

REPORT ON EXAMINATION

OF

EASTERN VISION SERVICE PLAN, INC.

AS OF

DECEMBER 31, 2013

DATE OF REPORT

JULY 9, 2015

EXAMINER

BRUCE BOROFSKY

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Anthony J. Albanese
Superintendent

July 9, 2015

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

Sir:

Pursuant to the requirements of the New York Insurance Law, and acting in accordance with the instructions contained in Appointment Number 31204, dated August 11, 2014, attached hereto, I have made an examination into the condition and affairs of the Eastern Vision Service Plan, Inc., a not-for-profit medical expense indemnity corporation licensed pursuant to Article 43 of the New York Insurance Law, as of December 31, 2013. The following report is respectfully submitted thereon.

The examination was conducted at the home office of Eastern Vision Service Plan, Inc., located at 3333 Quality Drive, Rancho Cordova, California.

Wherever the designations “EVSP” or the “Plan” appear herein, without qualification, they should be understood to indicate Eastern Vision Service Plan, Inc.

Wherever the designations the “Parent” or “VSP” appear herein, without qualification, they should be understood to indicate Vision Service Plan (CA), a non-stock, not-for-profit California health service organization, the ultimate parent of Eastern Vision Service Plan, 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 was conducted as of December 31, 2009. This examination of the Plan was a combined (financial and market conduct) examination and covered the four-year period from January 1, 2010 through December 31, 2013. The financial component of the examination was conducted as a financial examination, as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2013 Edition* (the “Handbook”). The examination was conducted observing the guidelines and procedures in the Handbook. Where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2013 were also reviewed.

Concurrent examinations were also performed on affiliates of the Plan by the regulatory authorities of the states in which those affiliates are domiciled. During this process, the examiners coordinated the examination with the other states under the leadership of the Connecticut Department of Insurance, which served as the Lead State. Such examinations were made of the following companies within Vision Service Plan of California (VSP), none of which write business in the State of New York:

- Vision Service Plan of Idaho, Inc.
- Vision Services Plan Insurance Company (MO)
- Vision Services Plan Insurance Company (CT)
- Indiana Vision Services, Inc.
- Vision Service Plan (OH)

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 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 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 was 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 firm of Deloitte & Touche, LLP was retained by the Plan to audit its statutory-basis financial statements, as of December 31, 2013, and the related statutory-basis statements of operations, surplus, and cash flows for the year then ended. Audits for the years 2010 through 2012 were performed by the accounting firm of PriceWaterhouseCoopers. The Plan received an unmodified opinion in all of the years under examination. Certain audit work papers of the two audit firms 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.

The financial portion of this examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules, or which require explanation or description. The market conduct portion of the examination was conducted to review the manner in which the Plan conducted its business practices and fulfilled its contractual obligations to policyholders and claimants.

The examiner reviewed the corrective actions taken by the Plan with respect to the comments and recommendations contained in the prior report on examination. The results of the examiner's review are contained in Item Six of this report.

2. DESCRIPTION OF THE PLAN

Eastern Vision Service Plan, Inc. was incorporated on August 29, 1985 and licensed by the Department on June 1, 1987 as a not-for-profit medical expense indemnity corporation, pursuant to the provisions of Article 43 of the New York Insurance Law. Its purpose is to

provide subscribers and their families with vision care on a prepaid or fee-for-service basis. Eastern Vision Service Plan is a subsidiary of Vision Service Plan (CA) (“VSP”), by virtue of VSP being EVSP’s sole member. VSP is incorporated under the laws of the State of California. The Plan, which is affiliated with a network of seventeen member vision service corporations nationwide, began operations in 1987.

The Plan maintains its books of account and corporate records at the office of its Parent at 3333 Quality Drive, Rancho Cordova, California. The Plan has obtained regulatory approval for this arrangement pursuant to the requirements of Section 325(b) of the New York Insurance Law.

A. Corporate Governance

Pursuant to the Plan’s charter and by-laws, the corporate powers of the Plan are vested in a board of directors consisting of four members. The composition of the board was in compliance with Section 4301(k)(1) of the New York Insurance Law.

As of December 31, 2013, the four members of the Board of Directors and their principal business affiliations were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
<u>Provider representative</u> Gwenda Gnadt, O.D. Lake Ronkonkoma, NY	Optometrist, Private Practice
<u>Officer-Employee</u> Thomas Fessler Sacramento, California	General Counsel, Vision Service Plan, Inc.

Name and ResidencePrincipal Business AffiliationPublic member

Herbert Kozlov
New York, NY

Attorney,
Reed Smith, LLP

Subscriber member

Peter Twombly
New York, NY

Director of Finance,
The Carnegie Hall Corporation

The minutes of all meetings of the Board of Directors held during the examination period were reviewed. Said review revealed that the board met only once each year during 2011 and 2012. This is in compliance with the by-laws, which do not establish a required number of meetings. Such frequency may not be sufficient to permit the board to perform due diligence over the Plan's operations and financial condition. When held, the meetings were generally well attended.

It is recommended, as a good business practice and to ensure due diligence, that the board of directors meet quarterly, at a minimum, to discuss the financial condition of the Plan and to evince fiduciary oversight.

It is also recommended that the Plan update its by-laws to establish a minimum of four regular meetings as a requirement.

Section 312(b) of the New York Insurance Law states in part:

“A copy of the [exam] report shall be furnished by such insurer or other person to each member of its board of directors and each such member shall sign a statement which shall be retained in the insurer's files confirming that such member has received and read such report...”

The prior examination was conducted as of December 31, 2009 and the report on examination was filed during August, 2011. However, members of the Plan's board of directors did not sign attestations acknowledging they had received the report until August, 2014, shortly after the examiner had requested such documentation.

It is recommended that the Plan comply with Section 312(b) of the New York Insurance Law and ensure that the board reviews the report on examination and sign an attestation of such in a timely manner.

B. Conflict of Interest Statements

The Plan has a policy which requires each director and officer to complete an annual conflict of interest statement. A review of the conflict of interest statements signed during the examination period revealed that the three non-employee directors for EVSP did not complete the statements.

It is recommended that the Plan comply with its own policy and ensure that each director and officer completes a conflict of interest statement annually.

As of December 31, 2013, the principal officers of the Plan were as follows:

<u>Name</u>	<u>Title</u>
James Lynch	President
Lester Passuello	Treasurer/Chief Financial Officer
James McGrann	Secretary

C. Territory and Plan of Operation

The Plan is licensed as a not-for-profit medical expense indemnity corporation pursuant to the provisions of Article 43 of the New York Insurance Law and is authorized to conduct its operations throughout the State of New York. The Plan markets vision care programs to subscriber groups on both an at-risk and self-funded basis. Subscriber groups that purchase plans pay an agreed upon monthly premium based on the total number of eligible group members. Subscriber groups that elect self-funded programs reimburse the Plan for benefits paid and pay an administrative fee. The Plan's sole line of business during the examination period was vision services.

Vision services are provided through a network of participating optometrists and ophthalmologists that accept the Plan's schedule of fees as full payment for covered services. Subscribers may also secure services from non-member doctors who are reimbursed pursuant to a separate reimbursement schedule.

EVSP markets its products through broker agreements where a broker designated by a group as its "Agent of Record" is paid a commission. The commission is paid, based on premiums remitted by the agent for vision benefits, according to the rate schedule contained within the broker agreement.

Based upon the reserve requirements specified by Section 4310(d) of the New York Insurance Law, the Plan is required to maintain a reserve to be designated as the statutory reserve fund. At December 31, 2013, the Plan reported a statutory reserve of \$6,789,993. The

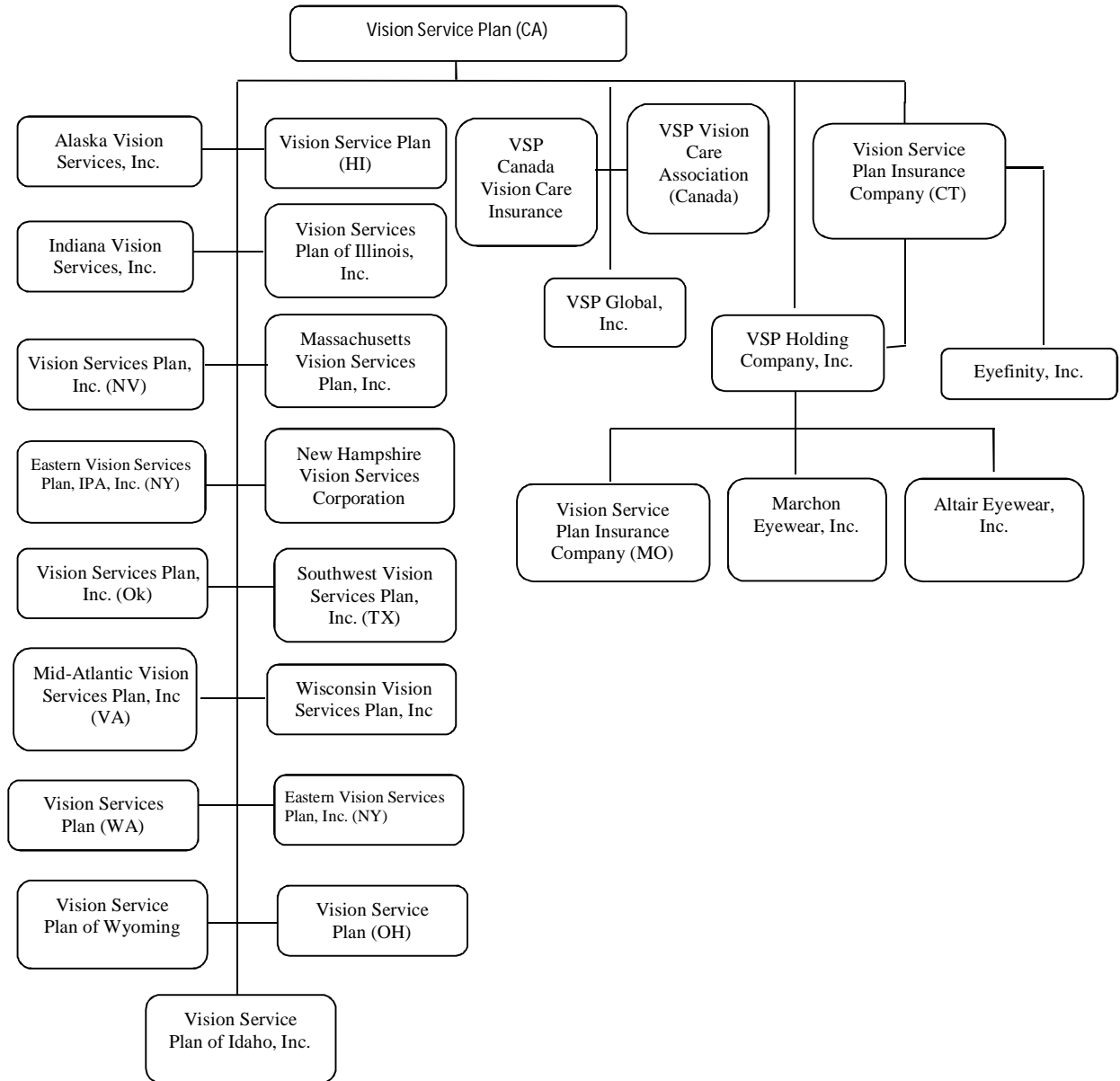
company's Risked-Based Capital ratio increased during the examination period; from 1,097% in 2010 to 2,046% in 2013.

D. Holding Company System

The Plan is a membership corporation in which the sole member is Vision Service Plan (CA), a not-for-profit California corporation. The Plan is a controlled insurer as such term is defined in New York Insurance Law §1501(a)(4).

As a member of a holding company system, the Plan is required to file registration statements pursuant to Section 1503 of the New York Insurance Law and Insurance Regulation No. 52 (11 NYCRR 80). All pertinent filings made by the Plan with regard to the aforementioned statutes were reviewed and no problem areas were encountered.

The following chart depicts the Plan and its relationship to members of its holding company system, as of December 31, 2013:



1. Vision Service Plan

Vision Service Plan (VSP) is a non-stock, not-for-profit California health service organization. VSP is incorporated under the laws of the State of California. VSP and its subsidiaries operate in four industry segments: (1) managed vision care, (2) design, manufacture, and wholesale distribution of eyewear, (3) ophthalmic lens services, and (4) practice management solutions. VSP's managed vision care business offers a range of eye care benefit options and provides a variety of eye care products to clients, doctors, and members. The VSP eyewear business is a manufacturer, designer, and distributor of eyewear. The ophthalmic lens services business provides manufacturing, coating, finishing, and other lens services. The practice management business offers comprehensive business solutions including an online claim filing portal and an electronic health record and retail point of sale software for optometrists, ophthalmologists, opticians, and eye care office administrators.

2. Eastern Vision Service Plan, IPA, Inc.

Eastern Vision Service Plan, IPA, Inc. ("IPA") is organized as a not-for-profit corporation under the laws of the State of New York to provide and administer vision care plans in New York in order to make available professional optometric services to eligible members of participating clients. The IPA is controlled and managed by the parent, VSP, which is incorporated in the state of California. Several of the directors of the IPA are also Directors or members of the management of VSP.

3. Administrative Services and Marketing Agreement

At December 31, 2013, the Plan was party to an Administrative Services and Marketing Agreement with its Parent, Vision Service Plan, Inc, which was approved by the Department on September 15, 2008 and again on March 7, 2011. Pursuant to the terms of this agreement, which was effective January 1, 2008, VSP agreed to provide administrative and marketing services to the Plan. In return for these services, the Plan agreed to pay to its Parent a per claim charge equal to the total general and administrative expenses of VSP and its subsidiaries (excluding expenses charged directly to the Plan, such as commissions, taxes, and audit and legal fees), divided by the total number of claims processed and paid on behalf of EVSP.

The agreement also allowed the Plan's members to receive vision services from participating providers of out-of-state affiliates of the Plan. Under the terms of the agreement, the Plan reimburses the affiliate for patient charges incurred on behalf of an insured of the Plan.

4. Tax Allocation Agreement

EVSP entered into a consolidated tax allocation agreement with VSP and all its subsidiaries and affiliates within the holding company system. This agreement was found to be consistent with the guidelines contained in Circular Letter No. 33 (1979), and was approved by the Department on February 1, 2011, retroactive to tax year 2010.

The tax allocation agreement governs the tax return filing, payment and allocation of federal, state and local income tax liability between VSP and its subsidiaries. Each affiliate calculates its separate tax liability, and the consolidated federal regular income tax liability is apportioned among the affiliates in accordance with the agreement. The Parent shall pay on

behalf of the affiliated group any tax liability, on or before the due date for each consolidated return year and each affiliate shall reimburse the parents for its share of the tax liabilities.

5. Insurance Coverage

EVSP, VSP and affiliates are insured by a financial institution blanket fidelity policy with the St. Paul Fire and Marine Insurance Company. The policy exceeds the suggested minimum limits of insurance pursuant to the Handbook. This policy is in the name of VSP with the Plan listed as a covered subsidiary.

E. Reinsurance

The Plan did not cede or assume any reinsurance during the period of the examination.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2013 based upon the results of the four-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Claims incurred	\$234,955,723	81.4%
Claim adjustment expenses	3,094,247	1.1%
General administrative expenses	31,704,690	11.0%
Increase in reserves	(4,386,925)	(1.5)%
Net underwriting gain	<u>23,120,723</u>	<u>8.0%</u>
Net premium income	<u>\$288,488,458</u>	<u>100.0%</u>

G. Accounts and Records

New York Insurance Law Section 1301(a)(6) and NAIC Statement of Statutory Accounting Principles (“SSAP”) No. 6 establish the accounting principle that uncollected premiums overdue by greater than ninety days are required to be non-admitted assets.

During testing of premium transactions, the examiner noted that unearned premiums are applied on a “first-in, first-out” (“FIFO”) method. This practice, which was first noted during an examination by the State of Missouri in 2011, makes it difficult for the Plan to ensure that older, uncollected premiums are appropriately being written off, where appropriate.

It is recommended that the Plan ensure that premium receivables over 90 days past due are written off and reported accurately in accordance with New York Insurance Law Section 1301(a)(6) and NAIC SSAP No. 6. The Plan notes that a project is in place to remediate this exception but that it cannot be completed until 2016.

Section 1, III – General Examination Considerations, F. Outsourcing of Critical Functions, Custodial or Safekeeping Agreements of the Handbook states in part:

(j) The custodian shall provide, upon written request from a regulator or an authorized officer of the insurance company, the appropriate affidavits, with respect to the insurance company’s securities held by the custodian.”

A review of one of the Plan’s custodial agreements indicated that such agreement failed to include the above-mentioned required clause, as detailed in the Handbook.

It is recommended that the Plan comply with the instructions from the Handbook by including the required clauses in its custodial agreement. It is noted that, subsequent to the examination, the Plan complied with this recommendation.

H. Internal Controls and Insurance Regulation No. 118

VSP's board of directors and its Audit Committee provide governance and oversight over related entities' activities, including EVSP. The Audit Committee was established to provide assistance to the board with matters related to the financial reporting process and the Parent's compliance program. Unless otherwise noted below, references to Vision Service Plan are also applicable to Eastern Vision Service Plan.

Vision Service Plan has adopted the provisions of Insurance Regulation No. 118, "Audited Financial Statements" (11 NYCRR 89) and the NAIC's Annual Financial Reporting Model Audit Rule ("MAR") framework for proactively addressing and mitigating risks, including prospective business risks. Exhibit M (*Understanding the Corporate Governance Structure*) of the NAIC *Financial Condition Examiners Handbook* was utilized by the examiner as guidance for assessing Vision Service Plan's Corporate Governance. The examiner determined that the Plan's corporate governance structure supported a proactive approach to operational risk management, and contributed to an effective system of internal controls.

I. Evaluation of Controls in Information Technology ("IT")

Noble Consulting Services, Inc. ("Noble") was retained by the Connecticut Insurance Department (CID) to conduct a review of the Information Technology General Control (ITGC) environment that is common to all of the affiliated entities under examination, as described in Part One of this report.

Noble performed a risk-focused assessment and review of the Plan's IT general controls in accordance with NAIC requirements as outlined in the Handbook. The guidance and direction used to perform the review of the Parent's IT general controls was derived from Exhibit C Part 1 – Information Technology Planning Questionnaire (ITPQ) and Exhibit C Part 2 – Information Technology Work Program (collectively, Exhibit C). The Plan's responses to the ITPQ were evaluated, and certain controls within the IT control environment were tested to assess whether the selected controls were designed effectively and were functioning properly.

Noble's objectives were to determine that Information Systems resources align with the Parent's objectives and to ensure that significant risks (strategic, operational, reporting, and compliance) arising out of its IT environment were appropriately mitigated by strategies and controls as outlined in Exhibit C.

The objectives above were achieved through a combination of reviewing the Parent's policies and procedures, testing in key areas related to Exhibit C, interviewing the Parent's IT senior management, reviewing IT risk assessment processes, and leveraging the risk assessment procedures performed by the Parent's internal and external auditors.

The following IT control areas were addressed during the examination:

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

No significant findings were noted during the review that would represent a substantial increase in risk surrounding the IT control structure.

J. Disaster Response Plan

Section (C)(1)(a) of Circular Letter No. 3 (2013) contains components that are required to meet the minimum standards of an acceptable Disaster Response Plan. Subsequent to the examination, the Department reviewed the Plan's filed Disaster Response Plan and noted that certain items were not included. Among these missing items were the following:

- The parameters used to define a disaster;
- The name of the designated disaster liaison and/or back up liaison;
- The steps the company would take during a disaster to ensure timely responses to claimants;
- How the company would communicate with and respond to employees of a group located in-state, when the employer is out of state during an emergency;
- How the company would communicate with and respond to employees of a group located out of state, when the employer is in-state during an emergency; and
- Additional procedures for detecting fraud the Plan may use, if any, when normal controls might not be in place due to a disaster.

It is recommended that the Plan file its Disaster Response Plan in compliance with all of the required components of Circular Letter No. 3 (2013).

K. Enterprise Risk Management

Part 82.2(b)(3)(ii) of New York Regulation 203 (11 NYCRR 82.2) states the following in part:

“The [ERM Form F] report required to be filed pursuant to paragraph (1) of this subdivision shall include:
(ii) with regard to a domestic insurer, a signature of the domestic insurer's chief risk officer or other executive having responsibility for the oversight of the enterprise risk management function attesting to the best of his or her knowledge and belief that the report identifies any material risks within the domestic insurer that could pose enterprise risk to the domestic insurer, and that a copy of the report has been provided to the domestic insurer's board of directors or the appropriate committee thereof, or if there is no board of directors, then to the insurer's governing body.”

EVSP's Form F filing failed to comply with the citations cited above in that it was not signed by the Chief Risk Officer ("CRO") and it did not attest that to the best of the Chief Risk Officer's belief and knowledge, the report identifies any material risks within the domestic insurer that could pose enterprise risk to the domestic insurer. Nor does the attestation state that a copy of the report has been provided to the domestic insurer's board of directors.

Further, it is noted that while the instructions request specific detail on the information sought, the Plan's response is general in nature and thus, does not satisfy the requirements for the document.

It is recommended that the Plan comply with New York Regulation 203 (11 NYCRR 82.2) and complete its ERM Form F in compliance with those instructions. Subsequent to filing of this report, EVSP filed a revised and compliant Form F.

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities, and surplus as of December 31, 2013, as contained in the Plan's 2013 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 December 31, 2013 filed annual statement.

Independent Accountants

The firm of Deloitte & Touche, LLP was retained by the Plan to audit the Plan's statutory financial statements of financial position as of December 31st for calendar year 2013, and the related statutory-basis statements of operations, surplus, and cash flows for the year then ended. Audits for the years 2010 through 2012 were performed by the accounting firm of PriceWaterhouseCoopers. The Plan received an unqualified opinion in all of the years under examination.

Both audit firms 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	\$ 21,515,772
Common stocks	4,997,576
Cash	9,244,935
Short term investments	4,494
Uncollected premiums	2,189,022
Amounts receivable related to uninsured plans	9,728,078
Investment income due and accrued	<u>210,451</u>
Total assets	<u>\$ 47,890,328</u>

Liabilities

Claims unpaid	\$ 3,385,444
Unpaid claims adjustment expenses	38,526
Premiums received in advance	337,427
General expenses due or accrued	174,806
Federal & foreign income tax payable	82,074
Net deferred tax liability	171,614
Amounts due to parent, subsidiaries and affiliates	2,431,656
Liability for amounts held under uninsured plans	323,954
Remittances and items not allocated	273,477
Aggregate write-ins for other liabilities	<u>123,227</u>
Total liabilities	<u>\$ 7,342,205</u>

Capital and surplus

Gross paid in and contributed surplus	1,000,000
Aggregate write-ins for other than special surplus	6,789,993
Unassigned funds (surplus)	<u>32,758,130</u>
Total capital and surplus	<u>\$ 40,548,123</u>
Total liabilities, capital and surplus	<u>\$ 47,890,328</u>

Note: The Internal Revenue Service has not conducted any audits of the income tax returns filed on behalf of the Plan through tax year 2013. 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.

B. Statement of Revenue, Expenses and Capital and Surplus

Surplus increased \$19,494,790 during the four-year examination period, January 1, 2010 through December 31, 2013, detailed as follows:

<u>Revenue</u>		
Net premium income	\$ 270,756,059	
Fees for service	<u>17,732,399</u>	
Total revenue		\$ 288,488,458
<u>Hospital and Medical Expenses</u>		
Professional services	234,955,723	
Claim adjustment expense	3,094,247	
General administrative expenses	31,704,690	
Increase in reserves	<u>(4,386,925)</u>	
Underwriting deductions		\$ <u>265,367,735</u>
Net underwriting Gain (Loss)		\$ 23,120,723
Net investment income earned	1,261,758	
Net realized capital gains/losses	<u>629,806</u>	
Net investment gains/losses		\$ 1,891,564
<u>Other income</u>		
Net gain/loss from agents' or premium balances charged off		<u>(10,042)</u>
Net income after capital gains/loss before tax		\$ 25,002,245
Federal income tax		<u>5,899,374</u>
Net income		<u>\$ 19,102,871</u>

Change in Surplus

Surplus, per report on examination, as of December 31, 2009			\$ 21,053,333
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 19,102,871		
Change in net unrealized capital gains	670,859		
Change in non-admitted assets	1,669,438		
Change in net deferred tax asset		2,182,616	
Change in valuation basis of aggregate policy & claim reserves	<u>234,238</u>	<u> </u>	
Net increase in surplus			<u>19,494,790</u>
Surplus, per report on examination, as of December 31, 2013			<u>\$ 40,548,123</u>

4. MARKET CONDUCT ACTIVITIES

During 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. Transactions subsequent to this period were reviewed where deemed appropriate by the examiner.

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

- (A) Claims review
- (B) Policy forms/benefits
- (C) Complaints
- (D) Underwriting and rating
- (C) Agents

A. Claims Review

Claims Attribute Review

The computer software program ACL was utilized on claims paid during the period of January 1, 2013 through December 31, 2013, in order to test various attributes deemed necessary for successful claims processing activity. The objective of this process was to test and reach conclusions about certain predetermined attributes. These attributes include verification and compliance within eligibility, fee schedules, co-payments, deductibles, treatment plan authorization, and explanation of benefits statements (“EOBs”).

The claims attribute review did not reveal any problem areas.

Claims Prompt Payment Review

A review to test for compliance with the Prompt Pay Law, Section 3224-a of the New York Insurance Law, was performed by using a testing methodology covering claims submitted to the company during the period January 1, 2013 through December 31, 2013.

The review of the Company's submitted vision claims data for the period January 1, 2013 through December 31, 2013, relative to compliance with Section 3224-a of the New York Insurance Law, did not reveal any problem areas.

B. Policy Forms/Benefits

Section 3201(a) of the New York Insurance Law states, in part:

“...‘policy form’ means any policy, contract, certificate, or evidence of insurance and any application therefor, or rider ...”

Section 3201(b)(1) of the New York Insurance Law states in part:

“No policy form shall be delivered or issued for delivery in this state unless it has been filed with and approved by the superintendent as conforming to the requirements of this chapter and not inconsistent with law ...”

During the review of various policy forms, it was noted that the Plan failed to submit application forms, dated January 20, 2011, February 8, 2011, and May 2, 2013, to the Superintendent for approval prior to implementation.

It is recommended that the Plan file its application forms with the Department for approval, in compliance with the requirements of Section 3201(b)(1) of the New York Insurance

Law. Further, it is recommended that the Plan refrain from issuing any application forms that have not been approved by the Department.

The Plan issued 1,112 unapproved application forms during the period 2011 to 2014. Subsequent to the examination period, December 22, 2014, the Plan received approval for said forms.

5. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination, as of December 31, 2009, contained eight recommendations, as follows (page number refers to the prior report):

<u>ITEM NO.</u>	<u>PAGE NO.</u>
<u>Enterprise Risk Management</u>	
1. It is recommended that the Risk Committee meet regularly and maintain minutes of its meetings.	8
<i>EVSP has complied with this recommendation</i>	
2. It is recommended that the CRO and the Risk Committee continue to identify key current and prospective risks and identify suitable means to mitigate such identified risks.	8
<i>EVSP has complied with this recommendation</i>	
3. It is also recommended that the CRO report such ERM related findings to the board of directors and audit committee on a regular basis.	8
<i>EVSP has complied with this recommendation</i>	
<u>Corporate Governance</u>	
4. It is recommended that the Plan's board of directors comply with the requirements of Department Circular Letter No. 9 (1999) regarding the annual certifications and the adoption of written procedures.	9
<i>EVSP has complied with this recommendation.</i>	

ITEM NO.**PAGE NO.**Holding Company System

5. It is recommended that EVSP comply with the requirements of §1505(c) of the New York Insurance Law, by requesting and receiving the superintendent's approval prior to entering into transactions with members of its holding company system that exceed the five percent threshold noted in such section. 13

EVSP has complied with this recommendation.

6. It is recommended that, in the future, EVSP comply with the requirements of Section 1505(d)(3) of the New York Insurance Law and obtain approval from the superintendent relative to any service agreement with members of its holding company system prior to implementation. 15

EVSP has complied with this recommendation

7. It is recommended that EVSP file its Tax Sharing Agreement with the Department in accordance with the requirements of Sections 1505(a)(1) and (d)(3) of the New York Insurance Law and Department Circular Letter No. 33 (1979). 16

EVSP has complied with this recommendation

Disaster Response Plan

8. It is recommended that the Plan make all required filings with regard to its Disaster Response Plan in compliance with Department Circular Letter No. 7 (2009). 17

EVSP has complied with this recommendation.

6. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
A. <u>Corporate Governance</u>	
i. It is recommended, as a good business practice and to ensure due diligence, that the board of directors meet quarterly, at a minimum, to discuss the financial condition of the Plan and to evince fiduciary oversight.	6
ii. It is also recommended that the Plan update its by-laws to establish a minimum of four regular meetings as a requirement.	6
iii. It is recommended that the Plan comply with Section 312(b) of the New York Insurance Law and ensure that the board reviews the report on examination and sign an attestation of such in a timely manner.	7
B. <u>Conflict of Interest statements</u>	
It is recommended that the Plan comply with its own policy and ensure that each director and officer completes a conflict of interest statement annually.	7
C. <u>Accounts and Records</u>	
i. It is recommended that the Plan ensure that premium receivables over 90 days past due are written off and reported accurately in accordance with New York Insurance Law Section 1301(a)(6) and NAIC SSAP No. 6.	14
ii. It is recommended that the Plan comply with the instructions from the Handbook by including the required clauses in its custodial agreement. It is noted that, subsequent to the examination, the Plan complied with this recommendation.	14
D. <u>Disaster Response Plan</u>	
It is recommended that the Plan file its Disaster Response Plan in compliance with all of the required components of Circular Letter No. 3 (2013).	17

<u>ITEM</u>		<u>PAGE NO.</u>
E.	<u>Enterprise Risk Management</u>	
	It is recommended that the Plan comply with New York Regulation 203 (11 NYCRR 82.2) and complete its ERM Form F in compliance with those instructions. Subsequent to filing of this report, EVSP filed a revised and compliant Form F.	18
F.	<u>Policy Forms/ Benefits</u>	
	It is recommended that the Plan file its application forms with the Department for approval, in compliance with the requirements of Section 3201(b)(1) of the New York Insurance Law. Further, it is recommended that the Plan refrain from issuing any application forms that have not been approved by the Department.	24

Respectfully submitted,

_____/S/_____
Bruce Borofsky
Supervising Insurance Examiner

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

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

_____/S/_____
Bruce Borofsky

Subscribed and sworn to before me
this _____ day of _____ 2015.

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:

Bruce Borofsky

as a proper person to examine the affairs of

Eastern Vision Service Plan, Inc.

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

Plan

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 11th day of August, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



Lisette Johnson
Bureau Chief
Health Bureau

