REPORT ON EXAMINATION

OF

DELTA DENTAL OF NEW YORK, INC.

AS OF

DECEMBER 31, 2011

DATE OF REPORT	**AUGUST 27, 2014**
EXAMINER	**TOMMY KONG, AFE**

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

August 27, 2014

Honorable Benjamin M. Lawsky
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 30839, dated March 1, 2012, attached hereto, I have made an examination of Delta Dental of New York, Inc., a dental expense indemnity company licensed pursuant to the provisions of Article 43 of the New York Insurance Law, as of December 31, 2011, and respectfully submit the following report thereon.

The examination was conducted at the administrative office of Delta Dental of New York, Inc. located at One Delta Drive, Mechanicsburg, Pennsylvania.

Wherever the designations "DDNY" or the "Plan" appear herein, without qualification, they should be understood to indicate Delta Dental of New York, Inc.

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 Plan was conducted as of December 31, 2006. This examination of the Plan was a combined financial and market conduct examination and covered the five-year period from January 1, 2007 through December 31, 2011. 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* (the "Handbook"). The examination was conducted observing the guidelines and procedures in the Handbook, and transactions occurring subsequent to December 31, 2011 were reviewed where deemed appropriate by the examiner.

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 Plan'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 Plan's current financial condition, as well as to identify prospective risks that may threaten the future solvency of the Plan. The risk-focused examination approach was included in the Handbook for the first time in 2007; thus, this was the first such type of examination of the Plan. The examiner planned and performed the examination to evaluate the Plan's current financial condition, as well as identify prospective risks that may threaten the future solvency of DDNY.

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 Plan's organizational structure, business approach and control environment were utilized to develop the examination approach. The examination evaluated the Plan'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 Plan was audited annually for the years 2007 through 2011, by the accounting firm of Armanino McKenna LLP ("AM"). The Plan received an unqualified opinion in each of those years. Certain audit workpapers of AM were reviewed and relied upon in conjunction with this examination. A review was also made of the Plan's internal audit function and enterprise risk management program.

A review was also made to ascertain what actions were taken by the Plan with regard to comments and recommendations made in the prior report on 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 are deemed to require an explanation or description.

2. DESCRIPTION OF THE PLAN

The New York Dental Service Corporation, which was organized by the Dental Society of New York, was certified by New York State in 1963, and licensed by the Department at that time as a dental expense indemnity corporation, under the provisions of New York Insurance Law Section 252 (currently Section 4302). The Plan commenced business in 1963. On March 30, 1994, the New York Dental Service Corporation changed its name to Delta Dental of New York, Inc.

The purpose of the Plan is to establish, maintain and operate a non-profit dental service plan, whereby dental care is provided to employer groups. Such care is furnished by dentists, duly licensed to practice under the laws of the State of New York, who have contracted with the Plan to provide dental care to its subscribers.

A. Corporate Governance

Pursuant to the Plan's charter and by-laws, management of the Plan is to be vested in a Board of Directors, consisting of not less than thirteen members. As of the examination date, the Board of Directors was comprised of fifteen members. The Board met four times during each calendar year covered by the examination period.

As of December 31, 2011, the Plan's Board of Directors was comprised of the following fifteen (15) members:

Name and Address	Principal Business Affiliation
Michael C. Alfano, D.M.D., PhD New York, New York	Executive Vice President, New York University
Anthony L. DiMango, D.D.S. Brooklyn, New York	Dentist
Susan R. Fegan, CEBS Southport, North Carolina	Retired
Thomas M. Halton, D.M.D. Roslyn Harbor, New York	Retired
Barbara R. Katersky New York, New York	Human Resource Consultant, HR Consulting
George S. Karalekas New York, New York	President, Karalekas & Company
Andrew S. Levine, D.D.S. Saratoga, New York	Dentist
Roger A. Maglio Copake, New York	Retired
Thomas J. McCartin Rockville Centre, New York	Advertising Agency Executive, McCartin Advertising
Alan M. Patrignani, D.D.S. Clarence, New York	Dentist
John D. Semler Oceanside, California	Retired
James E. Spencer, D.D.S. Woodcliff Lake, New Jersey	Retired
William R. Thomas Pleasantville, New York	Senior Vice President, New York Philharmonic
Jozef C. Verbraeken Shirley, Massachusetts	Retired
Thomas H. Wysmuller Saugerties, New York	President, Wysmuller Corporation

The minutes of all meetings of the Board of Directors and committees thereof held during the examination period were reviewed. All such meetings were well attended, with all Board members attending at least one-half of the meetings for which they were eligible to attend.

The officers of the Plan as of December 31, 2011, were as follows:

Name	Title
Gary D. Radine	President / Chief Executive Officer
Michael J. Castro	Chief Financial Officer
Anthony S. Barth	Chief Operating Officer
Charles Lamont, Esq.	Chief Legal Officer
Patrick S. Steele	Chief Information Officer
Jozef C. Verbraeken	Secretary & Treasurer

Enterprise Risk Management

As of December 31, 2011, the Plan had a formal Enterprise Risk Management program in place, as recommended by Department Circular Letter No. 14 (2011).

Internal Audit

The Plan has an established Internal Audit Enterprise ("IAE") to assist the Plan at all levels of management by reviewing and testing financial and operational controls and processes established by management. In addition, the Plan has an Audit Committee to assist the Board of Directors in fulfilling its oversight responsibilities relative to the Plan's financial reporting, internal controls, and the audit process.

The importance of both independence and an audit committee's active involvement within the internal audit function is a widely supported position (best practice) throughout the audit industry, including the Institute of Internal Auditors ("IIA"). Below is the related guidance, as listed on the website of the IIA:

> *"The internal auditor occupies a unique position, he or she is employed by management but is also expected to review the conduct of management which can create significant tension since the internal auditor's independence from management is necessary for the auditor to objectively assess management's action, but the internal auditor's dependence on management for employment is very clear; and to maintain objectivity, internal auditors should have no personal or professional involvement with or allegiance to the area being audited; and should maintain an un-biased and impartial mindset in regard to all engagements."*
>
> *"A critical activity of the audit committee is to be involved in the hiring of the Chief Audit Executive ("CAE") of the organization. Because the CAE reports to the audit committee, the committee should be responsible for ensuring that the CAE receives fair and timely performance reviews. The audit committee should have an active role in determining the annual salary adjustment for the CAE. The audit committee should be the decision-making party in any decision to terminate the CAE."*

During the examination period, the Plan's IAE did not functionally report to the Audit Committee because the IAE was aligned under the direct supervision of management and not the Audit Committee. However, the IAE did report his activities to the Audit Committee. The Vice President of Internal Audit Enterprise, who was the most senior level position within the Plan's IAE, reported to the Chief Financial Officer and simultaneously reported on an informal basis to the Audit Committee.

The IIA's guidance on the standard of independence of the internal audit function strongly recommends that the IAE be aligned under the direct supervision of the Audit Committee, with informal reporting to the management of the Plan.

It is recommended that the Plan adheres to the guidance promulgated under the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing by insuring that the Internal Audit Enterprise reports functionally to the Audit Committee, with informal reporting to the Plan's management.

Department Circular Letter No. 9 (1999) states in part:

> "…the board obtain the following certifications annually: (i) from either the company's director of internal audit or independent CPA that the responsible officers have implemented the procedures adopted by the board, and (ii) from the company's general counsel a statement that the company's current claims adjudication procedures, including those set forth in the current claims manual, are in accordance with applicable statutes, rules and regulations."
>
> "Of equal importance is the adoption of written procedures to enable the board to assure itself that the company's operations in other key areas are being conducted in accordance with applicable statutes, rules and regulations."

A review of the Plan's corporate governance revealed that the Board of Directors did not adopt written procedures that would allow the Board to obtain annual certifications from either the Plan's director of internal audit or independent CPA that the responsible officers have implemented procedures adopted by the Board, and from the Plan's general counsel, a statement that the Plan's current claims adjudication procedures, including those set forth in the current claims manual, are in accordance with applicable New York State statutes, rules and regulations.

It is recommended that the Plan's Board of Directors adopt written procedures that require the Board to obtain annual certifications from either the Plan's director of internal audit or independent CPA that the responsible officers have implemented procedures adopted by the Board, and from the Plan's general counsel, a statement that the Plan's current claims adjudication procedures, including those set forth in the current claims manual, are in accordance with applicable New York State statutes, rules and regulations, as mandated by Department Circular Letter No. 9 (1999).

Circular Letter No. 9 (1999) also states in part:

> "The board is reminded that its responsibilities to oversee management's handling of the claims adjudication process extends to outside parties who, pursuant to a management administrative service, provider or other contract with the company, perform one or more of the claim adjudication procedures normally done by the company itself."

It is also recommended that the Plan's Board of Directors obtain annual certifications from its third-party claims administrators that claims are being processed in accordance with the Plan's current claims manual and applicable New York State statutes, rules and regulations, as mandated by Department Circular Letter No. 9 (1999).

B. Territory and Plan of Operation

The Plan is licensed to sell dental insurance in all counties of New York State. The Plan's direct premiums written for the examination period were as follows:

Calendar Year	Direct Premiums Written
2007	$24,415,962
2008	$32,245,348
2009	$38,051,400
2010	$43,603,938
2011	$46,964,632

In 2008 and 2009, premiums increased 32.1% and 18%, respectively, as a result of the Plan's non-retention and retention contracts. In 2010, premiums increased 14.6% on its non-retention and retention contracts which were accomplished mainly by benefit and rate adjustments in the Plan's largest groups and a net increase in the number of groups. In 2011, premiums increased 7.7% on its non-retention and retention contracts which were the results of enrollment growth and rate increases.

DDNY offers dental indemnity and managed care contracts. The Plan's managed care contract is offered under DeltaCare USA, a dental health maintenance product. With this type of contract, DDNY pays a monthly capitation fee to contracted providers that provide services to enrolled members who pay a fixed co-payment at the time of service. While the dentists who participate in this program accept some risk, the risk is mitigated through the Plan's "Chair Hour Guarantee" program, which guarantees that providers will receive a certain income based upon the relative value units of the procedure(s) performed.

The Plan does not offer coverage in the direct pay market or government programs. Small group indemnity coverage sold directly by the Plan is available to those with less than five members as long as the number enrolled represents at least 50% of the eligible population. Also, since 2007, small groups with two to four members can purchase indemnity coverage through two contracted independent third party administrators (TPAs), Gettysburg Insurance Services Industry Trust, based in Gettysburg, Pennsylania and Morgan White Group (MWG), based in Jackson, Mississippi. Of these two TPAs, only MWG offers individual indemnity coverage. The DeltaCare USA product is available both to individuals and groups.

The Plan acts as a third party administrator for Cost Plus Contracts (administrative service provided only), wherein purchasers are billed for all of the claims that are paid, plus an adminstrative fee, which is either a percentage of claims paid or a fee per eligible enrollee.

The following chart shows the Plan's enrollment, by year, during the examination period:

Calendar Year	Enrollment
2007	237,639
2008	335,141
2009	373,412
2010	370,296
2011	367,172

The Plan sells its policies using an internal sales force, as well as independent brokers.

C. Reinsurance

At December 31, 2011, the Plan maintained two quota share reinsurance treaties with Delta Reinsurance Company Inc. ("DRC"), an authorized reinsurer. Treaty No. 3-1-1-88 provides that DRC reinsure DDNY's traditional and discounted fee-for-service programs, Delta Premier, and Delta Preferred Option, respectively. Under Treaty No. 10-1-1-98, DRC reinsured all of DDNY's emergency, specialist, and Chair Hour Guarantee payments in the DeltaCare program. These treaties both call for DDNY to cede 75% of the risk for all policies issued.

The treaties contain an insolvency clause conforming to the requirements of New York Insurance Law Section 1308. With DRC as the applicant, the Plan was provided with a clean and irrevocable letter of credit issued by M&T Bank. The value of the letter of credit as of the examination date was $1,550,000. The letter of credit is automatically renewed annually. A trust agreement is incorporated in the reinsurance treaty to define the terms and conditions under which the letter of credit may be drawn.

D. Significant Operating Ratios

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

	Amounts	Ratios
Claims (net of reinsurance recoveries)	$116,752,909	63.01%
Claim adjustment expenses	26,549,535	14.33%
General administrative expenses	40,021,701	21.60%
Net underwriting gain	1,957,135	1.06%
Premiums earned	$185,281,280	100.00%

As of December 31, 2011, the Plan's total adjusted capital was $8,357,461. This amount was well above the Plan's authorized control level risk-based capital of $2,272,791.

E. Section 1307 Loans

The examination amount of $1,360,000 is the same as the amount reported by the Plan as of December 31, 2011. The Section 1307 loan balance of $1,360,000 consists of three separate loans, which were all approved by the Department, and owed by DDNY to Delta Dental of Pennsylvania. The first loan is $200,000, issued by the Plan on October 10, 1996, and at year end 2011, the accrued interest and aggregate accrued interest were $12,000 and $182,667, respectively. The second loan is $160,000, issued by the Plan on September 30, 2003, and at year end 2011, the accrued interest and aggregate accrued interest were $9,600 and $79,200, respectively. The third loan is $1,000,000, issued by the Plan on November 24, 2008, and at year end 2011, the accrued interest and aggregate accrued interest was $60,000 and $185,833, respectively.

F. Holding Company System

DDNY was acquired by Dentegra Group, Inc. in 2001, without the Department prior approval. This was effectuated by DDNY changing its by-laws to transfer the membership voting rights of its directors to the directors of the Dentegra Group, Inc. Upon learning of this change, the Department requested that DDNY submit an application for change of control. The Plan then submitted to the Department for review all of the agreements that would have been in its holding company structure had it proceeded with the above proposal; however, DDNY withdrew its application. Therefore, for the examination period, DDNY was not considered to be a controlled insurer, as defined in Section 1501(a)(2) of the New York Insurance Law. Subsequent to the examination date, on September 24, 2012, on behalf of Delta Dental of California ("DDC"), the Plan filed with the Department an Application for Approval for Acquisition of Control of DDNY, which the Department approved on October 30, 2013. Upon completion of the acquisition of control DDNY's immediate parent is Dentegra Group, Inc., a Delaware non-profit company, and its ultimate parent is DDC.

The Plan is managed through the operations of a General Agency Agreement ("GAA") between DDNY, PaCa Management, LLC, Delta Dental of Pennsylvania ("DDP"), and Delta Dental Insurance Company ("DDIC"). Through the terms of the agreement, DDP provides general administration services to the Plan, for an administration fee.

Under a separate administrative services agreement, all of DDP's responsibilities are ultimately passed to PaCa Management, LLC ("PaCa"), a limited liability company organized under the laws of the State of Delaware, with principal offices in Wilmington, Delaware. PaCa, which is owned jointly by DDC and DDP, was formed to administer and support DDNY.

The Plan is also a party to a separate agreement, the DeltaCare USA Administration Agreement ("DAA"), with DDIC, whereby DDIC administers the management of the DeltaCare USA ("DUSA") program, a dental health maintenance product. Under the DUSA program, Plan enrollees can visit participating providers and pay only a fixed co-payment.

It should be noted that under the DAA, the administrator sells capitated coverage to groups outside of New York State. In many cases, these groups have members within New York State. For these members, PaCa has been paying a fee to the Plan, in return for which, the Plan has been providing dental services to the New York members through its capitated network, and performing certain administrative functions. This agreement was not filed with the Department within 30 days from when its Application for Approval for Acquisition of Control was approved by the Department, in violation of Section 1505(d)(3) of the New York Insurance Law, which states in part:

> "(d) The following transactions between a domestic controlled insurer and any person in its holding company system may not be entered into unless the insurer has notified the superintendent in writing of its intention to enter into any such transaction at least thirty days prior thereto, or such shorter period as he may permit, and he has not disapproved it within such period:
>
> (3) rendering of services on a regular or systematic basis"

It is recommended that the Plan file with the Department, the DeltaCare USA Administration Agreement, pursuant to the requirements of Section 1505(d)(3) of the New York Insurance Law.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following statements show the assets, liabilities, and surplus as of December 31, 2011, as contained in the Plan's 2011 filed annual statement, a condensed summary of operations and a reconciliation of the 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 Plan's financial condition as presented in its financial statements contained in the December 31, 2011 filed annual statement.

Independent Accountants

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

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

Assets	Examination	Plan
Bonds	$22,694,937	$22,694,937
Common stocks	291,586	291,586
Cash and short-term investments	(6,544,176)	(6,544,176)
Investment income due and accrued	270,023	270,023
Uncollected premiums in course of collection	968,110	968,110
Amounts recoverable from reinsurers	3,861,712	3,861,712
Other amounts receivable under reinsurance contracts	203,133	203,133
Amount receivable relating to uninsured plans	7,069,553	7,069,553
Receivables from parent, subsidiaries and affiliates	1,406,404	1,406,404
Healthcare and other amounts receivable	303,871	303,871
Total assets	$30,525,153	$30,525,153

Liabilities	Examination	Plan
Claims unpaid	$ 2,206,175	$ 2,206,175
Unpaid claims adjustment expenses	615,104	615,104
Premiums received in advance	246,665	246,665
General expenses due or accrued	4,041,296	4,041,296
Ceded reinsurance premiums payable	11,549,368	11,549,368
Amounts withheld or retained for the account of others	732,198	732,198
Amounts due to parent, subsidiaries and affiliates	104,807	104,807
Funds held under reinsurance treaties with unauthorized reinsurers	1,500,000	1,500,000
Liability for amounts held under uninsured plans	574,817	574,817
Amount due retention group	597,262	597,262
Total liabilities	$22,167,692	$22,167,692
Surplus		
Section 1307 loans	$ 1,360,000	$ 1,360,000
Statutory reserve	5,817,600	5,817,600
Unassigned funds	1,179,861	1,179,861
Total surplus	$ 8,357,461	$ 8,357,461
Total liabilities and surplus	$30,525,153	$30,525,153

Note: The Internal Revenue Service has not conducted any audits of the federal income tax return filed by the Plan through tax year 2011. The examiner is unaware of any potential exposure of the Plan to any tax assessments and no liability has been established herein relative to such contingency.

Note: No liability appears on the above statement for the Section 1307 loans in the amount of $1,360,000 and the accrued interest of $447,700. The loans were granted pursuant to the provisions of Section 1307 of the New York Insurance Law. As provided in Section 1307, repayment of principal and interest shall only be made out of free and divisible surplus, subject to the prior approval of the Superintendent of Financial Services.

B. Statement of Revenue and Expenses and Surplus

The Plan's surplus increased $4,922,143 during the five-year examination period, January 1, 2007 through December 31, 2011, detailed as follows:

Revenue		
Premium	$185,281,280	
Total revenue		$185,281,280
Expenses		
Claims (net of reinsurance recoverable)	$116,752,909	
Claims adjustment expenses	26,549,535	
General administrative expenses	40,021,701	
Total expenses		$183,324,145
Net underwriting gain		$ 1,957,135
Net investment income		2,226,867
Net realized capital gains		6,267
Aggregate write-ins for other income		96,916
Net income		$ 4,287,185

Change in Surplus

Surplus, per report on examination as of December 31, 2006			$3,435,318
	Gains in Surplus	Losses in Surplus	
Net income	$4,287,185		
Change in net unrealized capital losses		$ 22,131	
Change in non-admitted assets		$342,911	
Change in surplus note	1,000,000		
Net change in capital and surplus			$4,922,143
Surplus, per report on examination as of December 31, 2011			$8,357,461

4. CLAIMS UNPAID

The examination liability of $2,206,175 is the same as the amount reported by the Plan as of December 31, 2011.

The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Plan's internal records and in its filed annual statements as verified during the examination.

The examination reserve was based upon actual payments made through a period in time, plus an estimate for claims remaining unpaid at that date. Such estimate was calculated based on actuarial principles which utilized the Plan's experience in projecting the ultimate cost of claims incurred on or prior to December 31, 2011.

5. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Plan conducts its business and fulfills its contractual obligations to subscribers and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct examination.

The review was directed at practices of the Plan in the following areas:

A. Complaint Log
B. Record Retention
C. Prompt Pay Law

A. Complaint Log

The Plan failed to maintain its complaint logs fully in the manner prescribed by Department Circular Letter No. 11 (1978), which states in part:

> "As part of its complaint handling function, the company consumer services department will maintain an ongoing central log to register and monitor all complaint activity. The log should be kept in a columnar form and list the following:
>
> 1. The date the complaint was received in-house.
> 2. The name of the complainant and the policy or claim file number.
> 3. The New York State Department of Financial Services file number.
> 4. The responsible internal division i.e. personal lines underwriting, property damage claims, etc.
> 5. The person in the company with whom the complainant has been dealing.
> 6. The person within the company to whom the matter has been referred for review.
> 7. The date of such referral.
> 8. Bearing in mind the appropriate regulation mandating timely substantive replies, the dates of correspondence to the Department Consumer Services Bureau.
>   A. The acknowledgement (if any).
>   B. The date of any substantive response.
>   C. The chronology of further contacts with this Department.
> 9. The subject matter of the complaint.
> 10. The results of the complaint investigation and the action taken.
> 11. Remarks about internal remedial action taken as a result of the investigation."

The Plan has three separate complaint logs. The Complaint Handling Register Listing is missing the above items 2, 3, 4, 7, 8(C), and 11, while the Complaint Handling PPO-Premier Consumer Complaint Log and Complaint Handling DCUSA Consumer Complaint Log are missing the above items 2, 3, 4, 5, 7, 8(B), 8(C), and 11.

It is recommended that the Plan maintain its complaint logs fully in the manner prescribed by Department Circular Letter 11 (1978).

B. Record Retention

DDNY was unable to provide a copy of the application/enrollment form for one selected group.

Part 243.2(b) of Department Regulation No. 152 (11 NYCRR 243.2) states in part:

> "(b) Except as otherwise required by law or regulation, an insurer shall maintain:
>
> 1) A policy record for each insurance contract or policy for six calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer.
>
> A policy record shall include:
>
> (ii) The application, including any application form or enrollment form for coverage under any insurance contract or policy;
>
> (8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review."

It is recommended that DDNY maintain the application/enrollment forms of its groups for at least 6 calendar years after the date the policy is no longer in force or until after the filing of the report on examination in which the record was subject to review, whichever is longer, as required by Section 243.2(b)(1)(ii)(8) of Department Regulation 152 (11 NYCRR 243.2).

C. Prompt Pay Law

A review of the Plan's Prompt Pay Law compliance was performed by using a statistical sampling methodology. The statistical sampling process was performed using the computer software program ACL.

For the purposes of this report, a "claim" is the total number of items submitted by a single provider on a single claim form, as reviewed and entered into the claims processing system. This claim may consist of various lines, procedures or service dates.

New York Insurance Law Section 3224-a, "Standards for prompt, fair and equitable settlement of claims for health care and payments for health care services" ("Prompt Pay Law"), requires insurers to pay undisputed claims within thirty (30) days when received via the internet or electronic mail, or forty-five (45) days when received by mail or facsimile. If such undisputed claims are not paid within the prescribed time frames, interest may be payable. The Prompt Pay Law also requires, for disputed claims, insurers to deny with a specific reason or if additional information is needed, to make such a request for such information within thirty (30) days from when the claim was received, regardless of whether the claim was received in a paper or electronic format.

Section 3224-a(a) of the New York Insurance Law states in part:

> "Except in a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty seven of this chapter or article forty-four of the public health law to pay a claim submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for services rendered that is transmitted via the internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile."

Section 3224-a(b) of the New York Insurance Law states in part:

> "In a case where the obligation of an insurer …to pay a claim …is not reasonably clear …an insurer …shall …notify the policyholder, covered person or …provider in writing within thirty calendar days of the receipt of the claim:
>
> (1) that it is not obligated to pay the claim …stating the specific reasons why it is not liable; or
>
> (2) to request all additional information needed to determine liability to pay the claim…"

The examination performed testing to determine the Plan's compliance with the Prompt Pay Law. In order to accomplish this, a population consisting of all claims submitted between January 1, 2011 and December 31, 2011 that were not paid within the time frames prescribed by Section 3224-a(a) of the New York Insurance Law were identified. The result of this process revealed that from the total population of 693,226 claims adjudicated in 2011, there were 5,188 electronic claims that took longer than thirty (30) days to pay and 7,270 paper claims that took longer than forty-five (45) days to pay. The 5,188 electronic and 7,270 paper claims were selected for sampling to establish whether they were adjudicated in violation of the time frames prescribed by Section 3224-a(a) of the New York Insurance Law.

A sample of 165 electronic claims was extracted from the population of 5,188 possible violations and reviewed. Of this sample, there were 28 confirmed violations of Section 3224-a(a) of the New York Insurance Law. A sample of 163 paper claims was extracted from the population of 7,270 possible violations and reviewed. Of this sample, there were 8 confirmed violations of Section 3224-a(a) of the New York Insurance Law.

The following charts illustrates DDNY's compliance with Section 3224-a(a) of the New York Insurance Law as determined by this examination:

Total claims population	693,226
Population of claims paid after 30 days of receipt	5,188
Sample size	165
Number of claims with violations	28
Calculated violation rate	16.97%
Lower violation limit	11.24%
Upper violation limit	22.70%
Calculated claims in violation	880
Lower limit transactions in violation	583
Upper limit transactions in violation	1,178

Note: The lower and upper error limits represent the range of potential error (e.g., if 100 samples were selected, the rate of error would fall between these limits 95 times).

Total claims population	693,226
Population of claims paid after 45 days of receipt	7,270
Sample size	163
Number of claims with violations	8
Calculated violation rate	4.91%
Lower violation limit	1.59%
Upper violation limit	8.22%
Calculated claims in violation	357
Lower limit transactions in violation	116
Upper limit transactions in violation	598

Note: The lower and upper error limits represent the range of potential error (e.g., if 100 samples were selected, the rate of error would fall between these limits 95 times).

It is recommended that the Plan take steps to ensure compliance with Section 3224-a(a) of the New York Insurance Law.

A similar recommendation was included within the prior report on examination.

Violations were established of Section 3224-a(b) of the New York Insurance Law through the isolation of all claims that took more than 30 days to deny, within the parameters. The result of the examiner's analysis revealed that 14,944 claims were denied after the 30 day limitation. A sample of 165 claims was extracted from the population and reviewed. Of this sample, there were 28 confirmed violations.

The following chart illustrates DDNY's compliance with Section 3224-a(b) of the New York Insurance Law as determined by this examination:

Total claims population	693,226
Population of claims adjudicated after 30 days of receipt	14,944
Sample size	165
Number of claims with violations	28
Calculated violation rate	16.97%
Lower violation limit	11.24%
Upper violation limit	22.70%
Calculated claims in violation	2,536
Lower limit transactions in violation	1,680
Upper limit transactions in violation	3,392

Note: The lower and upper error limits represent the range of potential error (e.g., if 100 samples were selected, the rate of error would fall between these limits 95 times).

It is recommended that the Plan take steps to ensure compliance with Section 3224-a(b) of the New York Insurance Law.

A similar recommendation was included within the prior report on examination.

6. SUBSEQUENT EVENTS

On June 8, 2012, DDNY submitted a proposal requesting approval of a configuration whereby the composition of the Board of Directors of the immediate parent company of DDNY could be different than that of the Board of Directors of DDNY. On July 26, 2013, the Department issued a letter to the Plan confirming that the Department "had no objections to a configuration whereby the composition of the Board of Directors of the immediate parent company could be different than that of the Board of Directors of DDNY."

On August 20, 2012, the DDNY corporate membership and Board of Directors approved amendments to the by-laws whereby the corporate members of DDNY would now be the Board of Directors of DDNY's new immediate parent company, Dentegra Group, Inc. On October 22, 2012, the Department approved the amendments to DDNY's by-laws.

On September 24, 2012, Delta Dental of California filed with the Department an Application for Approval for Acquisition of Control of DDNY. On October 30, 2013, the Department approved the Application for Approval for Acquisition of Control of DDNY.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2006, contained the following nine (9) comments and recommendations (page number refers to the prior report on examination):

ITEM NO.		PAGE NO.
	Prompt Pay Law	
1.	It is recommended that the Plan take steps to ensure compliance with Section 3224-a(a) of the New York Insurance Law. *The Plan has not fully complied with this recommendation as of the examination date. A similar recommendation is included within this report on examination.*	19
2.	It is recommended that the Plan change its interest calculation to comply with the requirements of Section 3224-a(c) of the New York Insurance Law. *The Plan has complied with this recommendation.*	19
3.	It is recommended that the Plan take steps to improve the supervision of its claims examiner trainees and ensure that claims are paid timely. It is noted that subsequent to the examination, the Plan indicated that it had taken steps to ensure that adequate oversight would be provided to its claims examiner trainees. *The Plan has complied with this recommendation.*	19
4.	It is recommended that the Plan take steps to ensure compliance with Section 3224-a(b) of the New York Insurance Law. *The Plan has not fully complied with this recommendation as of the examination date. A similar recommendation is included within this report on examination.*	20
	Installment Claim Payments	
5.	It is recommended that the Plan take steps to ensure (subsequent installment) payments are paid when due. Subsequent to the examination date, the Plan installed a new system that will ensure that such claims are paid at their set dates. *The Plan has complied with this recommendation.*	21

ITEM NO. **PAGE NO.**

Utilization Review

6. It is recommended that the Plan revise its member handbook to include a description of its utilization review policies and procedures, in accordance with Section 4324(a)(3) of the New York Insurance Law. 22

Subsequent to the examination date, DDNY informed the Department that the Plan revised its member handbook to effect compliance with the abovementioned requirements regarding utilization review.

The Plan has complied with this recommendation.

Participating Provider Agreement

7. It is recommended that the Plan notify its participating providers of any change to their contract in a timely manner. Further, consideration should be given as to whether the change in contract has any impact to the Plan's members and would therefore require additional notification to its subscribers. 23

Subsequent to the examination date, the Plan notified the Department that it implemented procedures to notify its participating providers of any material change to existing contracts.

The Plan has complied with this recommendation.

New York State United Teachers

8. It is recommended that DDNY comply with the requirements of §4308(b) of the New York Insurance Law by eliminating the retention rate added to the rates charged to applicable school groups. 25

The Plan has complied with this recommendation.

9. It is recommended that DDNY comply with the requirements of Section 4308(b) of the New York Insurance Law by refraining from implementing the NYSUT's recommended rate changes for certain school districts, which are not included within the Plan's experience rating formula approved by the Department. 25

Subsequent to the examination date, the Plan indicated to the Department that it had taken steps to comply with the above recommendation.

The Plan has complied with this recommendation.

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

ITEM **PAGE NO.**

E. Prompt Pay Law

i. It is recommended that the Plan take steps to ensure compliance with Section 3224-a(a) of the New York Insurance Law. 24

A similar recommendation was included within the prior report on examination.

ii. It is recommended that the Plan take steps to ensure compliance with Section 3224-a(b) of the New York Insurance Law regarding the denial of its claims. 25

A similar recommendation was included within the prior report on examination.

Respectfully submitted,

_____/S/_____

Tommy Kong
Senior Insurance Examiner

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

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

_____/S/_____

Tommy Kong

Subscribed and sworn to before me
this _____ day of _____2014

APPOINTMENT NO. 30839

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:*

Tommy Kong

as a proper person to examine the affairs of the

Delta Dental 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 1st day of March, 2012

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By: Steph J. Wiest

Stephen J. Wiest
Deputy Health Bureau Chief