134	\$45,103,519	\$ 9,355,539
2008	\$11,367,917	\$1,108,008	\$45,473,517	\$10,463,547
2009	\$11,806,250	\$2,179,395	\$48,970,997	\$12,642,942
2010	\$12,237,500	\$2,327,942	\$51,176,302	\$14,970,884

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010, as determined by this examination and as reported by the Company:

<u>Assets</u>		
Cash and cash equivalents	\$ 33,772,307	
Investments in and advanced to affiliates	2,280,664	
Accounts and premiums receivable	12,018,094	
Deferred tax asset	1,859,502	
Investment income due and accrued	5,580	
Deferred acquisition costs	9,975	
Paid loss recoverable	1,127,860	
Prepared expenses	<u>102,320</u>	
Total assets		\$ <u>51,176,302</u>
 <u>Liabilities</u>		
Losses and loss adjustment expenses	\$ 32,531,655	
Unearned premiums	2,562,500	
Accrued expenses	27,400	
Taxes payable	<u>1,083,863</u>	
Total liabilities		\$ 36,205,418
 <u>Capital and Surplus</u>		
Paid in capital (par value)	\$ 100,000	
Additional paid in capital	4,997,575	
Surplus (accumulated earnings)	<u>9,873,309</u>	
Total capital and surplus		<u>14,970,884</u>
Total liabilities, capital and surplus		\$ <u>51,176,302</u>

B. Statement of incomeUnderwriting Income

Net premiums earned		\$89,903,064
---------------------	--	--------------

## Deductions:

Net losses and net loss adjustment expense incurred	\$75,430,816	
General and administrative expenses	\$639,676	
Amortization of deferred policy acquisition costs	142,924	
Premium tax	<u>106,942</u>	

Total underwriting deductions		<u>76,320,358</u>
-------------------------------	--	-------------------

Net underwriting gain or (loss)		\$13,582,706
---------------------------------	--	--------------

Investment Income

Impairment gain (loss) on investments	\$ (450,000)	
Net interest income	<u>1,650,979</u>	

Net investment gain		<u>1,200,979</u>
---------------------	--	------------------

Net income before taxes		\$14,783,685
-------------------------	--	--------------

Taxes		<u>4,910,376</u>
-------	--	------------------

Net income		\$ <u>9,873,309</u>
------------	--	---------------------

C. Capital and Surplus Account

Capital and surplus as of December 28, 2005		\$ 3,500,000
	<u>Gains in Surplus</u>	
Net income	\$9,873,309	
Paid in capital	<u>1,597,575</u>	
Total gains and losses	<u>\$11,470,884</u>	
Net increase in surplus		<u>11,470,884</u>
Capital and surplus per report on examination as of December 31, 2010		<u>\$14,970,884</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$34,308,795 is the same as reported by the Company as of December 31, 2010. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and was based on the Company's actuarial information contained in the statement of actuarial opinion.

Gentiva Insurance Corporation is a wholly-owned captive company of Gentiva Health Services. The Company has been providing direct coverage under occurrence contracts for Gentiva's workers compensation and professional liability losses. Gentiva Health Services acquired Odyssey Healthcare, Inc. in August 2010. Gentiva Insurance Corporation did not assume the risk from Odyssey Healthcare Inc. until 2011. The loss and allocated loss adjustment expense reserves do not include the estimated liabilities from Odyssey Healthcare, Inc.

The Company's opining actuary states the following in its "Statement of Actuarial Opinion":

"In my opinion, the amounts of Loss and loss adjustment expenses of \$34,308,795:

- Meet the requirements of the insurance laws of New York;
- Are computed in accordance with accepted loss reserving standards and principles; and
- Make a reasonable provision for all unpaid loss and loss adjustment expense obligations of Gentiva Insurance Corporation as of December 31, 2010, relating to Healthcare workers compensation and professional liability loss and allocated loss adjustment exposure for the periods.

## 5. ARTICLE 70 COMPLIANCE

Article 70 of the New York State Insurance Law is the governing section of the law for the formation and continued operation of captive insurers in New York State. A review was performed to test the Company's compliance with all applicable parts of Article 70 of the New York Insurance Law. No significant areas of non-compliance were found.

## 6. ORGANIZATIONAL STRUCTURE

Gentiva Health Services Holding Corp. operates as a subsidiary of Gentiva Health Services Inc. the ultimate parent. The holding corporation is licensed in Delaware and includes numerous subsidiaries in the medical services sector.

## 7. INSURANCE PROGRAM

The Company currently provides workers' compensation and professional liability coverage to the Parent and its subsidiaries. Limits provided are \$1,000,000 per occurrence with no annual aggregate.

Effective December 31, 2005, the Company entered into a loss portfolio transfer ("LPT") agreement with the Parent, whereby the Company assumed the remaining liabilities associated with the self-insured retention portion of the Parent's professional liability and workers' compensation exposures. The LPT agreement covers professional liability for the period March 1, 1992 through March 15, 2006. Per occurrence limits vary. No annual aggregate exists except for the period March 1, 1998 through March 1, 1999 and March 1, 1999 through March 15, 2000, of \$500,000 and \$750,000, respectively. The LPT agreement covers workers' compensation for the period from July 1, 1989 to June 30, 1994, for the Kimberly Quality Acquisition and from March 1, 1993 through March 15, 2006, for Gentiva Health Services, Inc. The Company renewed its policy in March of every year.

<u>Coverage</u>	<u>Retention</u>
Workers' Compensation	\$1,000,000
Professional Liability	\$1,000,000

**8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

There are no comments or recommendations in this report.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao  
Senior Insurance Examiner

STATE OF NEW YORK     )  
  )ss:  
COUNTY OF NEW YORK    )

WEI CAO, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

REPORT ON EXAMINATION  
OF THE  
GENTIVA INSURANCE CORPORATION  
AS OF  
DECEMBER 31, 2010

DATE OF REPORT

JULY 17, 2012

EXAMINER

WEI CAO

## TABLE OF CONTENTS

<u>ITEM NO.</u>		<u>PAGE NO.</u>
1.	Scope of examination	2
2.	Description of Company	2
	A. Articles of incorporation	2
	B. By-Laws	2
	C. Capital structure	3
	D. Corporate records	3
	E. Reinsurance	3
	F. Management and control	3
	G. Certified public accountant and actuarial services	5
	H. Growth of the Company	5
3.	Financial statements	6
	A. Balance sheet	6
	B. Statement of income	7
	C. Capital and surplus account	8
4.	Losses and loss adjustment expenses	8
5.	Article 70 compliance	9
6.	Organizational structure	9
7.	Insurance program	9
8.	Summary of comments and recommendations	10



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

July 17, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 30843 dated April 19, 2012, attached hereto, I have made an examination into the condition and affairs of Gentiva Insurance Corporation as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Gentiva Insurance Corporation.

Wherever the designation “the Parent” appears herein without qualification, it should be understood to indicate Gentiva Health Services Holding Corp.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

## 1. SCOPE OF EXAMINATION

The examination covered the period from December 12, 2005 through December 31, 2010. The examination comprised a verification of assets and liabilities as of December 31, 2010. This included a review of income, disbursements and company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountant ("CPA") and its opining actuary. Additionally, a review was performed to determine whether the Company was operating within its by-laws, conforming with its plan of operation, as submitted to the New York State Department of Financial Services, and was in compliance with Article 70 of the New York Insurance Law.

Comments and recommendations are limited to those items requiring financial adjustment, procedural recommendations, or instances where the Company was not conforming to the application submitted to the Department or Article 70 of the New York Insurance Law.

## 2. DESCRIPTION OF ASSOCIATION

The Company is a wholly owned subsidiary of Gentiva Health Services Holding Corp. It operates as a pure captive insurance company formed under the regulations of the New York State Department of Financial Services to provide workers' compensation and professional liability coverage to the Parent and its subsidiary. Gentiva Health Services Holding Corp. provides home health care and related services in the United States. The captive Company was incorporated on December 12, 2005, and commenced business on December 30, 2005.

### A. Articles of Incorporation

The Company is organized to transact the kinds of insurance specified in Section 7003 of the New York Insurance Law, subject at all times to the limitation on the business of a pure captive insurance company set forth in Article 70 of the New York Insurance Law.

### B. By-laws

It appears that the Company, in all material respects, is in compliance with its by-laws.

C. Capital Structure

Pursuant to Section 7004(a)(1) of the New York Insurance Law, in order to be issued a license to do captive insurance business in New York State, a pure captive insurance company incorporated as a stock insurer is required to possess and thereafter maintain, unimpaired paid-in capital and surplus as regards policyholders of not less than \$250,000, of which \$100,000 shall represent paid-in capital. Gentiva Insurance Corporation is a pure captive company that was incorporated as a stock insurer. On December 28, 2005, the Parent contributed cash of \$3,500,000. As of December 31, 2010, the Company has paid in capital of \$100,000, which is comprised of 100,000 shares of authorized issued and outstanding capital stock with a par value of \$1 per share. Therefore, the Company is in compliance with Section 7004(a)(1) of the New York Insurance Law. The Company received additional paid in capital of \$1,597,575 in 2006.

D. Corporate Records

Section 7003(b)(2) of the New York Insurance Law states that no captive insurance company shall do any captive insurance business in this state unless its board of directors holds at least one meeting each year in this state. A review of the meeting minutes indicated that the Company is in compliance with the Article 70, and all the board meetings were generally well attended.

E. Reinsurance

The Company does not assume business nor cede any of its captive insurance business.

F. Management and Control

According to Section 7003(b)(4) of the New York Insurance Law states:

“No captive insurance company shall do any captive insurance business in this state unless it utilizes a captive manager resident in this state who is licensed as an agent or a broker under the provisions of article twenty-one of this chapter; or any person approved by the superintendent. . . .”

The Company is managed by Willis of New York Inc., an insurance consultant licensed by the New York Department of Financial Services. The manager’s duties, pursuant to the “Management Agreement,” include maintaining the Company’s books and records, arranging for the investment of funds, maintaining and operating bank accounts, and assisting the Company in complying with the rules, regulations pursuant to the Article 70 of New York Insurance Law.

(i) Board of Directors

The business of this corporation is managed under the direction of its board of directors. At December 31, 2010, the board of directors was comprised of the following six members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Camperlengo Roswell, GA	General Counsel, Gentiva Health Services Holding Corp.
Kimberly Hill Powder Springs, GA	Vice President – Tax, Gentiva Health Services Holding Corp.
Kevin Marrazzo New York, NY	Assistant General Counsel, Gentiva Health Services Holding Corp.
Robert Morse Westbury, NY	Assistant Vice President of Risk Management, Gentiva Health Services Holding Corp.
John Potapchuk Rockville Centre, NY	Chief Financial Officer, Gentiva Health Services Holding Corp.
Eric Slusser Marietta, GA	Executive Vice President & Chief Financial Officer, Gentiva Health Services Holding Corp.

(ii) Officers

As of December 31, 2010, the principal officers of Gentiva Insurance Corporation were as follows:

<u>Name</u>	<u>Title</u>
Eric Slusser	President
Kevin Marrazzo	Secretary
Kimberly Hill	Treasurer
John Potapchuk	Executive Vice President
Robert Morse	Vice President
John Camperlengo	General Counsel

G. Certified Public Accountant and Actuarial Services

The Company was audited each year during the examination by the certified public accounting firm of Saslow Lufkin & Buggy, LLP, 10 Tower Lane, Avon, CT 06001. The Company's opining actuary as of December 31, 2010, was from the Actuarial Division of Willis of Tennessee, Inc., 26 Century Boulevard, Suite 2600, Nashville, TN 37214.

H. Growth of the Company

<u>Year</u>	<u>Net Premiums Earned</u>	<u>Net Income</u>	<u>Assets</u>	<u>Shareholders Equity</u>
2006	\$41,342,502	\$ 298,830	\$41,309,648	\$ 3,798,830
2007	\$13,148,895	\$3,959,134	\$45,103,519	\$ 9,355,539
2008	\$11,367,917	\$1,108,008	\$45,473,517	\$10,463,547
2009	\$11,806,250	\$2,179,395	\$48,970,997	\$12,642,942
2010	\$12,237,500	\$2,327,942	\$51,176,302	\$14,970,884

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010, as determined by this examination and as reported by the Company:

##### Assets

Cash and cash equivalents	\$ 33,772,307
Investments in and advanced to affiliates	2,280,664
Accounts and premiums receivable	12,018,094
Deferred tax asset	1,859,502
Investment income due and accrued	5,580
Deferred acquisition costs	9,975
Paid loss recoverable	1,127,860
Prepared expenses	<u>102,320</u>

Total assets	\$ <u>51,176,302</u>
--------------	----------------------

##### Liabilities

Losses and loss adjustment expenses	\$ 32,531,655
Unearned premiums	2,562,500
Accrued expenses	27,400
Taxes payable	<u>1,083,863</u>

Total liabilities	\$ 36,205,418
-------------------	---------------

##### Capital and Surplus

Paid in capital (par value)	\$ 100,000
Additional paid in capital	4,997,575
Surplus (accumulated earnings)	<u>9,873,309</u>
Total capital and surplus	<u>14,970,884</u>

Total liabilities, capital and surplus	\$ <u>51,176,302</u>
--	----------------------

B. Statement of incomeUnderwriting Income

Net premiums earned		\$89,903,064
---------------------	--	--------------

## Deductions:

Net losses and net loss adjustment expense incurred	\$75,430,816	
General and administrative expenses	\$639,676	
Amortization of deferred policy acquisition costs	142,924	
Premium tax	<u>106,942</u>	

Total underwriting deductions		<u>76,320,358</u>
-------------------------------	--	-------------------

Net underwriting gain or (loss)		\$13,582,706
---------------------------------	--	--------------

Investment Income

Impairment gain (loss) on investments	\$ (450,000)	
Net interest income	<u>1,650,979</u>	

Net investment gain		<u>1,200,979</u>
---------------------	--	------------------

Net income before taxes		\$14,783,685
-------------------------	--	--------------

Taxes		<u>4,910,376</u>
-------	--	------------------

Net income		\$ <u>9,873,309</u>
------------	--	---------------------

C. Capital and Surplus Account

Capital and surplus as of December 28, 2005		\$ 3,500,000
	<u>Gains in Surplus</u>	
Net income	\$9,873,309	
Paid in capital	<u>1,597,575</u>	
Total gains and losses	<u>\$11,470,884</u>	
Net increase in surplus		<u>11,470,884</u>
Capital and surplus per report on examination as of December 31, 2010		<u>\$14,970,884</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$34,308,795 is the same as reported by the Company as of December 31, 2010. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with generally accepted actuarial principles and was based on the Company's actuarial information contained in the statement of actuarial opinion.

Gentiva Insurance Corporation is a wholly-owned captive company of Gentiva Health Services. The Company has been providing direct coverage under occurrence contracts for Gentiva's workers compensation and professional liability losses. Gentiva Health Services acquired Odyssey Healthcare, Inc. in August 2010. Gentiva Insurance Corporation did not assume the risk from Odyssey Healthcare Inc. until 2011. The loss and allocated loss adjustment expense reserves do not include the estimated liabilities from Odyssey Healthcare, Inc.

The Company's opining actuary states the following in its "Statement of Actuarial Opinion":

"In my opinion, the amounts of Loss and loss adjustment expenses of \$34,308,795:

- Meet the requirements of the insurance laws of New York;
- Are computed in accordance with accepted loss reserving standards and principles; and
- Make a reasonable provision for all unpaid loss and loss adjustment expense obligations of Gentiva Insurance Corporation as of December 31, 2010, relating to Healthcare workers compensation and professional liability loss and allocated loss adjustment exposure for the periods.

## 5. ARTICLE 70 COMPLIANCE

Article 70 of the New York State Insurance Law is the governing section of the law for the formation and continued operation of captive insurers in New York State. A review was performed to test the Company's compliance with all applicable parts of Article 70 of the New York Insurance Law. No significant areas of non-compliance were found.

## 6. ORGANIZATIONAL STRUCTURE

Gentiva Health Services Holding Corp. operates as a subsidiary of Gentiva Health Services Inc. the ultimate parent. The holding corporation is licensed in Delaware and includes numerous subsidiaries in the medical services sector.

## 7. INSURANCE PROGRAM

The Company currently provides workers' compensation and professional liability coverage to the Parent and its subsidiaries. Limits provided are \$1,000,000 per occurrence with no annual aggregate.

Effective December 31, 2005, the Company entered into a loss portfolio transfer ("LPT") agreement with the Parent, whereby the Company assumed the remaining liabilities associated with the self-insured retention portion of the Parent's professional liability and workers' compensation exposures. The LPT agreement covers professional liability for the period March 1, 1992 through March 15, 2006. Per occurrence limits vary. No annual aggregate exists except for the period March 1, 1998 through March 1, 1999 and March 1, 1999 through March 15, 2000, of \$500,000 and \$750,000, respectively. The LPT agreement covers workers' compensation for the period from July 1, 1989 to June 30, 1994, for the Kimberly Quality Acquisition and from March 1, 1993 through March 15, 2006, for Gentiva Health Services, Inc. The Company renewed its policy in March of every year.

<u>Coverage</u>	<u>Retention</u>
Workers' Compensation	\$1,000,000
Professional Liability	\$1,000,000

**8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

There are no comments or recommendations in this report.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao  
Senior Insurance Examiner

STATE OF NEW YORK    )  
                                  )ss:  
COUNTY OF NEW YORK )

WEI CAO, being duly sworn, deposes and says that the foregoing report, subscribed by her, is true to the best of her knowledge and belief.

\_\_\_\_\_/s/\_\_\_\_\_  
Wei Cao

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**APPOINTMENT NO. 30843**

**NEW YORK STATE**

**DEPARTMENT OF FINANCIAL SERVICES**

I, **BENJAMIN M. LAWSKY**, 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:

*Wei Cao*

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

**GENTIVA INSURANCE CORPORATION**

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

**CORPORATION**

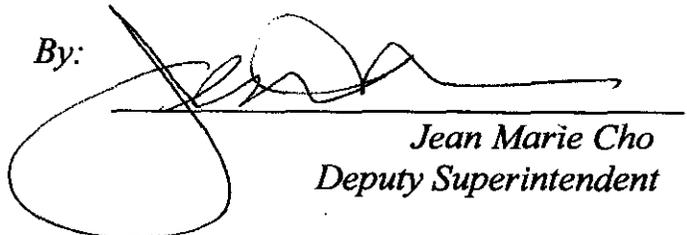
*with such other information as he shall deem requisite.*

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

*this 19th day of April, 2012*

**BENJAMIN M. LAWSKY**  
*Superintendent of Financial Services*

By:

  
\_\_\_\_\_  
*Jean Marie Cho*  
*Deputy Superintendent*

