

**REPORT ON EXAMINATION**

**OF**

**EMPIRE HEALTHCHOICE HMO, INC.**

**AS OF**

**DECEMBER 31, 2016**

**DATE OF REPORT**

**OCTOBER 3, 2018**

**EXAMINERS**

**SHAWN TOWCHIK, CFE**

**SYLVIA D. LAWSON, AIE, AINS, ARM,  
CLU, MBA**

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

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Andrew M. Cuomo  
Governor

Maria T. Vullo  
Superintendent

October 3, 2018

Honorable Maria T. Vullo  
Superintendent of Financial Services  
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and New York State Public Health Law, and acting in accordance with the instructions contained in Appointment Number 31678, dated October 18, 2017 attached hereto, we have made an examination into the condition and affairs of Empire HealthChoice HMO, Inc., a for-profit health maintenance organization with a certificate of authority issued by the New York State Department of Health under the provisions of Section 4403 of the New York State Public Health Law, as of December 31, 2016, and submit the following report thereon.

The examination was conducted at the home office of the ultimate parent, Anthem, Inc., located at 120 Monument Circle, Indianapolis, Indiana.

Empire HealthChoice HMO, Inc. is a wholly-owned subsidiary of Empire HealthChoice Assurance, Inc. Empire HealthChoice Assurance, Inc. is an indirect wholly-owned subsidiary of Anthem, Inc.

Wherever the designations “EHC HMO” or the “Plan” appear herein, without qualification, they should be understood to indicate Empire HealthChoice HMO, Inc.

Wherever the designation “EHCA” appears herein, without qualification, it should be understood to indicate Empire HealthChoice Assurance, Inc.

Wherever the designations “WellPoint Holding Corporation” or “WHC” appear herein, without qualification, they should be understood to indicate WellPoint Holding Corporation, the Parent of EHCA.

Wherever the designation “Anthem” appears herein, without qualification, it should be understood to indicate Anthem, Inc., the ultimate Parent of WHC. On December 2, 2014, WellPoint, Inc. changed its corporate name to Anthem, Inc.

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

Wherever the designation the “Companies” appears herein, without qualification, it should be understood to indicate Empire HealthChoice Assurance, Inc., and Empire HealthChoice HMO, Inc., collectively.

A concurrent examination was made of EHC HMO’s immediate Parent, Empire HealthChoice Assurance, Inc., a stock insurance company, licensed pursuant to provisions of Article 42 of the New York Insurance Law. A separate report thereon has been submitted.

## **1. SCOPE OF THE EXAMINATION**

EHC HMO was previously examined as of December 31, 2013. This examination of the Plan was a financial examination as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2017 Edition* (“the

Handbook”), and it covered the three-year period, January 1, 2014 through December 31, 2016. 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, 2016 were also reviewed.

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

The examiners 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 annual statement instructions.

Information concerning EHC HMO’s organizational structure, business approach and control environment were utilized to develop the examination approach. The examination evaluated EHC HMO’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 examination also evaluated EHC HMO's critical risk categories in accordance with the NAIC's ten critical risk categories. These categories are as follows:

- Valuation/Impairment of Complex or Subjectively Valued Invested Assets
- Liquidity Considerations
- Appropriateness of Investment Portfolio and Strategy
- Appropriateness/Adequacy of Reinsurance Program
- Reinsurance Reporting and Collectability
- Underwriting and Pricing Strategy/Quality
- Reserve Data
- Reserve Adequacy
- Related Party/Holding Company Considerations
- Capital Management

EHC HMO was audited annually for the years 2014 through 2016, by the accounting firm of Ernst & Young, LLP ("EY"). EHC HMO received an unmodified opinion in each of those years. Certain audit workpapers of EY were reviewed and relied upon in conjunction with this examination. A review was also made of Anthem, Inc.'s Internal Audit function, Sarbanes-Oxley/Model Audit Rule ("SOX/MAR") function, and Enterprise Risk Management program, as they relate to the Plan.

This examination was conducted as a coordinated examination, as such term is defined in the Handbook (an examination of one insurer or a group of insurers performed by examiners from more than one state whereby the participating states share resources and allocate work among the examiners), of the insurance subsidiaries of Anthem, Inc. The examination was led by the state of

Indiana with participation from three (3) other states: New York, New Hampshire, and Texas. Since the lead and participating states are accredited by the NAIC, all states deemed it appropriate to rely on each other's work. The examination team, representing the participating states, identified and assessed the risks for key functional activities across all of the Anthem, Inc. insurance subsidiaries. The examination team also assessed the relevant prospective risks as they related to the insurance entities.

Additionally, as part of this coordinated examination and in accordance with the provisions of the Handbook, an information systems review was made on a risk-focused basis, of Anthem's computer systems and operations that support EHC HMO.

The examiners reviewed the corrective actions taken by the Plan with respect to the recommendations concerning financial issues contained in the prior report on examination. The results of the examiners' review are contained in Item 5 of this report.

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

## 2. DESCRIPTION OF THE PLAN

EHC HMO is a for-profit health maintenance organization certified pursuant to Article 44 of the New York State Public Health Law. EHC HMO was originally incorporated on March 5, 1996, as Family HealthChoice, Inc., a health maintenance organization certified in the State of New York. Family HealthChoice, Inc. commenced business on March 19, 1996. Family HealthChoice, Inc. was granted a certificate of authority by the New York State Department of Health under the provisions of Article 44 of the New York State Public Health Law, effective March 7, 1996. Effective June 10, 1996, Family HealthChoice, Inc., changed its name to Empire HealthChoice HMO, Inc.

EHC HMO is a licensee of the Blue Cross and Blue Shield Association (“BCBSA”) and markets its product under the Blue Cross Blue Shield name. EHC HMO has been in operation for over 20 years and offers HMO, point-of-service, Medicare Advantage and state-sponsored products to individual and group accounts in the greater New York metropolitan area and select upstate counties. As a BCBSA licensee, EHC HMO participates in the BlueCard program. BlueCard is a BCBSA nationwide program that enables members who need health care services while traveling or living in another Plan’s service area to access their benefits through local BCBSA Plan’s providers. It also allows the cost of service to be calculated in accordance with the local Plan’s contract with providers. EHC HMO is a wholly-owned subsidiary of Empire HealthChoice Assurance, Inc., which is an indirect wholly-owned subsidiary of Anthem, Inc., a publicly traded company.

A. Management and Controls

The EHC HMO Board of Directors (“BOD”) is comprised of internal management and external independent directors. As required by Part 98-1.11(g) of the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR 98-1.11(g)), a minimum of twenty percent (20%) of the Board of Directors of the Plan must be comprised of enrollee representatives.

Part 98-1.11(g) of the Administrative Rules and Regulations of Department of Health (10 NYCRR 98-1.11(g)) states in part:

“(g) Except in the case of an HMO operated by a corporation licensed under article 43 of the Insurance Law which also operates a Public Health Law article 44 line of business, no less than one third of the members of the governing authority of an MCO shall be composed of residents of New York State.

(1) Within one year of the MCO becoming operational, no less than 20 percent of the members of the governing authority shall be enrollees of such MCO...”

EHC HMO complied with this requirement during the examination period.

Pursuant to the Plan’s By-laws, management of the Plan is to be vested in a Board of Directors consisting of not less than three (3) and not more than ten (10) Directors. As of December 31, 2016, EHC HMO’s Board of Directors (“BOD”) was comprised of five (5) Directors. The Audit Committee for Anthem, which is composed of outside Directors, assumes responsibility for all entities in the holding company structure. With the independent auditors, internal auditors, and the Risk Assessment and Controls group, the Anthem Audit Committee reviews the effectiveness of the accounting and financial controls and elicits recommendations that may improve controls. The Anthem Audit Committee meets each quarter and minutes of the meetings are prepared and retained.

The Plan's five (5) Directors and their principal business affiliation as of December 31, 2016, were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Lois S. Freedman* East Norwich, NY	Member, Empire HealthChoice HMO, Inc.
Grace H. McCabe New York, NY	Retired
Patrick J. O'Keefe Summit, NJ	Associate General Counsel, Anthem, Inc.
Randall V. Pernicone New Milford, NJ	Financial Executive, Controller, Anthem, Inc.
Lawrence G. Schreiber** New York, NY	President, Chief Executive Officer and Chairman, Empire HealthChoice HMO, Inc.

\*Enrollee representative per Part 98-1.11(g) of the Administrative Rules and Regulations of the Department of Health (10 NYCRR 98-1.11(g)).

\*\*Effective September 5, 2018, Lawrence G. Schreiber resigned and was replaced by Alan Murray.

A review of the minutes of the BOD meetings held during the examination period revealed that the meetings were generally well attended, with all members attending at least 50% of the meetings they were eligible to attend.

The principal officers of the Plan as of December 31, 2016, were as follows:

<u>Name</u>	<u>Title</u>
Lawrence G. Schreiber	President, Chief Executive Officer and Chairman
Jay H. Wagner	Secretary
Eric K. Noble	Treasurer
Patrick J. O'Keefe	Assistant Secretary

\*Effective September 5, 2018, Lawrence G. Schreiber resigned and was replaced by Alan Murray.

B. Corporate Governance

Anthem, Inc. is a publicly traded, diversified health plan subject to the Sarbanes-Oxley Act of 2002. EHC HMO is required to be compliant with Insurance Regulation 203 – Enterprise Risk Management and Own Risk and Solvency Assessment. Controls are identified by management and testing managed and monitored by the Anthem Controls and Assurance Group that reports up through the Anthem Internal Audit Department (“IAD”). Shared services are managed by Anthem and include information technology, risk management, investments, accounting, and internal audit.

i. Enterprise Risk Management

Anthem has adopted an Enterprise Risk Management (“ERM”) framework for proactively addressing and mitigating risks, including prospective business risks. Exhibit M of the Handbook (*Understanding the Corporate Governance Structure*) was utilized by the examiners as guidance for assessing corporate governance. It appears that the Plan’s BOD and key executives maintain an effective control environment.

ii. Internal Audit Department

Anthem assumed the Internal Audit Department (“IAD”) function, which is independent of management, to serve the Anthem Audit Committee of the BOD (the “Audit Committee” or “AC”). In addition, Anthem has established an Audit Council to address the requirements of Insurance Regulation 118 (11 NYCRR 89) – Audited Financial Statements, New York’s version of the NAIC’s Model Audit Rule, and assist management at the local level with any insurance regulatory reviews.

During the course of this examination, consideration was given to the significance and potential impact of certain IAD and Risk Control and Assurance (“RCA”) findings. To the extent possible, the examiners relied upon the work performed by the IAD, as prescribed by the Handbook.

No exceptions relative to the Plan’s corporate governance were noted.

C. Territory and Plan of Operation

EHC HMO is a licensee of the Blue Cross and Blue Shield Association (“BCBSA”) and markets its products under the Blue Cross Blue Shield trade name. EHC HMO has been in operation for over twenty (20) years and offers HMO, Point-of-Service, Medicare Advantage and state-sponsored products to individuals and groups in the greater New York metropolitan area and select upstate counties.

As set forth in its certificate of authority, EHC HMO is permitted to serve the following twenty-eight (28) counties in the State of New York.

**New York Region**

Bronx	Dutchess	Kings	Nassau
New York	Putnam	Queens	Richmond
Rockland	Suffolk	Westchester	

**Albany Region**

Albany	Clinton	Columbia	Delaware
Essex	Fulton	Greene	Montgomery
Orange	Rensselaer	Saratoga	Schenectady
Schoharie	Sullivan	Ulster	Warren
Washington			

The following table displays EHC HMO’s net admitted assets, capital and surplus, net premium income, and net income/loss during the period under examination:

	<u>Net Admitted Assets</u>	<u>Capital and Surplus</u>	<u>Net Premium Income</u>	<u>Net Income (Loss)</u>
2016	\$616,060,104	\$223,931,842	\$1,377,117,262	\$ (7,981,910)
2015	615,529,920	241,752,958	1,255,583,771	(36,587,529)
2014	692,877,999	295,039,769	1,365,972,858	(20,018,507)

As of December 31, 2016, health care services were provided to 141,662 members. The following chart shows annual membership changes during the examination period by number and percentage:

	<u>2014</u>	<u>2015</u>	<u>2016</u>
Members	174,204	164,037	141,662
% of Change	6.03%	(5.84)%	(13.64)%

D. Risk-Based Capital

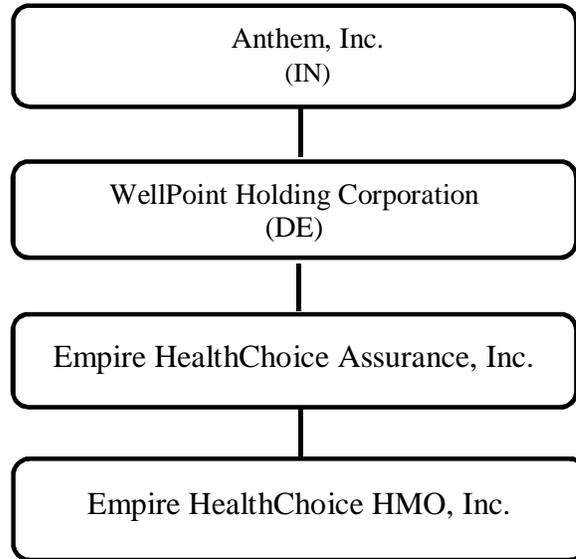
Risk-Based Capital (“RBC”) measures the minimum amount of capital appropriate for the Plan to support its overall business operations in consideration of its size and inherent risks. An RBC of 300 or below can result in regulatory action.

The Plan’s RBC during the examination period was above the regulatory action level.

E. Holding Company System

EHC HMO is a wholly-owned subsidiary of EHCA. As of the examination date, EHCA was a wholly-owned subsidiary of WellPoint Holding Corporation (“WHC”). WHC was a wholly-owned subsidiary of Anthem, which is a publicly traded company and the largest health benefits plan in terms of members in the United States.

The following chart depicts the Plan’s abbreviated holding company system as of December 31, 2016:



The Plan, during the examination period, was a party to inter-company agreements with its affiliates, which were subject to the New York State Department of Health (“NYSDOH”) and the Department’s review and approval. These agreements involved activities such as administrative services, cash management, investment management, and tax allocation.

Part 98-1.10(c) of the Administrative Rules and Regulations of the NYSDOH (10 NYCRR 98-1.10(c)) states in part:

“... Thirty days prior notice to the commissioner and, except in the case of a PHSP, HIV SNP or PCPCP, the superintendent, is required before entering into the following transactions between a controlled MCO and any person in its holding company system: a reinsurance agreement or an agreement for rendering services on a regular or systematic basis, other than medical or management services that require prior approval under this Subpart. Such transactions may become effective unless the commissioner or the superintendent has disapproved the transaction within such period.”

Inter-company agreements and amendments for EHC HMO that were in place as of December 31, 2016, included the following:

- Amended and Restated WellPoint Master Administrative Services Agreement – The Companies entered into an Amended and Restated Master Administrative Services Agreement, effective August 1, 2007, with Anthem (fka “WellPoint”) and its subsidiaries and affiliates. This agreement was submitted to the Department on April 3, 2006, and was approved by the Department on July 3, 2008.

The Plan subsequently amended this agreement and as such the amended agreement became effective January 1, 2014. This amendment was not filed with the Department nor was it filed with the New York Department of Health, as required by the provisions of Part 98-1.10(c) of the Administrative Rules and Regulations of the New York State Department of Health (10 NYCRR 98-1.10(c)).

It is recommended that the Plan comply with Part 98-1.10(c) of the Administrative Rules and Regulations of the NYSDOH by notifying the NYSDOH and the Department thirty (30) days prior to entering into any affiliated transactions that require such submission.

- Master Administrative Agreement – The Companies entered into an established Master Administrative Agreement between WellPoint and Bloom Health Corporation (Bloom) via a joinder agreement effective July 1, 2013. This agreement permitted the Parent and subsidiaries to utilize a web-based software application that was developed by Bloom. Further, this joinder agreement was submitted to both the Department and the NYSDOH on April 18, 2013, and a letter of no objection was sent from the Department on July 2, 2013, and from the NYSDOH on July 15, 2013.

Effective, June 30, 2016, Bloom was acquired by Empyrean Benefit Solutions, Inc., its Texas based strategic partner. Prior to the acquisition, Anthem owned majority shares of Bloom. As of the acquisition date, Bloom was no longer a related party with the Companies.

On July 1, 2018, subsequent to the examination period, this agreement was terminated.

- Federal Income Tax Allocation Agreement – The Companies entered into an Amended Consolidated Federal Income Tax Agreement, effective December 15, 2006, with Anthem (fka “WellPoint”) and its subsidiaries. This agreement was submitted to the Department on September 28, 2006, and a letter of no objection was sent to the Companies on October 4, 2006.

#### F. Reinsurance

There was no reinsurance assumed or ceded during the period under examination.

G. Internal Controls

The NAIC Risk Surveillance approach to financial examinations relies on the review of mitigating controls applicable to the inherent risks of the companies examined. In the case of Anthem and EHC HMO, the mitigating controls are housed in “Open Pages,” a vendor purchased software package. Controls related to the Anthem Sarbanes-Oxley (“SOX”) and Insurance Regulation 118 (11 NYCRR 89) are tested and monitored by Anthem’s Risk Control and Assurance (“RCA”) group. Within Anthem’s SOX records, the internal controls applicable to EHC HMO were identified by its management.

A thorough review of Anthem’s SOX controls documentation and the Plan’s MAR internal controls were an important component of the examination process. There were no identified material weaknesses or significant deficiencies identified by EY, the Plan’s Auditor. Additionally, there were no material control deficiencies or internal control observations noted by the examiners during the review of Anthem’s and the Companies’ internal controls that warranted attention.

The information technology (“IT”) environment for EHC HMO is managed in a shared services model by Anthem, Inc. Under this model, Anthem manages all aspects of information technology for the entire holding company.

IT infrastructure and operations for the financially significant systems identified were managed at the data centers located in Richmond, Virginia, and in St. Louis, Missouri.

The examination encompassed a review of the controls for financially significant applications, systems and infrastructure. The IT portion of the examination was performed in accordance with the Handbook and utilized applicable procedures found in Exhibit C – *Evaluation of Controls in Information Technology* – of the Handbook.

Controls for financially significant applications, systems, and underlying infrastructure in each of the NAIC Exhibit C Information Technology Work Program areas listed below represent the framework for the scope of this examination. The following control areas were reviewed:

- Align, Plan and Organize;
- Build, Acquire and Implement;
- Deliver, Service and Support; and
- Monitor, Evaluate, and Assess.

It was determined that the overall assessment of the Plan's IT general controls ("ITGC") environment for the key financial systems that supported the preparation of the Plan's financial statements supported an ITGC reliance-based financial examination. The IT examiners assessed the ITGC for EHC HMO as effective.

#### H. Financial risk transfer agreements with health care providers

Part 101.4(c) of Insurance Regulation No. 164 (11 NYCRR 101.4(c)), states in part:

"(c) An insurer who uses a capitation arrangement to transfer all or part of its financial risk to a health care provider must do so by means of a contract approved by the superintendent..."

The following amendments were made, during the examination period, to previously approved health care provider agreements that transferred financial risk:

#### Quest Diagnostics:

- Fifteenth Amendment to the Amended and Restated Participating Laboratory Services Provider Agreement dated July 1, 2004, effective September 19, 2014.
- Sixteenth Amendment to the Amended and Restated Participating Laboratory Services Provider Agreement dated July 1, 2004, effective December 9, 2016.
- Seventeenth Amendment to the Amended and Restated Participating Laboratory Services Provider Agreement dated July 1, 2004, effective August 1, 2017.

American Specialty Health IPA of New York, Inc.:

- 2014 Renewal Amendment (Amendment 11) to the Independent Practice Association Agreement dated March 1, 2005, effective January 1, 2014.
- Performance Guarantees Amendment (Amendment 12) to the Independent Practice Association Agreement dated March 1, 2005, effective January 1, 2015.

The amendments to the Amended and Restated Participating Laboratory Services Provider Agreement dated July 1, 2004, with Quest Diagnostics, and the amendments to the Independent Practice Association Agreement dated March 1, 2005, with American Specialty Health IPA of New York, Inc. were not filed with the Department pursuant to Insurance Regulation 164 (11 NYCRR 101.4(c)).

It is recommended that EHC HMO obtain prior approval, from the Department, for all amendments to its financial risk transfer agreements, as required by Section 101.4(c) of Insurance Regulation 164.

I. Facilitation of the Examination

Section 310(a)(3) of the New York Insurance Law states:

“The officers and agents of such insurer or other person shall facilitate such examination and aid such examiners in conducting the same so far as it is in their power to do so.”

Various requests were made by the examiners to management of the Plan. It should be noted that the Plan’s management failed to provide the examiners with the requested documentation in a timely manner. Failure to provide documentation in a timely manner led to numerous delays in the examination process.

It is recommended that the Plan comply with the requirements of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.

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

### **3. FINANCIAL STATEMENTS**

The following statements show the assets, liabilities, capital and surplus as of December 31, 2016, as contained in EHC HMO's 2016 filed annual statement, a condensed summary of operations, and a reconciliation of the capital and surplus account for each of the years under review. The examiners' review of a sample of transactions did not reveal any differences which materially affected the Plan's financial condition as presented in the financial statements contained in the December 31, 2016 filed annual statement.

The firm of EY was retained by Anthem to audit EHC HMO's combined statutory basis statements of financial position as of December 31<sup>st</sup> of each year in the examination period, and the related statutory-basis statements of operations, capital and surplus, and cash flows for the year then ended.

EY 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.

A. Balance SheetAssets

Bonds	\$ 408,710,903
Cash and short-term investments	2,009,806
Securities lending reinvested collateral assets	21,383,609
Aggregate write-ins for invested assets	191,757
Investment income due and accrued	4,408,110
Uncollected premiums in the course of collection	17,815,836
Accrued retrospective premiums	63,831,698
Amounts recoverable from reinsurers	25,754,589
Amounts receivable relating to uninsured plans	668,682
Current federal income tax recoverable	8,341,819
Net deferred tax asset	4,931,012
Receivables from parent, subsidiaries and affiliates	7,875,194
Health care and other amounts receivable	10,281,203
Aggregate write-ins for other than invested assets	<u>39,855,886</u>
Total assets	\$ <u>616,060,104</u>

Liabilities

Claims unpaid	\$ 157,261,627
Accrued medical incentive pool and bonus amounts	8,815,277
Unpaid claims adjustment expenses	4,946,121
Aggregate health policy reserves	48,703,188
Aggregate health claim reserves	42,832
Premiums received in advance	16,457,444
General expenses due or accrued	4,104,066
Amounts withheld or retained for the account of others	1,214,089
Remittances and items not allocated	6,124,242
Amounts due to parents, subsidiaries and affiliates	107,826,423
Payable for securities lending	21,383,609
Aggregate write-ins for other liabilities	<u>15,249,344</u>
Total liabilities	\$ <u>392,128,262</u>

Capital and Surplus

Gross paid-in and contributed surplus	\$ 71,999,998
Aggregate write-ins for other than special surplus funds	172,139,658
Unassigned funds (surplus)	<u>(20,207,816)</u>
Total capital and surplus	\$ <u>223,931,842</u>
Total liabilities, capital and surplus	\$ <u>616,060,104</u>

**NOTE:** The Internal Revenue Service (“IRS”) routinely conducts a Compliance Assurance evaluation of tax returns for Anthem and its affiliates. There were no known IRS findings reported from the Compliance Assurance evaluation completed for December 31, 2014, December 31, 2015 or December 31, 2016. The examiners are unaware any potential exposure of issues related to EHC HMO for any tax assessments and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Capital and Surplus

The Plan's capital and surplus decreased by \$253,329,648 during the three-year examination period, January 1, 2014 through December 31, 2016, detailed as follows:

Revenue

Premium income	\$ 3,998,673,891	
Change in unearned premium reserves	<u>21,618,092</u>	
Total revenue		\$ 4,020,291,983

Hospital and medical expenses

Hospital/medical benefits	\$ 2,686,171,541	
Other professional services	84,151,766	
Outside referrals	174,097,640	
Emergency room and out-of-area	169,107,157	
Prescription drugs	530,150,600	
Aggregate write-ins for other hospital and medical	(27,089,705)	
Incentive pool, withhold adjustments, and bonus amounts	28,914,427	
Net reinsurance recoveries	<u>(103,116,441)</u>	
Total hospital and medical expenses	\$ 3,542,386,985	
Claims adjustment expenses	185,853,758	
General administrative expenses	373,167,673	
Increase in reserves for life and accident and health contracts	<u>31,175,287</u>	
Total underwriting deductions		<u>4,132,583,703</u>
Net underwriting loss		\$ (112,291,720)
Net investment gains		50,244,866
Net loss from agents' or premium balances charged-off		(1,581,119)
Aggregate write-ins for other income or expenses		<u>(1,477,728)</u>
Net loss before federal and foreign income taxes		\$ (65,105,701)
Federal and foreign income taxes incurred		<u>517,755</u>
Net loss		\$ <u>(64,587,946)</u>

Changes in Capital and Surplus

Capital and surplus, per report on examination, as of December 31, 2013			\$ 477,261,490
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net loss		\$ 64,587,946	
Net change in unrealized capital losses		78,365	
Change in net deferred income tax		13,091,678	
Dividend to stockholders		165,000,000	
Change in non-admitted assets		<u>10,571,659</u>	
Net change in capital and surplus			\$ <u>(253,329,648)</u>
Capital and surplus, per report on examination, as of December 31, 2016			\$ <u>223,931,842</u>

**4. SUBSEQUENT EVENTS**

Effective February 15, 2017, subsequent to the examination date, EHC HMO expanded its Medicare service area to include Albany, Dutchess, Rensselaer and Schenectady counties.

Effective April 10, 2017, EHC HMO was granted a license in the state of Maine to transact the business of Medicare Advantage (HMO); thus making EHC HMO a multi-state insurer.

On August 11, 2017, the Department granted EHC HMO an exemption pursuant to Section 4406(1) of the New York State Public Health Law and Section 4328(a) of the New York Insurance Law, which permits EHCA to meet the obligations of EHC HMO to offer individual direct payment contracts on the New York State of Health (“NYSOH”), New York state’s health insurance marketplace. The exemption is conditioned upon EHCA’s ongoing compliance with the applicable statutes, which includes providing all the consumer protections required to be provided by EHC HMO, including those set forth in Sections 4406 and 4408(1) of the New York State Public Health Law. Effective January 1, 2018, EHCA began offering individual direct payment contracts both within and outside of the NYSOH.

In November 2017, Joseph Swedish retired as CEO of Anthem and was succeeded by Gail Boudreaux, the former CEO of UnitedHealth Group's insurance division, effective November 20, 2017. It should be noted that Mr. Swedish later served as Executive Chairman of Anthem from November 2017 to May 2018.

Effective September 5, 2018, Lawrence G. Schreiber resigned as the Companies' President, Chairman of the Board and Chief Executive Officer; he was replaced by Alan Murray.

## 5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination as of December 31, 2013, contained the following five (5) 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>Facilitation of the Examination</u>	
1. It is recommended that the Plan comply with the requirements of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.	16
<i>The Plan has not complied with this recommendation. A similar recommendation appears in this report.</i>	
<u>Accounts and Records</u>	
2. It is recommended that the Appointed Actuary's technical component of the Actuarial Memoranda include the analysis from the basic data, (e.g., claim lags) to the conclusions, as is required by the NAIC Health Annual Statement Instructions.	17
<i>The Plan has complied with this recommendation.</i>	
3. It is also recommended that the Appointed Actuary organize the technical appendices in a manner such that the analysis can be followed from data to conclusions.	17
<i>The Plan has complied with this recommendation.</i>	
4. It is further recommended that the Plan establish and implement a control to prevent the omission of required components during the preparation of the Actuarial Memoranda.	17
<i>The Plan has complied with this recommendation.</i>	
5. It is recommended that the Appointed Actuary include in all Actuarial Memoranda an exhibit that reconciles the annual statement and compares the Actuary's conclusions to the carried amounts as is required by the NAIC Health Annual Statement Instructions.	18
<i>The Plan has complied with this recommendation.</i>	

## 6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Holding Company System</u></p> <p>It is recommended that the Plan comply with Part 98-1.10(c) of the Administrative Rules and Regulations of the NYSDOH by notifying the NYSDOH and the Department thirty (30) days prior to entering into any affiliated transactions that require such submission.</p>	<p>13</p>
<p>B. <u>Financial Risk Transfer Agreements with Health Care Providers</u></p> <p>It is recommended that EHC HMO obtains prior approval, from the Department, for all amendments to its financial risk transfer agreements as required by Section 101.4(c) of Insurance Regulation 164.</p>	<p>16</p>
<p>C. <u>Facilitation of the Examination</u></p> <p>It is recommended that the Plan comply with the requirements of Section 310(a)(3) of the New York Insurance Law by providing all requested documentation in a timely manner.</p> <p>A similar recommendation was cited in the prior report on examination.</p>	<p>17</p>

Respectfully submitted,

\_\_\_\_\_  
Shawn Towchik, CFE  
Insurance Examiner

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

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

\_\_\_\_\_  
Shawn Towchik, CFE

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Respectfully submitted,

\_\_\_\_\_  
Sylvia D. Lawson, AIE, AINS, ARM, CLU, MBA  
Principal Insurance Examiner

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

**Sylvia D. Lawson**, being duly sworn, deposes and says that the foregoing report submitted by her is true to the best of her knowledge and belief.

\_\_\_\_\_  
Sylvia D. Lawson, AIE, AINS, ARM, CLU, MBA  
Principal Insurance Examiner

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, MARIA T. VULLO, 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:

**Risk & Regulatory Consulting, LLC**

as a proper person to examine the affairs of the

**Empire HealthChoice HMO, Inc.**

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

**HMO**

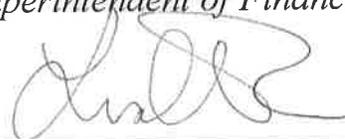
with such other information as they shall deem requisite.

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

this 18th day of October, 2017

MARIA T. VULLO  
Superintendent of Financial Services

By:



Lisette Johnson  
Bureau Chief  
Health Bureau

