

**REPORT ON EXAMINATION**  
**OF**  
**VYTRA HEALTH PLANS LONG ISLAND, INC.**  
**FORMERLY**  
**VYTRA HEALTHCARE LONG ISLAND, INC.**  
**AS OF**  
**DECEMBER 31, 1998**

**DATE OF REPORT**  
**AMENDED DATE**

**MAY 4, 2001**  
**MARCH 14, 2002**

**EXAMINER**

**BARBARA A. FINNERTY**



STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

March 14, 2002

Honorable Gregory V. Serio  
Superintendent of Insurance  
Albany, New York 10004

Sir:

Pursuant to the provisions of the New York Insurance Law and acting in accordance with instructions contained in Appointment Number 21270 dated May 11, 1998, annexed hereto, I have made an examination into the financial condition and affairs of Vytra Healthcare Long Island, Inc., as of December 31, 1998. The financial condition examination was conducted at the Company's, home office located at Corporate Center, 395 North Service Road, Melville, New York 11747. The following report thereon is respectfully submitted.

Wherever the terms "the Plan", "Vytra" or "HMO" appear herein without qualification, they should be understood to indicate Vytra Healthcare Long Island, Inc.

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## **1. SCOPE OF EXAMINATION**

The prior examination was conducted as of December 31, 1992. This examination covers the period from January 1, 1993 through December 31, 1998 and is limited in its scope to a review or audit of only those balance sheet items determined to require analysis, verification, or description. The foregoing determination was made in accordance with the National Association of Insurance Commissioner ("NAIC") Financial Condition Examiners Handbook. The examination was conducted in accordance with generally accepted accounting principles (GAAP) and as such included a review of income and disbursements deemed necessary to accomplish the verification of assets and liabilities. In addition, the examination utilized, to the extent considered appropriate, work performed by the Plan's independent certified public accountants. Transactions occurring subsequent to this period were reviewed where deemed appropriate.

A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of the Plan
- Management and control
- Corporate records
- Fidelity bonds and other insurance
- Territory and plan of operation
- Loss experience
- Reinsurance
- Accounts and records
- Treatment of policyholders

A review was also made to ascertain what action was taken by the Plan with regard to comments in the prior report on examination.

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

## 2. DESCRIPTION OF THE PLAN

Vytra Healthcare Long Island, Inc. (formerly ChoiceCare Long Island, Inc.) is a health maintenance organization (HMO) that provides health care services in exchange for premiums charged. The Plan was incorporated on September 13, 1985, certified as an HMO on October 1, 1985, and began operations on January 1, 1986. Organized under the provisions of Article 44 of the New York Public Health Law, the Plan was licensed as a not-for-profit, independent practice association ("IPA") model HMO. An IPA is a group of independent medical practitioners that contract with an HMO to provide services to its members. ChoiceCare Long Island, Inc. was renamed Vytra Healthcare Long Island, Inc. effective November 18, 1996.

Initial donated capital consisted of \$1,550,000 by the Plan's Class A member, Winthrop-University Hospital and \$550,000 by the Plan's Class B Member, Health Care Plan. Additional contributions by both members increased the donated capital to \$3,666,000 that includes \$2,333,000 from Winthrop University Hospital and \$1,333,000 from Health Care Plan, Inc. On September 17, 1998, and September 30, 1998, the Plan's

members, Winthrop University Hospital and Health Care Plan, Inc. each respectively contributed additional capital of \$4,500,000 via New York Insurance Law Section 1307 loans. A subsequent event occurred, on May 25, 1999, that involved the New York State Insurance Department's approval of two transactions as follows: repayment of Section 1307 loans as contributed capital in the amount of \$2 million each to Health Care Plan and Winthrop-University Hospital; capital contributions of \$2 million each to be made by Health Care Plan and Winthrop-University Hospital to Vytra. The Department approved these transactions subject to the condition that no contributed capital will be returned by Vytra to Health Care Plan or Winthrop-University Hospital or any other entity without the prior approval of the Superintendent of Insurance. The effect of these two transactions was that Vytra, since inception received \$7,666,000 in capital contributions and \$5,000,000 in subordinate loans.

The Plan formed a wholly owned subsidiary CCLI Health Service Corporation (renamed Vytra Health Services, Inc.) for the purpose of providing health services under Article 43 of the New York Insurance Law. Vytra Health Services, Inc. ("Company") is licensed as a not-for-profit health service corporation under Article 43 of the New York Insurance Law. The Company was incorporated on September 19, 1989 and commenced business on October 1, 1995. The Company provides health insurance that indemnifies members for the cost of hospital and medical services rendered to them. The Company is organized as a membership corporation defined in Section 102(a)(5) of the Not-For-Profit Corporation Law. The sole member of the Company is ChoiceCare Long Island, Inc. (renamed Vytra Healthcare Long Island, Inc.). The initial capital of \$1,500,000 was

obtained through a New York Insurance Law Section 1307 loan agreement entered into on April 20, 1995. Pursuant to the foregoing cited section of the New York Insurance Law, the repayment of principal and interest shall only be made out of free and divisible surplus, subject to the approval of the Superintendent of Insurance.

Subsequent to the examination period, the Plan changed its name from Vytra Healthcare Long Island, Inc. to Vytra Health Plans Long Island, Inc. The name Vytra Health Plans Long Island, Inc. became effective November 20, 1999.

A. Management

The by-laws of the Plan provide that its affairs are to be managed by a board of directors consisting of two classes of members. The Class A Member, Winthrop University Hospital, selects four directors, and the Class B Member, Health Care Plan, Inc., selects five directors. David Reynolds, Ph.D., President of Vytra Health Plans Long Island, Inc. is an ex-officio member of the Board.

At December 31, 1998 the board of directors was comprised of the following ten members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Stephen C. Ames* Williamsville, NY. 14221	Retired
Robert R. Banta * East Aurora, NY 14052	Executive Vice President & C.F.O. Moog, Inc.
Martin J. Delaney Melville, NY 11747	President and C.E.O. Winthrop South Nassau University Health Systems
George J. Farrell, Jr. Uniondale, NY 11556	Partner Farrell Fritz, P.C.
Arthur R. Goshin, M.D. * Buffalo, NY 14202	President & C.E.O. Health Care Plan
John H. Krumpe Glen Head, NY 11545	Vice Chairman New York Islanders Hockey Clubs, L.P.
John T. Lane ** Garden City, NY 11530	Retired
Edward J. Marine, M.D. * Buffalo, NY 14202	Medical Director Health Care Plan
David S. Reynolds, Ph.D. Melville, NY 11747	President Vytra Health Plans
Stephen J. Suhowatsky* Syracuse, NY 13206	President and C.E.O. Syracuse Supply Company

\* Directors of Health Care Plan, Inc.

\*\* HMO enrollees pursuant to Part 98.11(f) of the Health Department's Administrative Rules and Regulations.

During the period under examination, the board of directors held thirty-six regular meetings. Meetings were generally well attended.

Article IV, Section I of the Plan’s by-laws authorize the formation of an Executive Committee. The by-laws provide for the Executive Committee to keep a record of its proceedings and report the same to the board of directors. During the period under examination the Executive Committee met on several occasions but did not record minutes of such meetings. Section 621(a) of the New York Not-for-Profit Corporation Law states that:

“... Every corporation shall keep at the office correct and complete books and records of accounts and minutes of the proceedings of its members, board and executive committee...”

The Plan’s failure to maintain such Executive Committee minutes is a violation of Section 621(a) of the New York Not-for-Profit Corporation Law. This comment was made in the prior Report on Examination.

It is again recommended that the Plan comply with Section 621(a) of the New York Not-for-Profit Corporation Law, and its by-laws by keeping at its office, minutes of the proceedings of its members, board and executive committee meetings.

The principal officers of the Plan as of the date of examination were as follows:

<u>Name</u>	<u>Title</u>
Arthur R. Goshin, M.D.	Chairman
David S. Reynolds, Ph.D.	Chief Executive Officer & President
John H. Krumpe	Vice Chairman
Philip Gandolfo	Chief Financial Officer
Samuel S. Rabkin	Secretary and Treasurer

B. Territory and Plan of Operation

Vytra provides healthcare coverage for residents of Nassau, Queens and Suffolk counties in the State of New York. The Plan contracts with primary and specialty care physicians. The Plan also provides coverage for prescription drugs, vision care and hospitalization.

The Plan has various optional riders that may be added to its basic contract with subscribers. Riders can reduce or eliminate co-payments, reduce or eliminate coverage or provide extra coverage such as alcoholism rehabilitation, prosthetic appliances, substance abuse coverage, etc.

C. Contingent Reserve

A certified operating HMO is required to maintain a contingent reserve fund pursuant to the requirements of Part 98.11(d) of the Administrative Rules and Regulations of the Health Department. In 1998, the HMO invaded its required contingency reserve fund by \$7,403,447 and, as a result, elected not to increase its required contingency reserve fund as permitted by Health Department Regulation Part 98.11(d)(4). Furthermore, the required Plan of Restoration was submitted for approval on June 1998. While neither the invasion request nor plan of restoration was formally approved by the Insurance Department, the Department was fully aware of these events including the HMO's election not to increase its required contingent reserve fund. The Department in its review of the financial statements submitted during this time period

took no exception to the HMO's reported contingent reserve fund and entered into extensive discussions with the HMO over its Plan of Restoration. The examiner notes that in a subsequent filed financial statement (after the period of this examination) the HMO reports that the invasion amount was fully restored by June 30, 2001.

Vytra Healthcare Long Island, Inc. is required (based upon the foregoing implied approval) to maintain a contingent reserve of \$9,808,574 as of December 31, 1998. The contingency reserve is calculated as follows:

Contingent Reserve from prior Report on examination ( that was not filed) as of December 31, 1995	\$4,666,426
1996 Premium Income (\$192,710,031 X 1%)	1,927,100
1997 Premium Income (\$246,779,169 X 1%)	2,467,792
March 31,1998 Premium Income (\$74,725,645 X 1%)	747,256
 Contingency Reserve as of December 31, 1998	 9,808,574

D. Reinsurance

The Plan has an excess of loss contract with an authorized reinsurer. The retention varies for the Medicare line of business and the commercial line of business. A summary of the reinsurance program is as follows:

Term of Agreement (Incurral Period)	1/1/98 –12/31/98
Coverage	Inpatient Hospitalization & Transplant
Retention	Commercial HMO, PPO, POS - \$100,000 Medicare - \$50,000
Coinsurance	90%
Per Diem Limitation	\$2,000 length of stay(s)
Reporting Period	Within 18 months of beginning of agreement (up to 6/30/99)
Limits of Coverage	\$1,000,000 per member per year
Insolvency	\$5,000,000 aggregate maximum coverage
Carryover	31 days
Conversion	Yes
Experience Refund	If the contract is renewed: 50% premium paid (minus expenses of 20%) over claims paid

The hospital coverage provided by this agreement is as follows:

<u>Covered Expenses</u>	<u>Covered Expense Limits</u>
Hospital in-patient services Out-of-Area, Referral and Emergency, In area	90% of Eligible Hospital Expenses incurred by covered persons subject to the following limitation: \$2,000 maximum average per day coverage per confinement.

The agreement includes continuation of benefits provision within its insolvency protection language. This provision requires the reinsurer cover Vytra members who are confined to an inpatient facility with certain limitations. It also requires prospective continuation of benefits, for up to thirty-one days, for all Vytra members who have paid the contract premium.

A review of the reinsurance contract revealed the application of an aggregate limit of liability of \$5,000,000 to the insolvency protection afforded under the continuation of coverage provision. Although the Insurance Department does not require the Plan to obtain reinsurance coverage, the Department views reinsurance in general, and continuation of benefits provisions in particular, as an additional layer of protection for the Plan's members against impairment and insolvency. In Vytra's case the potential liability for covering members for up to thirty days beyond insolvency is far in excess of the \$5 million limitation included in the reinsurance contract, in effect negating the continuation of coverage provision.

Reinsurance contracts are approved by the Department during the initial certification of an HMO pursuant to Part 98.5(b)(7) of the Administrative Rules and Regulations of the Health Department {10 NYCRR98.5(b)(7)} to assure that they contain required provisions relative to insolvency protection and continuation of coverage. Further, Part 98.8(b) requires the prior approval of the Superintendent and the Commissioner for changes in risk sharing with insurers (i.e. reinsurance contracts) as follows.

"(b) Any amendments to the risk-sharing arrangements contained in any contracts between the HMO and insurers shall not be entered into without prior approval of the Commissioner and the superintendent..."

It is recommended that the Plan submit the reinsurance agreement in effect to the New York State Insurance Department for review and approval in accordance with Public Health Law, Part 98-1.8(b) of the Health Department Regulations.

In addition, to the above, the agreement does not contain insolvency language that would meet the Department's criteria for approval. New York Insurance Law Section 1308(a)(2)(A) provided that no credit for reinsurance shall be allowed unless:

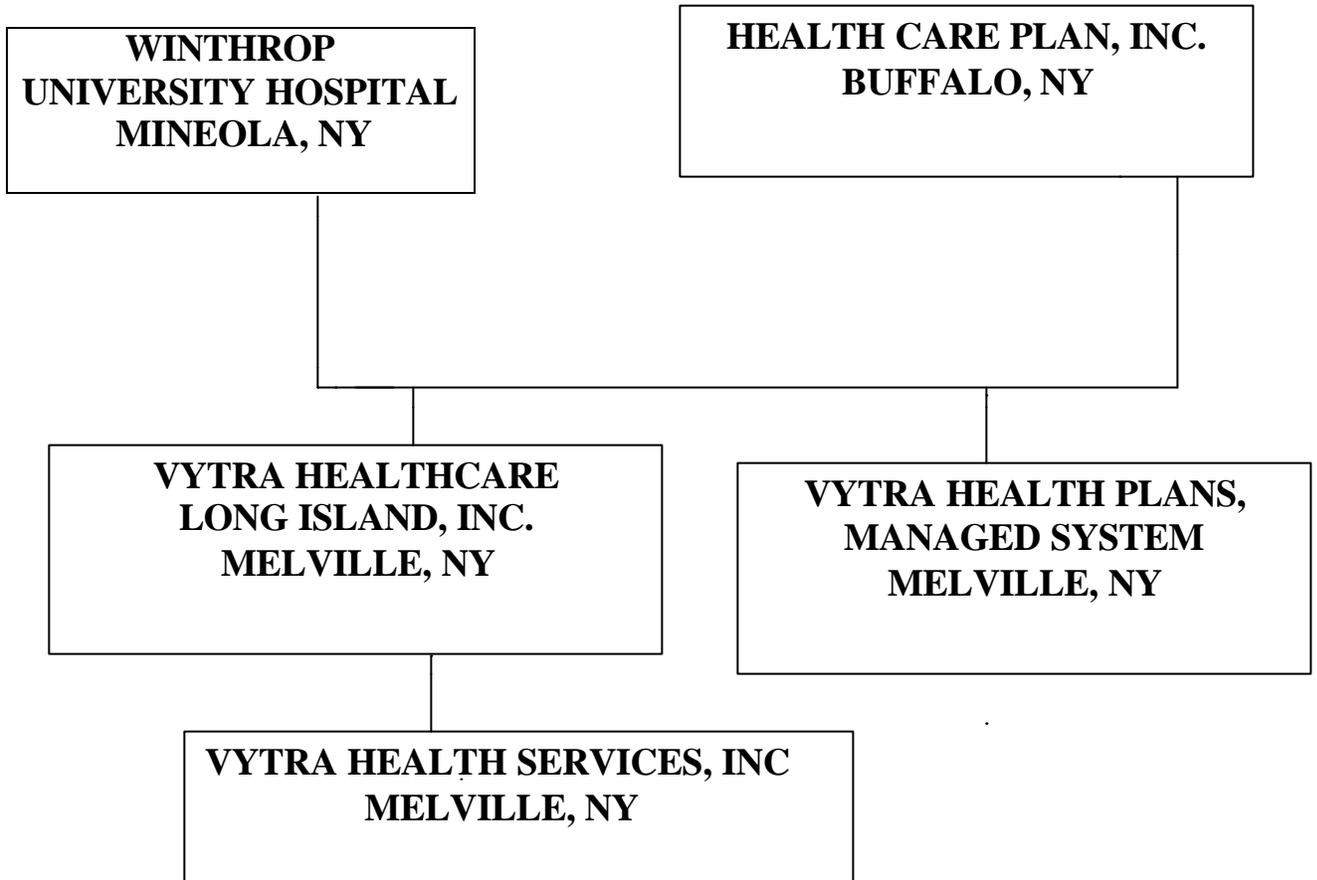
- (i) *the reinsurance shall be payable by the assuming reinsurer on the basis of the liability of the ceding reinsurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.*

This provision, or its equivalent, is required in all contracts of reinsurance. It is not clear from the language in the insolvency provision of Vytra's reinsurance contract that this requirement is met.

It is recommended that the reinsurance contract be amended to conform to the requirements of Section 1308(a)(2)(A)(i) of the New York Insurance Law.

E. Holding Company System

The following chart depicts the relationship of the HMO to its parent and affiliated companies as of the examination date:



Vytra (formerly ChoiceCare Long Island, Inc.) was created through the sponsorship of Winthrop University Hospital (“Winthrop”) and Health Care Plan, Inc. (“Health Care”). Winthrop is an acute care general hospital organized and operated in accordance with Article 28 of the New York Public Health Law. Health Care Plan, Inc. is a health maintenance organization licensed under Article 43 of the New York Insurance law and

Article 44 of the New York Public Health Law. Upon organization, Winthrop donated 63% and Health Care donated 37% of the Plan's capital.

F. Custodial Agreement

During the period covered by this examination, the Plan's investments were deposited with Chase Manhattan Bank. However, there was no formal, written custodial agreement between the parties defining the bank's responsibilities and duties as depository of these securities.

It is recommended that the Plan enter into a formal custodial agreement with the bank that contains, at a minimum, protective covenants and provisions suggested by this Department.

The Plan is in agreement with the recommendation and is taking the appropriate steps to correct this deficiency.

G. Accounts and Records

In the course of the examination, the examiners reviewed the manner in which accounts are maintained and reported in its filed Annual and Quarterly statements. Deficiencies were noted in the following areas:

Certain Annual and Quarterly statement exhibits were not prepared consistently from year to year nor completed in accordance with the NAIC HMO Annual Statement Instructions as follows:

- In the quarterly New York Data Requirements statements filed during 1998, the company reported some IBNR Reserves as part of its paid claims as reflected in Exhibit 3 - Quarterly Unpaid Claims Development Schedule.
- Monthly capitation payments were improperly reflected in accounts payables (trade payable) rather than as claims payable.
- Claims approved for payment were improperly reclassified to the accounts payable account from claims payable.
- The Annual Statement blank makes specific provisions for a co-payment account in the income statement. However, the Plan has netted these expenses directly against medical expenses in the Income Statement.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows a comparative balance sheet as reported by the Plan and as determined by this examination as of December 31, 1998:

	Examination	Company	Surplus Increase (DECREASE)
<b>Assets</b>			
Cash and cash equivalent	\$ 18,856,613	\$ 18,856,613	0
Short-term investments	28,242,406	28,242,406	
Premium receivable	4,946,940	4,946,940	
Amounts due from affiliates	10,756,617	10,756,617	
Reinsurance recoverable on paid losses	(1,069,688)	(1,069,688)	
Prepaid expenses	95,953	95,953	
Construction in progress	195,117	195,117	
Name Charge	60,361	60,361	
Section 1307 loan to VHS	1,523,479	2,001,250	(477,771)
Miscellaneous	4,008	4,008	
<b>Other Assets:</b>			
Other Medical Receivables	6,805,948	0	6,805,948
Accrued interest	468,811	468,811	
Furniture and Equipment	7,581,629	7,581,629	
Leasehold improvements	<u>479,300</u>	<u>479,300</u>	
<b>Total assets</b>	<b>\$ <u>78,947,494</u></b>	<b>\$ <u>72,619,317</u></b>	<b>\$ <u>6,328,177</u></b>

<u>Liabilities</u>	Examination	Company	Surplus Increase (Decrease)
Accounts Payable	\$ 5,377,030	\$ 5,377,030	
Claims payable	56,819,029	50,013,081	\$(6,805,948)
Payroll payable	261,495	261,495	
FICA	16,808	16,808	
Employee Insurance Buy up	73,890	73,890	
Amounts due to affiliates	10,058,472	10,058,472	
Vacation accrual	783,042	783,042	
Workers' compensation	51,364	51,364	
Garnishment payable	1,119	1,119	
Unemployment insurance payable	395	395	
Bonus liability	109,744	109,744	
Income taxes	363,642	363,642	
United Way	1,202	1,202	
Payroll Withhold	72,928	72,928	
Group Dental	<u>(182)</u>	<u>(182)</u>	
Total liabilities	<u>\$73,989,978</u>	<u>\$67,184,030</u>	<u>\$(6,805,948)</u>
Net Worth			
Contributed capital	\$ 3,666,000	\$12,778,500	\$(9,112,500)
Contingent reserve	9,808,574	9,813,417	(4,843)
Retained Earnings	(17,629,560)	(17,156,632)	(472,928)
Surplus notes	<u>9,112,500</u>	<u>0</u>	<u>9,112,500</u>
Total net worth	<u>\$ 4,957,514</u>	<u>\$ 5,435,285</u>	<u>\$(477,771)</u>
Total liabilities and net worth	<u>\$78,947,492</u>	<u>\$72,619,315</u>	<u>\$ 6,328,177</u>

NOTE 1: During 1997 and continuing into 1998, Vytra Health Plans Long Island incurred substantial losses, related to its Medicare risk and small group products. As a result, the contingent reserve fund dropped below the amount required by Part 98.11(d) of the New York State Health Department Regulation. In June 1998, the Plan developed a 36-month corrective action plan that was submitted to the New York State Department of Insurance. The Plan was approved and as a result the contingent reserve was calculated in accordance with Part 98 of the Public Health Law.

In anticipation of approval of the invasion of the contingent reserve fund and approval of the corrective action plan, the Plan was required to obtain \$9 million in capital support. In September 1998, the Plan entered into two separate \$4.5 million loan agreements with each of its owners, Winthrop University Hospital and The Health Care Plan, Inc. These loans were made pursuant to Section 1307 of the New York

Insurance Law and the Superintendent of Insurance of the State of New York granted approval for such loans. The annual interest rate on each loan is 5%. Subsequently, each owner, via board resolution, recharacterized their \$4.5 million in financial support as \$2 million capital contribution and a \$2.5 million Section 1307 loan.

Part 98.11(d) of the New York State Department of Health (DOH) Regulation requires that the contingent reserve be increased and maintained each year by an amount equal to 1% of net premium income not to exceed 5% of annual net premium income at the end of any calendar year. The invasion of the contingency reserve was approved therefore, a one-year abatement from these requirements as of March 31, 1998, was granted to the Plan.

NOTE 2: As of December 31, 1998, the Plan maintained total reserves and unassigned funds of \$4,957,514. The Plan's statutory reserves were impaired in the amount of \$7,403,447 as of December 31, 1998. As stated previously, the Plan received permission from this Department to invade its contingency reserve in the aggregate amount of \$6,180,480.

NOTE 3: No liability appears on the above statement for loan principal in the amount of \$5,000,000 and interest accrued thereon of \$112,500. The loans were granted pursuant to the provisions of Section 1307 of the New York State Insurance Law. As provided in Section 1307, repayment of principal and interest shall only be made out of free and divisible surplus, subject to approval of the Superintendent of Insurance of the State of New York.

NOTE 4: Vytra Health Plans Long Island is exempt from taxes under the Internal Revenue Service Code Section 501(c)(4). The Plan is a Not-for-Profit entity.

NOTE 5: Subsequent to the examination the Plan under took several strategic initiatives including discontinuing an unprofitable line of business and reported in its filed Quarterly Statement as of June 30, 2001, a contingency reserve of \$10,964,852. As of June 30, 2001, the Plan was in compliance with the contingency reserve requirement.

B. Statement of Revenue and Expenses

Net worth increased by \$1,523,073 during the examination period, from January 1, 1993 through December 31, 1998, detailed as follows:

Revenue

Premiums	\$ 944,415,906
Title XVIII- Medicare (HCFA)	86,943,918
Title XIX-Medicaid	38,277,276
Investments	6,526,943
Dentcare	43,110
Cobra	7,036
ASO Revenue	68,531
Other revenue	17,529,964
COB Income	<u>860,788</u>
Total Revenue	\$ <u>1,094,673,472</u>

Medical Expenses:

Physicians services	\$ 422,008,033
Outside referrals	117,672,200
Emergency room, (out-of- area)	20,352,265
Inpatient	240,772,777
Drug expense	116,987,880
Demographic Pooling	4,127,610
Purchase Discount	(733,189)
Dentcare	84,506
Reinsurance expenses net of Recoveries	109,344
C.O.B. and subrogation	<u>(10,633,412)</u>

Total medical expenses	910,748,014
Total administrative Expenses	<u>190,267,815</u>

Net income before Extraordinary item	\$ (6,342,357)
Extraordinary Item	(1,068,239)
Provisions for federal Income taxes	<u>82,289</u>

Net income	\$ <u>(7,492,885)</u>
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Change in Net Worth

Net worth at December 31, 1992		\$ 3,434,447
Net Income	\$ (7,492,885)	
Contribution & adjustments	9,493,729	
Exam changes	(477,771)	
Change in Net Worth		<u>\$ 1,523,073</u>
Net worth at December 31, 1998		<u>\$ 4,957,520</u>

**4. SECTION 1307 LOAN**

The examination admitted asset of \$1,523,479 is \$477,771 less than the \$2,001,250 reported by the Plan in its filed annual statement as of December 31, 1998. The change to the captioned account is the result of an increase in non-admitted assets relating to the devaluation of the net worth of the wholly owned Insurance Law Article 43 subsidiary Vytra Health Services, Inc. A full description of the formation and ownership of Vytra Health Services, Inc. can be located under the section of this Report entitled, Description of the Plan. The subsidiary's net worth as the date of this examination is \$1,523,479.

**5. OTHER MEDICAL RECEIVABLES**

The captioned asset has been established herein in the amount of \$6,805,948. This represents a reclassification of the Plan's Pharmacy Rebates and Advances to Providers in the amount of \$1,816,128 and \$4,989,820 respectively. These two accounts were initially netted directly against the Unpaid Claims reserve as "reconciling items". This methodology does not promote a thorough analysis of the liability, or the ability to readily

age the receivable from statements filed with the Department and expeditiously determine whether the receivable is collectable.

a) Pharmacy Rebate

The Plan has contracted with a third party vendor HealthCard to manage and administer the pharmacy and drug benefit program for its subscribers. This receivable was applied in 1999 directly against individual claims and is reflected in the 1999 claim payments for prior period claims. As a result, the receivable has been admitted by this examination.

b) Advances to Providers

The Plan contracted with a third party fee-for-service provider Coram to manage and administer its durable medical equipment and home health service benefits for its subscribers. Coram was experiencing claim processing delays to the extent that it was not possible for the Plan to correctly establish its unpaid claim reserve. Therefore, the Plan advanced progress payments to Coram to enable the fee-for-service provider to reduce its claim backlog. This arrangement benefited the Plan in that it reduced its dependence on Coram to provide accurate and timely claim reports. Thereafter, Coram filed for bankruptcy. As a result, the advances have been identified with specific claims and are included in the 1999 claim payments for prior period claims.

**6. CLAIMS PAYABLE**

The examination liability of \$56,819,029 is \$6,805,948 more than the \$50,013,081 reported by the Plan in the filed annual statement as of December 31, 1998. The examination liability for claims payable was determined through a six-month claim run-off and is gross as to pharmacy rebates and advances to providers that have been reclassified as assets (see item 5 herein). This determination resulted in accepting the reserve gross as to pharmacy rebate receivables and advances to provider receivables as established by the Plan as a best estimate.

## 7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report contained thirteen comments and recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Management</u>	
It is recommended that directors who fail to attend at least one-half of regular board meetings resign or are replaced.	5
The Plan has complied with this recommendation.	
It is recommended that the Plan institute procedures requiring its officers and directors to annually disclose material conflicts of interest.	5
The Plan has complied with this recommendation.	
It is recommended the Plan comply with the provisions of section 621(a) of the New York Not-for-Profit law and maintain minutes of all the meetings of the Plan's executive committee as required by its by-laws.	5
The Plan has not complied with this recommendation and it is repeated herein.	
B. <u>Reinsurance</u>	
It is recommended that the conversion provisions of the insolvency clause be eliminated or amended to name a licensed insurer that will issue conversion contracts in New York State.	7-8
The Plan has complied with this recommendation.	

C. Holding Company System

It is recommended that the Plan comply with the annual statement instructions when completing Schedule M. 11

The Plan has complied with this recommendation.

It is recommended CCLI Health Services reimburse the Plan for funds paid on its behalf. 12

The Plan has complied with this recommendation.

It is recommended that the Plan comply with Part 98.10(b) and (c) of the Health Department's Administrative Rules and Regulations [10NYCRR 98.10(c)] in all its transactions with members of its holding company system. 8-12

The Plan has complied with this recommendation.

D. Investments

It is recommended that the HMO adhere to all the investment limitations of Article 14 of the New York Insurance Law. 14

The Plan complied with this recommendation.

It is recommended, the Plan comply with the provisions of Section 1411(a) of the New York Insurance law and obtain the board of directors' approval for its investments. 14

The Plan complied with this recommendation.

It is recommended that the Plan adhere to the annual statement instructions by reporting the information requested in the notes to the financial statements. 14

The Plan complied with this recommendation.

It is recommended the HMO enter into a custodial agreement with its bank, containing at a minimum, the protective covenants and provisions suggested by the Insurance Department.

14

The Plan has not complied with this recommendation and it is repeated herein.

E. Abandoned Property Law

It is recommended the Plan file the required reports underlying the requirements of Section 1316 of the New York State Abandoned Property Law.

15

The Plan has complied with this recommendation.

**8. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A. <u>Management</u></p> <p>It is recommended, that the Plan comply with Section 621(a) of the New York Not-for-Profit Corporate law, and its by-laws by keeping at its office, minutes of proceedings of its members, board and executive Committee.</p> <p>A similar recommendation was contained in the prior Report.</p>	6
<p>D. <u>Reinsurance</u></p> <p>It is recommended that the Plan submit the reinsurance agreement in effect to the New York State Insurance Department for review and approval in accordance with Public Health Law, Part 98-1.8(b) of the Health Department Regulations.</p> <p>It is recommended that the reinsurance contract be amended to conform to the requirements of Section 1308(a)(2)(A)(I) of the New York Insurance Law.</p>	10
<p>F. <u>Custodial Agreement</u></p> <p>It is recommended that the Plan enter into a formal custodial agreement with the bank that contains at a minimum, protective covenants and provisions suggested by this Department.</p> <p>The Plan is in agreement with the recommendation and is taking the appropriate steps to correct the deficiency.</p>	11
<p>F. <u>Custodial Agreement</u></p> <p>It is recommended that the Plan enter into a formal custodial agreement with the bank that contains at a minimum, protective covenants and provisions suggested by this Department.</p> <p>The Plan is in agreement with the recommendation and is taking the appropriate steps to correct the deficiency.</p>	13

Appointment No. 21270

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, NEIL D. LEVIN, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Barbara Finnerty**

as a proper person to examine into the affairs of the

**Vyta Healthcare Long Island, Inc.**

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

**Company**

with such other information as she shall deem requisite.

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

this 11h day of May 1998

NEIL D. LEVIN

Superintendent of Insurance



(by) Deputy Superintendent