

REPORT ON EXAMINATION

OF

HUMANA INSURANCE COMPANY OF NEW YORK

AS OF

DECEMBER 31, 2012

DATE OF REPORT

NOVEMBER 10, 2015

EXAMINER

KENNETH I. MERRITT

TABLE OF CONTENTS

| <u>ITEM NO.</u> | | <u>PAGE NO.</u> |
|-----------------|---|-----------------|
| 1. | Scope of the examination | 2 |
| 2. | Description of the Company | 4 |
| | A. Corporate governance | 4 |
| | B. Territory and plan of operation | 10 |
| | C. Reinsurance | 12 |
| | D. Holding company system | 15 |
| | E. Accounts and records | 17 |
| | F. Significant operating ratios | 18 |
| 3. | Financial statements | 20 |
| | A. Balance sheet | 21 |
| | B. Statement of revenue and expenses and change in capital and surplus | 22 |
| 4. | Market conduct activities | 23 |
| 5. | Compliance with prior report on examination | 24 |
| 6. | Summary of comments and recommendations | 26 |



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Anthony J. Albanese
Acting Superintendent

November 10, 2015

Honorable Anthony J. Albanese
Acting Superintendent of Financial Services
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 30962, dated February 26, 2013, attached hereto, I have made an examination into the condition and affairs of Humana Insurance Company of New York, an accident and health insurer licensed pursuant to Article 42 of the New York Insurance Law, as of December 31, 2012, and submit the following report thereon.

The examination was conducted at the main administrative office of Humana Insurance Company of New York located at 500 West Main Street, Louisville, Kentucky.

Wherever the designations “HICNY” or the “Company” appear herein, without qualification, they should be understood to indicate Humana Insurance Company of New York.

Wherever the designations “Humana” or the “Parent” appear herein, without qualification, they should be understood to indicate Humana Inc., the parent of Humana Insurance Company of New York.

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

1. **SCOPE OF THE EXAMINATION**

The previous examination of the Company was conducted as of December 31, 2009. This examination of the Company was a combined (financial and market conduct) examination and covered the period from January 1, 2010 through December 31, 2012. The financial component of the examination was conducted as a financial examination, as defined in the National Association of Insurance Commissioners’ (“NAIC”) *Financial Condition Examiners Handbook, 2013 Edition* (the “Handbook”). The examination was conducted observing the guidelines and procedures in the Handbook, and where deemed appropriate by the examiners, transactions occurring subsequent to December 31, 2012 were also reviewed.

The financial portion of the examination was conducted using a risk-focused approach, in accordance with the provisions of the Handbook, which provides guidance for the establishment of an examination plan based on the examiner’s assessment of risk in the Company’s operations and utilizes that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the Company’s current financial condition, as well as identify prospective risks that may threaten the future solvency of HICNY.

The examiner identified key processes, assessed the risks within those processes and assessed the internal control systems and procedures used to mitigate those risks. The examination also included an assessment of the principles used and significant estimates made

by management, an evaluation of the overall financial statement presentation, and determined management's compliance with the Department's statutes and guidelines, Statutory Accounting Principles, as adopted by the Department, and NAIC annual statement instructions.

Information concerning the Company's organizational structure, business approach and control environment were utilized to develop the examination plan and procedures. The examination evaluated the Company's risks and management activities in accordance with the NAIC's nine branded risk categories.

These categories are as follows:

- Pricing/Underwriting
- Reserving
- Operational
- Strategic
- Credit
- Market
- Liquidity
- Legal
- Reputational

The Company was audited annually, for the years 2010 through 2012, by the accounting firm of PricewaterhouseCoopers LLP ("PwC"). HICNY received an unqualified opinion in each of those years. Certain audit work papers of PwC were reviewed and relied upon in conjunction with this examination.

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

2. DESCRIPTION OF THE COMPANY

HICNY is a wholly-owned subsidiary of Humana Inc. HICNY was incorporated in the State of New York on May 20, 2005. The Company is a for-profit accident and health insurance company which commenced writing business on August 17, 2006. HICNY offers coordinated medical and prescription drug coverage to Medicare-eligible individuals under Medicare Advantage, Medicare Advantage Plus and Medicare Prescription Drug Part D contracts with the Centers for Medicare and Medicaid Services (“CMS”). In addition, HICNY writes supplemental Medicare and stand-alone commercial dental and vision coverage.

A. Corporate Governance

In accordance with the Company’s charter and by-laws, management of HICNY during the examination period was vested in a Board of Directors (“Board”) consisting of not less than thirteen (13) and no more than twenty-five (25) members. The following thirteen (13) members comprised HICNY’s Board as of December 31, 2012:

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> |
|--|--|
| George G. Bauernfeind Goshen, Kentucky | Vice President, Humana Inc. |
| Elizabeth D. Bierbower New Albany, Ohio | President, Employer Group Segment, Humana Inc. |
| James H. Bloem Louisville, Kentucky | Senior Vice-President & Chief Financial Officer, Humana Insurance Company of New York |
| Bruce D. Broussard Louisville, Kentucky | President and Chief Executive Officer, Humana Insurance Company of New York |
| John G. Catron Louisville, Kentucky | Chief Compliance Officer, Humana Insurance Company of New York |

| <u>Name and Residence</u> | <u>Principal Business Affiliation</u> |
|--|--|
| Paul B. Kusserow Louisville, Kentucky | Chief Strategy and Corporate Development Officer, Humana Inc. |
| Paul A. Leo Albany, New York | Northeast Sales Manager, Humana Inc. |
| Thomas J. Liston Prospect, Kentucky | President, Retail Segment, Humana Inc. |
| Heidi S. Margulis Louisville, Kentucky | Senior Vice-President, Public Affairs, Humana Inc. |
| Steven E. McCulley Louisville, Kentucky | Controller and Principal Accounting Officer, Humana Inc. |
| James E. Murray Louisville, Kentucky | Executive Vice-President and Chief Operating Officer, Humana Inc. |
| Bruce D. Perkins Prospect, Kentucky | President, Health and Well-Being Services Segment, Humana Inc. |
| Barbara J. Wagner Altamont, New York | Retail Division Strategic Alliances Sales Executive, Humana Inc. |

Article III, Section 4, of the Company's by-laws states in part the following:

“A regular meeting of the Board of Directors shall be held without other notice than this Bylaw {sic}, immediately after, and at the same place, as the annual meeting of shareholders...”

The examiner's review of the Company's minutes of the Board of Directors' meetings held during the examination period revealed that the Board failed to comply with its by-laws when it only held a regular meeting in 2010, and failing to meet in 2011 and 2012.

It is recommended that HICNY's Board of Directors comply with Article III, Section 4 of the Company's by-laws by ensuring that the Board holds its regular meeting every year, on the same date of the annual meeting of the Company's shareholders.

In addition, it is the Department's position that the Board maintains greater involvement with the Company's business affairs, by holding board meetings on at least a quarterly basis during each calendar year.

It is recommended that HICNY's Board of Directors hold meetings on at least a quarterly basis during each calendar year.

A similar recommendation was made in the prior report on examination.

Article III, Section 4, of the Company's by-Laws states in part the following:

“...whenever the laws of the State of New York authorize or permit directors to act other than at a meeting, including but not limited to acting through unanimous written consents, then such actions shall be as effective as if taken by the directors at a meeting; provided, however, that use of unanimous written consents by the Board shall be limited to occasions when time is of the essence and shall not in any case be used in lieu of a regularly scheduled meeting.”

As noted above, except for the annual meeting held by the Company's Board in 2010, the activities of HICNY's Board during the examination period were limited to the directors' use of unanimous written consents in lieu of Board meetings. As noted in the by-laws, this alternative to a meeting should be limited to occasional use and shall not in any case be used in lieu of a regularly scheduled meeting.

It is recommended that HICNY's Board of Directors comply with the Company's by-laws by limiting the Board's use of unanimous written consents to only those occasions when time is of the essence. The Board should refrain from its standard practice of utilizing unanimous written consents in lieu of regularly scheduled meetings.

A similar recommendation was made in the prior report on examination.

As of December 31, 2012, the principal officers of the Company were as follows:

| <u>Name</u> | <u>Title</u> |
|--------------------|--|
| Bruce D. Broussard | President & Chief Executive Officer |
| James H. Bloem | Senior Vice-President & Chief Financial Officer |
| Brian P. LeClaire | Sr. VP and Chief Service and Information Officer |
| Roy Goldman Ph.D | Vice-President & Chief Actuary |
| Joan O. Lenahan | Vice President & Corporate Secretary |

Humana Inc. (“Humana”) has an established corporate governance structure which is led by Humana’s Board of Directors and its senior executive officers, where appointed by the Board to manage the day-to-day affairs of Humana Inc. and its subsidiaries and affiliates, including the Company.

Exhibit M of the Handbook (Understanding the Corporate Governance Structure) was utilized by the examiner as guidance for assessing the Company’s Corporate Governance.

Enterprise Risk Management / Internal Audit Functions

Following are summaries of the Company’s Enterprise Risk Management and Internal Audit functions, both of which are provided by Humana Inc., a publicly traded company that is subject to the Sarbanes-Oxley Act of 2002. Thus, unless otherwise noted, references to the aforementioned functions provided by Humana Inc. also apply to the Company.

i. Enterprise Risk Management (“ERM”)

The Company has an established Enterprise Risk Management (“ERM”) framework for

proactively identifying, addressing and mitigating risks, including prospective business risks. Humana's risk framework, consistent with the Committee of Sponsoring Organizations ("COSO") ERM Framework, aligns all potential risks impacting the organization into four (4) risk categories consisting of (1) strategic, (2) operational, (3) financial reporting and disclosure, and (4) compliance. In addition, risks identified within each of the aforementioned risk categories are broken down further into planning and execution risks.

Humana Inc.'s ERM program is administered by its Enterprise Risk Management Committee ("Risk Committee") which includes Humana Inc.'s President/Chief Executive Officer ("CEO") and CEO's other direct reports, consisting of the Controller, Chief Compliance Officer and Chief Actuary. The Risk Committee maintains a list of top enterprise-level risks, which are reviewed collectively by the Risk Committee and the Audit Committee ("AC") of Humana Inc.'s Board of Directors on a regular basis. Periodic structured risk workshops between Humana's functional and segment management leaders are held to synchronize risk tolerance and identify the most significant risks to their business unit/segment.

The Board's AC provides both oversight of Humana's ERM program and assistance to management relative to Humana's risk assessment and risk management policies.

Humana Inc.'s ERM program has an effective approach to identifying and mitigating risks across the organization, including prospective business risks. Humana Inc. deals proactively with its areas of risk, and its management is knowledgeable about risk mitigation strategies. Through risk discussions and other measures, Humana Inc.'s management reviews significant issues and reacts to changes in the environment with a sense of commitment to address risk factors and manage the business accordingly. Humana Inc.'s overall risk

management process takes a proactive approach to identifying, tracking, and dealing with significant current and emerging risk factors.

ii. Internal Audit Department

Humana Inc. has an established Internal Audit Department, which is independent of management and which functions to serve Humana Inc. and its subsidiaries. Humana Inc.'s Internal Audit Department ("IAD") or Internal Audit Consulting Group ("IACG"), which the IAD is known as within Humana's organization, falls under the direct supervision of the Audit Committee as designated by Humana Inc.'s Board of Directors. IACG also reports simultaneously to Humana Inc.'s management on an indirect and dotted line basis. The AC comprises entirely of outside members that are independent of Humana Inc.'s and HICNY's management.

IACG assists all levels of management by reviewing and testing financial and operational controls and processes established by management to ensure compliance with laws, regulations, and Humana Inc.'s policies. The scope of the IACG program is coordinated with Humana Inc.'s independent certified public accountant with the intended purpose to ensure optimal audit coverage and maximum efficiency by Humana.

During the course of this examination, consideration was given to the significance and potential impact of certain IACG work, including the results of the IACG's testing of internal control policies and procedures established by management. The examiner relied upon certain work performed by the IACG, as prescribed by the Handbook.

Based on the examiner's use of Humana's IACG's test work, the examiner noted that IACG's testing of the internal controls at the Humana Inc. level revealed the existence of policies and procedures adequately designed to effectively mitigate risks within those key functional areas of the Company selected for review by the examiner.

B. Territory and Plan of Operation

HICNY is licensed in New York State only.

The Company provides medical, hospital and prescription drug coverage under the Medicare Advantage and Medicare Part D Prescription Drug plans. The Company also offers commercial dental, vision and Medicare Supplemental direct pay contracts.

Under the Company's Medicare Advantage contract with the Centers for Medicare and Medicaid Services ("CMS"), HICNY provides health insurance to eligible members, age 65 and older and to disabled members under the age of 65. Members may select coverage under the Company's HMO, PPO or Private-Fee-For-Service ("PFFS") plans. Enrollees in the Medicare Advantage program receive benefits in excess of traditional Medicare coverage, including: reduced cost sharing, enhanced prescription drug benefits, care coordination, case management, disease management, wellness and prevention programs and reduced monthly Part B premiums (physician care and other services).

HICNY's Medicare Part D Prescription Drug plans are stand-alone plans. They offer both basic coverage with mandated benefits and enhanced coverage with varying degrees of out-of-pocket costs (for premiums charge), deductibles and co-insurance amounts.

The Company's Private Fee-For-Service ("PFFS") plans provide Medicare Advantage benefits with the freedom for the insureds to choose any health care provider that accepts rates equivalent to traditional Medicare payment rates as reimbursement.

Under the Company's Medicare Advantage and Medicare Part D Prescription Drug contracts with CMS, HICNY provides health benefits to its insured members and receives contractual payments from CMS in the form of fixed payment per member per month.

The following summary reflects HICNY's totals for annual net premium income and enrollment for each of the years under examination, 2010 through 2012:

| <u>Year</u> | <u>Annual Premium Income</u> | <u>Total Enrollment</u> |
|-------------|--------------------------------------|-----------------------------|
| 2010 | \$137,941,889 | 49,853 |
| 2011 | \$133,083,403 | 68,313 |
| 2012 | \$146,836,811 | 79,578 |

For the years 2010 through 2012, the Company reported total premium income in the amount of \$417,862,091, which was comprised of 62% and 37% Medicare Part D Prescription Drugs and Medicare Advantage business, respectively. The remaining 1% comprised Medicare Supplemental and direct payment vision and dental business. The Company's total premium income increased \$8,894,934 or 6.8% during the examination period from \$137,941,889 as of December 31, 2010 to \$146,836,811 as of December 31, 2012. Total enrollment increased by 29,625 enrollees or 59.3% during the examination period.

The overall increase in premium income was due primarily to growth in HICNY's Medicare Part D Prescription Drug plan enrollment, which was offset by decreases in the Company's Medicare Advantage PPO products.

As noted above, in addition to its major Medicare Part D Prescription Drug and Medicare Advantage lines of business, the Company also wrote the following commercial business during the period under examination:

| <u>Line of Business</u> | <u>2010</u> | <u>2011</u> | <u>2012</u> | <u>Total</u> |
|-------------------------|-------------|-------------|-------------|--------------|
| Medicare Supplemental | \$ 494,333 | \$1,786,699 | \$2,192,751 | \$4,473,773 |
| Dental | \$ 94,737 | \$ 49,990 | \$ 122,826 | \$ 266,553 |
| Vision | \$ 25,572 | \$ 8,008 | \$ 8,206 | \$ 41,787 |

As of December 31, 2012, the Company reported a total enrollment of 1,656 members within the aforementioned lines of business of which 1,235 were Medicare Supplement enrollees.

HICNY utilizes an external distribution system consisting of agents including a network of independent contracted agents, telesales agents, brokers and strategic distribution partnerships with other private insurers for the sale of its products.

C. Reinsurance

The Company did not assume any reinsurance during the examination period.

During the examination period, the Company maintained a Co-insurance Agreement ("Agreement") with Connecticut General Life Insurance Company ("CIGNA"), a New York licensed insurer, which is domiciled in the State of Connecticut. The Agreement, dated April 15,

2010, provided for CIGNA to maintain a 50% quota share participation in the Company's Medicare Advantage Plan ("MA") business issued to groups under HICNY's "MA Private Fee-For-Service Plan" and Medicare PPO Plan products.

The Agreement was terminated effective on February 29, 2012. However, Article XXIV, Sections 24.1 and 24.4 of the Agreement, contains respective Wind-Down Period and Run-Off Services Post – Termination provisions whereby the Company and CIGNA are required to perform their respective obligations until no further services or reporting is required under the Agreement. Based on the aforementioned provisions, the post termination period of the Agreement is the later of December 31, 2013 or until all the required contractual conditions and obligations are met.

Section 7427(a) of the New York Insurance Law states the following:

"In all cases of mutual debts or mutual credits between the insurer and another person in connection with any action or proceeding under this article, such credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in subsection (b) hereof..."

Article VII and Paragraph 5 of the Co-insurance Agreement, include an offset provision which states the following:

"In addition to any other remedies provided under this Agreement, and subject to the procedures contained in this Article VII, each party shall have, and may exercise at any time and from time to time, the right to offset or recoup any balances or amounts, whether on account of payments of Coinsurance Premium, Coinsured liabilities or Coinsurance recoverables or otherwise, due from one party to the other Party under this Agreement which shall be deemed mutual debts or credits, as the case may be."

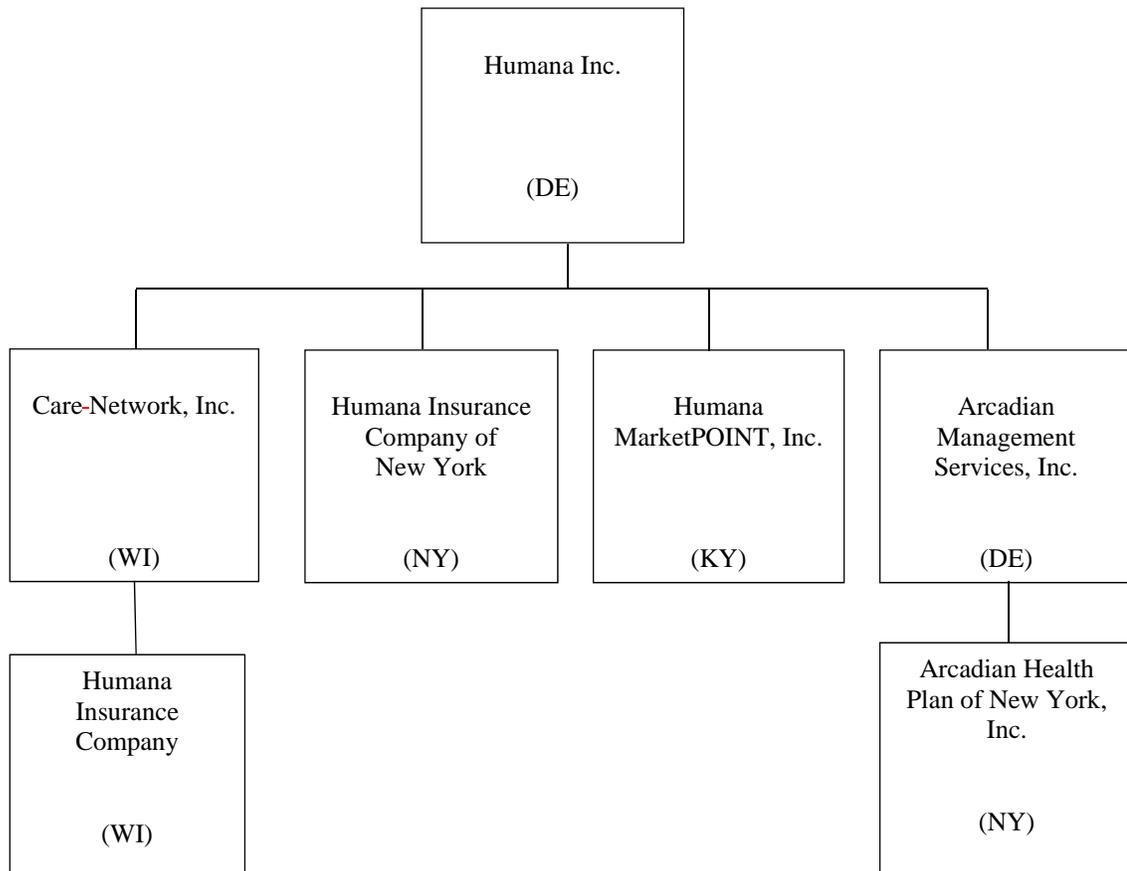
It was noted that HICNY failed to include in its co-reinsurance agreement with CIGNA, specific reference to Section 7427(a) of the New York Insurance Law in regard to the right of

offset provision contained within such agreement.

Inasmuch as HICNY's Co-insurance Agreement with CIGNA is no longer in effect, it is recommended that the Company ensure that all its future ceded reinsurance agreements contain a specific reference to Section 7427 of the New York insurance.

D. Holding Company System

The following abbreviated chart depicts the Company's holding company system as of December 31, 2012:



The Company maintained the following inter-company agreements with members of its holding company system as of December 31, 2012.

i. Corporate Service Agreement

The captioned Agreement, initially entered into and effective on November 4, 2004 between HICNY and Humana Inc., was approved initially by the Department on November 3, 2004. The Agreement which was last amended effective January 1, 2011, and thereafter approved by the Department on March 2, 2012, calls for Humana Inc. to

provide HICNY with various administrative and managerial services including, but not limited to the following functions: (1) clerical processing of the Company's trade accounts payable, payroll and broker commissions payments; (2) medical and product management; (3) executive management; (4) information systems; (5) financial services; (6) legal services; (7) human resources; (8) employee benefits; (9) insurance; and (10) marketing and advertising services.

ii. Service Center Agreement

The captioned Agreement, effective initially on June 29, 2006 between HICNY and Humana Insurance Company ("HIC"), was approved by the Department on November 3, 2005. The Agreement which was last amended on January 1, 2011, and thereafter approved by the Department on March 2, 2012, calls for HIC to provide HICNY with the necessary staff, systems and related support to administer the following management functions of HICNY: (1) claims processing; (2) customer service; (3) front end operations; (4) billing and enrollment; (5) utilization review; and (6) other support, including direct cost of employee fringe benefits, payroll taxes and occupancy.

iii. Medicare Risk Marketing Service

The captioned Agreement, effective originally on June 29, 2006 between HICNY and Humana MarketPOINT, Inc. ("HMP") was approved by the Department on November 3, 2005. The Agreement which was last approved by the Department on March 2, 2012, calls for HMP to provide HICNY with the required sales representatives and management employees, systems, and other related support (i.e., office rent, office supplies, printing, postage, travel and entertainment, etc.) necessary to sell the Company's products.

iv. Tax Allocation Agreement

The captioned Agreement effective initially on November 4, 2005, and approved by the Department on November 3, 2005, provides for HICNY to be a party to Humana Inc.'s group consolidated tax return, along with the Parent and its other holding company system members.

E. Accounts and Records

During the examination period, the examiner noted the following discrepancies in the Company's premiums by line of business and claims data disclosures reported in HICNY's New York State Department of Financial Services Insurance Division Annual Supplement ("New York Supplement") filings.

- i. The premium amounts reported by the Company for the Medicare Part D and Medicare Other than Part D lines of business for the years 2011 and 2012 did not reconcile to the same corresponding lines of business reported in the "Year-to-Date Statement of Revenue and Expenses by Line of Business – Part 4" and the "Gross Premiums by New York Counties" sections of the New York Supplement filed with the Department.
- ii. The Company's claims count and claims dollar totals were reported incorrectly in the "Health Insurance Payable (Reported and Unreported) – Part 3" section of the Supplement filings for the years 2010 through 2013.

During the examiner's time on-site at the Company, the examiner communicated the above discrepancies to the Company, including a request for the Company to re-file with the

Department revised New York State Department of Financial Services Annual Supplements for the 2010 through 2013 reporting years.

It is recommended that the Company exercise greater care and diligence when preparing its New York Annual Supplement filings with the Department.

Subsequent to the examination period, the Company while having acknowledged the Department's recommendation, indicated it currently implemented corrective action to improve such reporting, including HICNY's implementation of changes to data sources and retrieval, and additional validation checks to the Company's existing process. The Company also subsequently re-filed its New York Annual Supplements with the Department with the corrected information.

F. Significant Operating Ratios

The underwriting ratios presented below are on an earned-incurred basis and encompass the three-year period covered by this examination:

| <u>Account</u> | <u>Amounts</u> | <u>Ratios</u> |
|--|----------------------|---------------|
| Claims expenses incurred | \$335,101,750 | 80.2% |
| Claim adjustment expenses incurred | \$ 10,225,796 | 2.5% |
| General administrative expenses incurred | \$ 41,539,446 | 9.9% |
| Net underwriting gain | <u>\$ 30,816,866</u> | <u>7.4%</u> |
| Premium earned | <u>\$417,683,858</u> | <u>100.0%</u> |

The Company reported increases in its net earned premiums of \$17,229,270 (14% increase) between 2009 and 2010 from total premiums of \$120,712,619 in 2009 to \$137,941,889

in 2010 and also an increase in total premiums between 2011 and 2012 of \$13,737,321 or 10% from \$133,002,324 to \$146,739,645. Such increases resulted from rising member enrollment with the largest increases occurring in the Medicare Part D Prescription Drug business for the 2009 and 2010 years and the Medicare PPO business for the years 2011 and 2012. For 2012, the Company reported an overall increase in members' enrollment of 19%, primarily in the Medicare PPO line. Between 2010 and 2011, the Company's earned premiums conversely decreased by \$4,939,565 from \$137,941,889 in 2010 to \$133,002,324 in 2011.

During the corresponding 2010 and 2012 reporting years, the Company's incurred medical benefits costs increased by \$21,003,681 between 2009 and 2010 from \$94,225,281 to \$115,228,962 in medical costs and between 2011 and 2012 by \$29,342,638 from \$94,095,075 to \$124,437,713 in related costs. The medical loss ratio for the years ended 2011 and 2012 was 77.3% and 88.2%, respectively. The increase in the medical loss ratio was a result of the overall increase in members' enrollment particularly within the Medicare PPO business whereby the benefits cost was higher than the Medicare Part D Prescription Drug costs.

The Company reported the following Risk-Based Capital results during the examination years, 2010 through 2012:

| | <u>2012</u> | <u>2011</u> | <u>2010</u> |
|------------------------------|--------------|--------------|--------------|
| Total Adjusted Capital | \$64,227,236 | \$71,866,736 | \$73,627,494 |
| Authorized Control Level RBC | \$ 4,125,286 | \$ 5,947,204 | \$ 2,107,374 |
| Risk Based Capital Ratio | 1556% | 1209% | 3494% |

As noted above, the Company's total adjusted capital amounts reported for the years 2010 through 2012, respectively, were well above its authorized control level risk based capital calculations.

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities and capital and surplus as of December 31, 2012, as reported in the Company's 2012 filed annual statement, a condensed summary of operations and 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 the December 31, 2012 filed annual statement.

Independent Accountants:

The firm of PricewaterhouseCoopers LLP ("PwC") was retained by the Company to audit HICNY's combined statutory basis statements of financial position as of December 31st of each year within the examination period, and the related statutory-basis statements of operations, surplus, and cash flows for the year then ended.

PwC concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Company at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

A. Balance sheet

| <u>Assets</u> | <u>Amount</u> |
|---|---------------------|
| Bonds | \$29,246,782 |
| Cash, cash equivalents and short-term investments | 6,057,655 |
| Investment income due and accrued | 177,595 |
| Uncollected premiums and agents' balances in the course of collection | 2,686,346 |
| Accrued retrospective premiums | 2,479,133 |
| Amounts recoverable from reinsurers | 1,490 |
| Other amounts receivable under reinsurance contracts | 287 |
| Amounts recoverable relating to uninsured plans | 28,848,001 |
| Net deferred tax asset | 1,437,903 |
| Receivable from parent, subsidiaries and affiliates | 3,429,633 |
| Healthcare and other amounts receivable | <u>3,924,468</u> |
| Total assets | <u>\$78,289,293</u> |
| <u>Liabilities</u> | |
| Claims unpaid | \$ 7,410,762 |
| Unpaid claims adjustment expenses | 71,252 |
| Aggregate health policy reserves | 3,600,039 |
| Premiums received in advance | 882,979 |
| General expenses due and accrued | 187,265 |
| Current federal and foreign income tax payable and interest thereon | 330,009 |
| Ceded reinsurance premiums payable | 4,031 |
| Remittances and items not allocated | 88,696 |
| Liability for amounts held under uninsured plans | 1,448,701 |
| Aggregate write-ins for other liabilities | <u>38,323</u> |
| Total liabilities | <u>\$14,062,057</u> |
| <u>Capital and Surplus</u> | |
| Common capital stock | \$ 1,500,000 |
| Gross paid-in and contributed surplus | 60,500,000 |
| Unassigned funds | <u>2,227,236</u> |
| Total capital and surplus | <u>\$64,227,236</u> |
| Total liabilities, capital and surplus | <u>\$78,289,293</u> |

Note: The Internal Revenue Service ("IRS") completed audits of Humana Inc.'s consolidated Federal Income Tax returns of which the Company is a party to, for calendar tax years 2010 and 2011. The examiner is unaware of any potential exposure to HICNY for any tax assessment and no liability has been established herein relative to such contingency.

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

Capital and surplus decreased \$11,191,589 during the three year examination period, January 1, 2010 through December 31, 2012, detailed as follows:

Revenue

Total premium income \$417,683,858

Hospital and medical expenses

| | | |
|---|-------------------|----------------------|
| Hospital/medical benefits | \$106,342,864 | |
| Other professional services | 630,245 | |
| Emergency room and out-of-area | 2,969,628 | |
| Prescription drugs | 224,984,821 | |
| Increase in reserves for accident and health contracts | <u>340,000</u> | |
| Total hospital and medical expenses | \$335,267,558 | |
| Less: Net reinsurance recoveries | <u>165,808</u> | |
| Sub-total | \$335,101,750 | |
| Claims adjustment expenses | 10,225,796 | |
| General administrative expenses | <u>41,539,446</u> | |
| Total underwriting deductions | | <u>386,866,992</u> |
| Net underwriting gain | | <u>\$ 30,816,866</u> |
| Net investment income earned | \$4,510,617 | |
| Net realized capital gains | <u>1,589,716</u> | |
| Net investment gains | | 6,100,333 |
| Aggregate write-ins for other income | | <u>357</u> |
| Net income after capital gain and before federal income taxes | | \$ 36,917,556 |
| | | <u>13,021,799</u> |
| Less: Federal income taxes incurred | | |
| Net income | | <u>\$ 23,895,757</u> |

Change in Capital and Surplus

| | | | |
|---|-----------------------------|------------------------------|------------------------|
| Capital and surplus, per report on examination, as of December 31, 2009 | | | \$75,418,825 |
| | <u>Gains in Surplus</u> | <u>Losses in Surplus</u> | |
| Net income | \$23,895,757 | | |
| Change in net deferred income tax | 1,501,369 | | |
| Change in non-admitted assets | | \$ 2,305,479 | |
| Cumulative effect of change in accounting principles | 5,045 | | |
| Dividends to stockholders | | 34,300,000 | |
| Aggregate write-ins gains | <u>11,719</u> | <u> </u> | |
| Net decrease in capital and surplus | | | <u>(\$ 11,191,589)</u> |
| Capital and surplus, per report on examination, as of December 31, 2012 | | | <u>\$ 64,227,236</u> |

4. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducts its business and fulfills its contractual obligations to policyholders and claimants. In determining the scope of this review, the examiner took into consideration the Company's lines of business, Medicare Advantage and Medicare Part D Prescription Drug plans, which fall under the purview of CMS' requirements, as opposed to the statutory requirements of the Department. The Company's commercial business during the examination period was very limited, thus the market conduct review was limited to a review of the producers' licensing including appointments and terminations.

No issues or areas of non-compliance were noted.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2009, contained six (6) comments and recommendations pertaining to the financial portion of the examination (page number refers to the prior report on examination):

| <u>ITEM NO.</u> | <u>PAGE NO.</u> |
|--|-----------------|
| <u>Board of Directors</u> | |
| 1. It is recommended that the Board of Directors hold board meetings on at least a quarterly basis during each calendar year. | 6 |
| <i>The Company has not complied with this recommendation.</i> | |
| 2. It is also recommended that HICNY comply with its By-Laws by only using unanimous written consents by the BOD in lieu of a regularly scheduled meeting, in defined limited occasions. | 6 |
| <i>The Company has not complied with this recommendation.</i> | |
| 3. It is recommended that the Company comply with Article III, Section 3 of its By-Laws and appoint a Board member(s) to the Finance Committee. | 7 |
| <i>The Company has complied with this recommendation.</i> | |
| 4. It is recommended that HICNY's Board of Directors comply with the process requirements set forth in Department Circular Letter No. 9 (1999). | 7 |
| <i>The Company has complied with this recommendation.</i> | |
| <u>Inter- Company Agreements</u> | |
| 5. It is recommended that the Company settle the inter-company transactions with its Parent in accordance with the specified due dates in the service agreement. | 13 |
| <i>The Company has complied with this recommendation.</i> | |

ITEM NO.**PAGE NO.**Custodial Agreement

15

6. It is recommended that the Company amend its custodial agreement with JPMorgan Chase Bank, N.A. to include all of the provisions in the NAIC guidelines.

The Company has complied with this recommendation.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

| <u>ITEM</u> | <u>PAGE NO.</u> |
|--|-----------------|
| <u>Corporate Governance</u> | |
| i. It is recommended that HICNY's Board of Directors comply with Article III, Section 4 of the Company's by-laws by ensuring that the Board holds its regular meeting every year, on the same date of the annual meeting of the Company's shareholders. | 5 |
| ii. It is recommended that HICNY's Board of Directors hold meetings on at least a quarterly basis during each calendar year. | 6 |
| iii. It is recommended that HICNY's Board of Directors comply with the Company's by-laws by limiting the Board's use of unanimous written consents to only those occasions when time is of the essence. The Board should refrain from its standard practice of utilizing unanimous written consents in lieu of regularly scheduled meetings. | 6 |
| <u>Reinsurance</u> | |
| iv. Inasmuch as HICNY's Co-insurance Agreement with CIGNA is no longer in effect, it is recommended that the Company ensure that all its future ceded reinsurance agreements contain a specific reference to Section 7427 of the New York Insurance Law. | 14 |
| <u>Accounts and Records</u> | |
| v. It is recommended that the Company exercise greater care and diligence when preparing its New York Annual Supplement filings with the Department. | 18 |

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:

Kenneth Merritt

as a proper person to examine the affairs of the

Humana Insurance Company of New York

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

Company

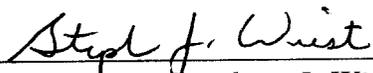
with such other information as he shall deem requisite.

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

this 26th day of February, 2013

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



Stephen J. Wiest
Deputy Bureau Chief
Health Bureau

