

**REPORT ON EXAMINATION**

**OF**

**UNITED CONCORDIA INSURANCE COMPANY OF NEW YORK**

**AS OF**

**DECEMBER 31, 2009**

**DATE OF REPORT**

**APRIL 10, 2012**

**EXAMINER**

**FROILAN L. ESTEBAL**

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

April 10, 2012

Honorable Benjamin M. Lawsky  
Superintendent of Financial Services  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 30588, dated August 31, 2010, attached hereto, I have made an examination into the condition and affairs of United Concordia Insurance Company of New York, an accident and health insurer licensed pursuant to Article 42 of the New York Insurance Law, as of December 31, 2009, and submit the following report thereon.

The examination was conducted at the home office of United Concordia Insurance Company of New York located at 4401 Deer Path Road, Harrisburg, Pennsylvania.

Wherever the designations "UCICNY" or the "Company" appear herein, without qualification, they should be understood to indicate United Concordia Insurance Company of New York. Wherever the designations "UCCI" or the "Parent" appear herein, without qualification, they should be understood to indicate United Concordia Companies, Inc., UCICNY's parent company.

Wherever the designation, the “Department” appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services. On October 3, 2011, the New York State Insurance Department merged with the New York State Banking Department to become the New York State Department of Financial Services.

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

The Company was previously examined as of December 31, 2005. This examination of the Company was a combined (financial and market conduct) examination and covered the four-year period from January 1, 2006 to December 31, 2009. The financial component of the examination was conducted as defined in the National Association of Insurance Commissioners (“NAIC”) *Financial Condition Examiners Handbook, 2009 Edition* (the “Handbook”). The examination was conducted observing the guidelines and procedures in the Handbook, and where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2009 were also reviewed.

The financial component of 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 Company’s operations and utilizes that evaluation in formulating the nature and extent of the examination. The risk-focused examination approach was included in the Handbook for the first time in 2007; thus, this was the first such type of examination of the Company. The examiner planned and performed the examination to evaluate the Company’s current financial condition, as well as identify prospective risks that may threaten the future solvency of UCICNY.

The examiner identified key processes, assessed the risks within those processes and assessed the internal control systems and procedures used to mitigate those risks. The examination also included an assessment of the principles used and significant estimates made by management, an evaluation of the overall financial statement presentation, and determined management's compliance with the Department's statutes and guidelines, Statutory Accounting Principles, as adopted by the Department and NAIC Annual Statement instructions.

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

These categories are as follows:

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

The Company was audited annually, for the years 2006 through 2009, by the accounting firm of PricewaterhouseCoopers LLP ("PwC"). The Company received an unqualified opinion in each of those years. Certain audit work papers of PwC were reviewed and relied upon in conjunction with this examination. A review was also made of Highmark's Internal Audit function and Model Audit Rule ("MAR") Department, as they relate to the Company.

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

The examiner reviewed the corrective actions taken by the Company with respect to the recommendations concerning financial issues contained in the prior report on examination. The results of the examiner's review are contained in Item 6 of this report.

## **2. DESCRIPTION OF THE COMPANY**

The Company was incorporated on January 10, 1990 as "Citadel Insurance Company", under the laws of the State of New York. It commenced business on September 25, 1990. On December 31, 1996, United Concordia Companies, Inc. ("UCCI") acquired 100% of the outstanding common stock of Citadel Insurance Company. On January 8, 1997, Citadel Insurance Company's name was changed to United Concordia Insurance Company of New York ("UCICNY"). UCICNY is a for-profit corporation authorized to write accident and health insurance in the State of New York. The Company is a wholly-owned subsidiary of UCCI. On July 11, 1997, the New York State Insurance Department approved the Company's license change from a property and casualty insurer to an Article 42 accident and health insurer.

On December 6, 1996, UCCI's parent corporation, Medical Service Association of Pennsylvania (d/b/a Pennsylvania Blue Shield), combined with Veritus Inc. (d/b/a Blue Cross of Western Pennsylvania) to form Highmark Inc. ("Highmark"). As a result, UCCI became a wholly owned subsidiary of Highmark.

UCICNY writes dental insurance and is only licensed in the State of New York. Its parent company, UCCI, is a Pennsylvania licensed insurer and third party administrator (TPA) that services 7.9 million members across all 50 states and the District of Columbia and family members of active duty military personnel, reservists and their family members in the U.S. and abroad. UCCI's ultimate parent is Highmark Inc. ("Highmark"), the largest insurer in western Pennsylvania and a licensed Blue Cross and Blue Shield Association member.

A. Management and Controls

Pursuant to the Company's Charter and By-Laws, management of the Company is to be vested in a Board of Directors ("BOD") consisting of not less than thirteen (13), and not more than twenty-five (25) members. The directors of the Company as of December 31, 2009 were as follows:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Michael Anthony Fiaschetti Enola, Pennsylvania	Central Region Market President, Highmark Inc.
Karen Lynn Hanlon Gibsonia, Pennsylvania	Senior Vice President, Highmark Inc.
Daniel Jay Lebish Pittsburgh, Pennsylvania	Executive Vice President, Highmark Inc.
Frederick Gerald Merkel Harrisburg, Pennsylvania	President & Chief Operating Officer, United Concordia Companies, Inc.
Sharon Marie Muscarella Leesburg, Virginia	Senior Vice President, United Concordia Companies, Inc.
Dale Lee Paustian Plainview, New York	Senior Vice President, Davis Vision, Inc.
Russell Rubin Pittsburgh, Pennsylvania	Divisional Vice President, United Concordia Companies, Inc.

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Thomas Rosa Syracuse, New York	Senior Vice President, Davis Vision, Inc.
Jon Kent Seltenheim Lemoyne, Pennsylvania	Senior Vice President, United Concordia Companies, Inc.
Todd Bovaird Vanerstrom Pittsburgh, Pennsylvania	Vice President, Highmark Inc.
Joseph A. Wende, O.D. Dix Hills, New York	Vice President, Davis Vision, Inc.
Karen A. Whitesel Enola, Pennsylvania	Corporate Vice President, United Concordia Companies, Inc.
Daniel J. Wright Harrisburg, Pennsylvania	Senior Vice President and Treasurer, United Concordia Companies, Inc.

Section 2 of the Company's By-Laws require that there shall not be less than two regular meetings of the Board of Directors held each year on dates as the Board may designate. A review of the Board of Directors minutes indicate that the Company held the required number of meetings during the years covered by this examination. However, a review of the attendance of board members, at such meetings, reveals that 2 of the directors attended less than 50% of the meetings that they were eligible to attend. The two directors included Karen Whitesel who attended only one out of 5 meetings she was eligible to attend and Michael Fiaschetti who attended only one out of four meetings he was eligible to attend.

Members of the Board have a fiduciary responsibility and must evince an ongoing interest in the affairs of the Company. It is essential that Board members attend meetings consistently and set forth their views on relevant matters so that appropriate policy decisions may be reached by the Board.



It is recommended that directors who do not participate consistently in the required meetings improve upon their attendance or be replaced.

The principal officers of the Company as of December 31, 2009 were as follows:

<u>Name</u>	<u>Title</u>
Daniel Jay Lebish	President & Chief Executive Officer
Frederick Gerard Merkel	Chief Operating Officer
Daniel Joseph Wright	Vice President and Treasurer
Edward August Bittner, Jr., Esq	Secretary

B. Corporate Governance

Corporate Governance, Enterprise Risk Management (“ERM”), Internal Audit and Model Audit Rule processes for the Company are provided by Highmark Inc; thus, unless otherwise noted, references to Highmark Inc. are applicable to the Company.

Exhibit M of the Handbook (Understanding the Corporate Governance Structure) was utilized by the examiner as guidance for assessing the Company’s Corporate Governance. Overall, it was determined that the Company’s Corporate Governance structure is adequate, sets an appropriate “tone at the top”, supports a proactive approach to operational risk management, and contributes to an effective system of internal controls. It was found that corporate BOD and key executives encourage integrity and ethical behavior throughout the organization and that senior management promotes a corporate culture that acknowledges, understands and maintains an effective control environment.

Highmark's and UCCI's management have an adequate approach to identifying and mitigating risks across the organization, including prospective business risks. Both Companies deal proactively with its areas of risk, and its management is knowledgeable about mitigation strategies. Through risk discussions and other measures, UCCI's management reviews significant issues and reacts to changes in the environment with a clear commitment to address risk factors and manage the business accordingly. UCCI, through Highmark's overall risk management process, takes a proactive approach to identifying, tracking, and dealing with significant current and emerging risk factors.

#### Enterprise Risk Management (ERM)

Beginning in 2010, Highmark adopted an ERM framework for proactively addressing and mitigating risks, including prospective business risks. UCCI participates in a strategic planning process with its parent, Highmark Inc. The planning process includes an enterprise risk management ("ERM") approach in which major risks and opportunities are identified. The ERM process includes an assessment of external and internal environments. External environment considerations include the industry, economy, providers, competition, and regulatory environment. Internal environment considerations include operational and product capabilities, resources (human and financial), information systems, and financial and operational objectives. The most significant factors form the basis for the Company's strategic plan. Performance measures are established for the strategic objectives and the initiatives require plans with milestones and completion dates. Strategic and financial plans are developed and approved by the board of directors of the parent company.

### Internal Audit Department (IAD)

Highmark Inc. has an established Internal Audit Department (“IAD”) function, which is independent of management, to serve Highmark Inc. and its subsidiaries, including UCICNY. The Audit Committee of Highmark Inc. (the “Audit Committee” or “AC”), is comprised entirely of members independent of UCCI and UCICNY.

The IAD assists all levels of management by reviewing and testing financial and operational controls and processes established by management to ensure compliance with laws, regulations and Highmark Inc.’s policies. The scope of the IAD program is evaluated by Highmark Inc.’s independent certified public accountant to ensure optimal audit coverage and maximum efficiency.

During the course of this examination, consideration was given to the significance and potential impact of certain IAD findings. Where considered appropriate, the examiner relied upon work performed by the IAD, as prescribed by the NAIC Handbook.

### Model Audit Rule (“MAR”)

The Company’s parent, UCCI, as well as its ultimate parent Highmark Inc., are both non-publicly traded companies and therefore not subject to the Sarbanes-Oxley Act of 2002. However, the parent company UCCI qualifies under MAR and therefore is subject to its requirements. The Department’s Regulation 118 (11 NYCRR 89) – *Audited Financial Statements*, which represents MAR requirements for the Department’s regulated entities, was promulgated on an emergency basis in December 2009, and was effective January 1, 2010.

Thus, MAR management for general controls are applied to UCCI and all of UCCI's subsidiaries, which include the Company. Beginning in 2010, Highmark instituted a Model Audit Rule Department, in which risks from various operations were identified and segregated by operations cycle and entity level controls. In coordination with the Company's management, risks identified were labeled and catalogued using specific control codes. The MAR Department performed its own control testing and accumulated its findings. Review of control testing and the results show that general controls management appears to be working at a satisfactory level. Where appropriate, the examiner relied upon work performed by the MAR Department.

C. Territory and Plan of Operation

UCICNY was licensed, as of December 31, 2005, to transact accident and health insurance business as defined by Section 1113(a)(3)(i) of the New York Insurance Law. The Company only writes dental insurance business in New York State.

The following chart depicts UCICNY's membership at the end of each year under examination:

<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
25,761	25,013	26,509	25,475

UCICNY writes dental indemnity insurance in New York and it mainly serves the large number of national accounts based in New York. New York is a key market for UCCI. UCCI is working with its affiliated company, Davis Vision, in an effort to expand its presence in the New York market. The Company's strategy is to maintain its current market share and current membership level.

The following table displays UCICNY's net admitted assets, capital and surplus, net premium income and net income during the period under examination:

	Net Admitted Assets	Capital and Surplus	Net Premium Income	Net Income
2009	\$4,252,086	\$2,942,257	\$9,557,897	54,964
2008	4,638,201	2,950,358	9,822,467	187,716
2007	4,361,162	2,768,314	9,975,758	413,354
2006	4,026,130	2,367,453	9,580,872	131,800

Note: The Company's Risk Based Capital "RBC" in 2009 is 837.5%, which is above the threshold (200%) that would trigger regulatory action.

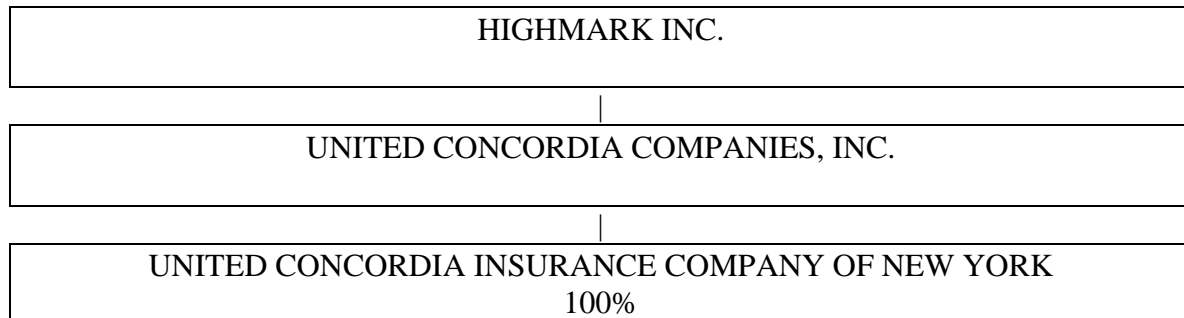
D. Reinsurance

On July 1, 2004, the Company entered into a Quota Share Reinsurance Agreement with an authorized reinsurance company. Such reinsurance agreement provided for 50% quota share indemnity reinsurance that covered all policies issued by the Company in connection with the Marketing and Services agreement entered into between the Company and the reinsurer. The reinsurer shared equally in premiums, claims expenses, producer payments and taxes as set forth in the agreement. In August 2007, the Company did not renew its reinsurance agreement.

E. Holding Company System

UCICNY is a wholly-owned subsidiary of UCCI. Its parent is a non-publicly traded corporation domiciled in the Commonwealth of Pennsylvania.

The following chart depicts the Company's holding company system as of December 31, 2009:



Due to its large size, the above chart does not include all of the subsidiaries of the holding company. The chart includes only the affiliates of which there are service agreements with UCICNY. It should be noted that at December 31, 2009, United Concordia Companies, Inc. owned and controlled directly or indirectly eleven (11) subsidiaries.

The following is a description of the inter-company agreements in effect as of the examination date:

1. Management Agreement

As of December 31, 2005, UCICNY maintained a management agreement with UCCI which was approved by the New York State Insurance Department. This agreement automatically renews for successive one-year terms commencing on December 31, 1996, unless either party gives the other written notice of termination at least sixty (60) days prior to the end of the then-current term or if terminated immediately upon mutual consent. The management agreement

provides for UCCI to render certain services to UCICNY. These services include: management information systems, utilization review services, claims administration, marketing, collections of premiums, staffing and other services.

2. Consolidated Tax Allocation Agreement

On April 29, 1999, UCICNY entered into a consolidated tax allocation agreement with its ultimate parent company, Highmark Inc. This agreement superseded a prior agreement to which the Company was a party with Highmark Inc. dated December 31, 1996. The new agreement provides for apportionment calculations to be performed on a biannual basis. This agreement was approved by the New York State Insurance Department.

3. Investment Management Agreement

On April 21, 2003, UCICNY entered into an investment management agreement with its ultimate parent company, Highmark Inc. This agreement automatically renews for successive one-year terms, unless either party gives the other written notice of termination at least sixty (60) days prior to the end of the then-current term or if terminated immediately upon mutual consent. The agreement provides for Highmark Inc. to provide services which include the supervision and direction of investment of cash and other assets of the Company, including the purchase and sale of securities, pursuant to the Company's written standards and guidelines and in accordance with all appropriate sections of the New York Insurance Law pertaining to investments.

F. Evaluation of Controls in Information Systems

The Company's Information Systems ("IS") is maintained by Highmark Inc. and is utilized by all of its wholly-owned subsidiaries. The IS function is managed broadly and includes the operations of UCICNY. Highmark Inc. is responsible for maintaining the overall technology infrastructure utilized for data processing by the business units within the holding company system.

The IS portion of the examination was performed in accordance with the Handbook, utilizing the new Exhibit C (*Evaluation of Controls in Information Technology*) approach. The examiner's review of IS controls included: IS management and organizational controls; application and operating system software change controls; system and program development controls; overall systems documentation; logical and physical security controls; contingency planning; local and wide area networks; personal computers and; mainframe controls.

The examiner evaluated the IS internal control testing performed by the Model Audit Rule (MAR) Department, the Internal Audit Department and its independent auditors, PwC, and performed a review of end user computing and IS outsourcing controls. As a result of the procedures performed, the examiner obtained reasonable assurance that Information Technology ("IT") general controls and application controls were functioning as management intended and that an effective system of internal controls is in place and conducive to the accuracy and reliability of financial information processed and maintained by the Company.



3. **FINANCIAL STATEMENTS**A. **Balance Sheet**

The following shows the assets, liabilities, capital and surplus as determined by this examination. This statement is the same as the balance sheet filed by the Company as of December 31, 2009.

	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase or (Decrease)</u>
<u>Assets</u>			
Bonds	\$1,080,792	\$1,080,792	
Cash and short-term investments	2,922,676	2,922,676	
Investment income due and accrued	33,401	33,401	
Uncollected premiums and agent's balance in the course of collection	193,700	193,700	
Net deferred tax asset	11,181	11,181	
Receivable from parent, subsidiaries, and affiliates	226	226	
Premium tax receivable	<u>10,110</u>	<u>10,110</u>	
Total assets	<u>\$4,252,086</u>	<u>\$4,252,086</u>	
<u>Liabilities</u>			
Claims unpaid	\$645,739	\$645,739	
Unpaid claims adjustment expenses	48,431	48,431	
Premiums received in advance	232,710	232,710	
General expenses due and accrued	44,375	44,375	
Current federal and foreign income tax payable	159,442	159,442	
Amounts withheld or retained for the account of others	17,326	17,326	
Amounts due to parents, subsidiaries and affiliates	92,365	92,365	
Escheated Check Liability	<u>69,441</u>	<u>69,441</u>	
Total Liabilities	<u>\$1,309,829</u>	<u>\$1,309,829</u>	

	<u>Examination</u>	<u>Company</u>	<u>Surplus Increase or (Decrease)</u>
<u>Surplus and Other Funds</u>			
Common capital stock	\$1,000,000	\$1,000,000	
Gross paid-in and contributed surplus	1,512,135	1,512,135	
Unassigned Funds	<u>430,122</u>	<u>430,122</u>	
Total capital and surplus	<u>2,942,257</u>	<u>2,942,257</u>	
Total liabilities, surplus and other funds	<u>\$4,252,086</u>	<u>\$4,252,086</u>	

Note: The Internal Revenue Service has completed its audits of the consolidated federal income tax returns filed on behalf of the Company through tax year 2008. The examiner is unaware of any potential exposure of the Company to any further tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses:

Capital and surplus increased by \$684,201 during the four-year examination period, January 1, 2006 through December 31, 2009, detailed as follows:

Revenue

Net Premium Income		\$38,936,994
Other income		6,977
Net investment income		350,896
Total revenues		\$39,294,867

Expenses

Hospital/medical benefits	\$ 29,928,590	
Net reinsurance recoveries	(67,065)	
Total hospital/medical expenses		<u>\$ 29,861,525</u>

Administrative Expenses

Claim adjustment expenses	885,106	
General administrative expenses	7,350,283	
Total administrative expenses		<u>\$ 8,235,389</u>

Total expenses		<u>38,096,914</u>
Net Income before Federal Tax		\$ 1,197,953
Federal tax incurred		<u>\$410,119</u>
Net income		<u>\$ 787,834</u>

Capital and Surplus

Capital and surplus, per report on examination, as of December 31, 2005			\$2,258,056
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$ 787,834		
Deferred income tax	17,280		
Non admitted assets and related items		(120,913)	
	_____	_____	
Total gains and losses	<u>\$ 805,114</u>	<u>\$ (120,913)</u>	
Net increase in net worth			<u>684,201</u>
Capital and surplus, per report on examination, as of December 31, 2009			<u>\$2,942,257</u>

**4. CLAIMS UNPAID**

The examination liability of \$645,739 for the above captioned account is the same as the amount reported by the Company in its filed annual statement as of December 31, 2009. The examination analysis of the claims unpaid reserve was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements as verified by the examiner. The examination reserve was based upon actual payments made through a point in time, plus an estimate for claims remaining unpaid at that date. Such estimate was calculated based on actuarial principles, which utilized the Company's experience in projecting the ultimate cost of claims incurred on or prior to December 31, 2009.

## 5. MARKET CONDUCT ACTIVITIES

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

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

- A. Complaints handling
- B. Producer termination
- C. Policy termination notice
- D. Utilization review
- E. Claims review

### A. Complaints Handling

During the review of policyholder complaints, the examiner noted that the Company was not in compliance with its policy and procedures. For one complaint case reviewed, no resolution letter was mailed out to the complainant. The Evaluation of Evidence section of the Company's Special Investigations Unit "SIU" and procedures requires that a resolution letter be mailed out to the complainant.

It is recommended that the Company comply with its policy and procedures and mail out resolution letters to the complainant.

Additionally, the SIU of the Company documented the policy and procedures in dealing with complaints involving potential fraud. The SIUs policy and procedures on

fraud complaints contains a provision that the complainant be provided with an acknowledgement letter if the complaint case takes more than 30 days to resolve. During the review of complaints, the examiner noted that for one of the complaints, the Company did not send an acknowledgement letter within the required time frame.

It is recommended that the Company comply with its policy and procedures and send an acknowledgement letter to the complainant if the case takes more than 30 days to resolve.

During the examination, the Company acknowledged this finding and implemented a revised SIU policy to require that an acknowledgement letter always be sent to the complainant, regardless of whether the case will be resolved within thirty (30) days of receipt.

B. Producer Termination

During the review of agent appointment terminations, it was noted that the Company failed to submit an appointment termination for one of their producers whose license had already expired. The Company relies solely on the New York State license database that tracks license renewals and expirations. However, the website may not contain up to date information regarding such information.

It is recommended that the Company implement a procedure that tracks producer license renewals and expirations and ensures that producers with an expired license are issued an appointment termination.

C. Policy Termination Notice

During the review of policy terminations, the examiner reviewed group termination notices to ensure that the Company was in compliance with Department Regulation No. 78 (Parts (a), (b), (c), (d), (e), and (f)) and Section 217 of the New York Labor Law. During the review, the examiner noted that for 4 out of the 10 groups sampled, the termination notices to policyholders did not contain the following required provisions of Department Regulation No. 78 (Parts (a), (b), (c), (d), (e), and (f)).

Department Regulation No. 78 states in part:

*“(a) An insurer who intends to terminate a group policy or contract of accident, or health, or accident and health insurance issued to a policyholder, covering individuals who because of their employee status are certificate holders under a group policy shall give the policyholder at least 30 days prior written notice of its intent to terminate coverage. The notice to the policyholder shall set forth in detail the policyholder's obligation under Labor Law, section 217,...*

*(b) In its notice of intent to terminate coverage, the insurer shall set forth in full the rights of the certificate holders under the terminating policy as to coverage for illness, accident and treatment occurring prior to and subsequent to the termination date, and such other rights of certificate holders as may exist under the contract or policy (e.g., conversion rights).*

*(c) The insurer shall advise the policyholder that the policyholder must give written notice of the intended termination to each certificate holder resident in New York State insured under the group policy by hand-delivering or mailing to the certificate holder a copy of the insurer's notice of termination and a covering letter advising the certificate holders of the intended termination.*

*(d) The insurer shall advise the policyholder that the policyholder's notice to the certificate holder shall be either:*

*(1) hand-delivered by the policyholder to the certificate holder at the certificate holder's place of employment (e.g., by including the notice in the certificate holder's pay envelope) at least nine days prior to the intended date of termination; or*

*(2) mailed by the policyholder to each certificate holder at the certificate holder's last known residential address at least nine days prior to the intended date of termination.*

*(e) The insurer shall advise the policyholder that the policyholder must also post a copy of the insurer's notice of intent to terminate and the required covering letter in conspicuous locations chosen as most likely to give notice to the certificate holders. The notice shall be posted at least nine days prior to the intended date of termination.*

*(f) The insurer shall advise the policyholder that in accordance with the provisions of Labor Law, section 217(4), the provisions of this Part and Labor Law, section 217(3) shall not be deemed to apply if, at least 10 days prior to the date of the intended termination, as specified in the insurer's notice of intent to terminate the policyholder has:*

*(1) taken necessary steps whereby the intended termination is rendered null and void; or (2) contracted with another insurer to replace the existing insurer for the providing of similar coverage for the same certificate holders, and filed an affidavit with the Commissioner of Labor and Superintendent of Insurance to that effect.*

It is recommended that the Company comply with Department Regulation No. 78 (Parts (a), (b), (c), (d), (e), and (f)) and include the required provisions in its termination notices.

#### D. Utilization Review

During the review of utilization review cases, it was noted that in two of the appeal cases sampled, the Company failed to provide the notice of appeal determination letter in a timely manner to the member.



Additionally, the Company uses P&R Dental Strategies, Inc. "P&R", which is a third party administrator that provides utilization review services to the Company. During the review of P&R's reconsideration and appeals procedures, it was revealed that the timeframe for notification of determination of a standard appeal does not comply with the requirements of Section 4904(c) of the New York Insurance Law. According to P&R's policy and procedures, it provides a notice of determination for standard appeals in 5 business days. Section 4904(c) of the New York Insurance Law states in part:

*"...The utilization review agent shall notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination."*

It is recommended that the Company comply with Section 4904(c) of the New York Insurance Law, and ensure that the utilization review agent notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination.

E. Claims Review

A review was made of the Company's claims processing procedures and internal controls to assure compliance with Section 3224-a of the New York Insurance Law, "Standards for prompt, fair and equitable settlement of claims for health care and payments for health care services" (Prompt Pay Law), and other general claims paying requirements and standards.

No material issues were noted.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The examiner reviewed the Company's compliance with the following recommendations from the prior report on organization. The page numbers refer to the prior report:

<u>ITEM NO.</u>		<u>PAGE NO</u>
	<u>Investment Custodian Agreement</u>	
1.	It is recommended that the Company enter into a proper custodian agreement with its custodian bank for its investment account. The custodian agreement should include the prudent protective covenants and provisions as set forth in the Department's guidelines.	11
	<i>The Company has complied with this recommendation.</i>	
2.	It is recommended that the Company's custodian of the securities complete the appropriate custodian affidavits to accompany the certified inventory of the securities as of December 31, 2005.	11
	<i>The Company has complied with this recommendation.</i>	
	<u>Allocation of Expense</u>	
3.	It is recommended that the Company properly allocate expenses between cost containment, claim adjustment expense and general administrative expenses on its annual statement exhibit of "Part 3-Analysis of Expenses".	12
	<i>The Company has complied with this recommendation.</i>	
	<u>Policy Forms/Rates</u>	
4.	It is recommended that the Company comply with Regulation 62, (11 NYCRR 52.40(e)), and discontinue the unapproved discounting and deviation of its filed rates with this Department.	19
	<i>The Company has complied with this recommendation.</i>	

**ITEM NO.****PAGE NO**Claims Processing

5. It is recommended that the Company discontinue its policy to link a group's premiums being in arrears to suspension of the payment of claims. 20

*The Company has complied with this recommendation.*

Prompt Payment Law

6. It is recommended that the Company improve its internal claim procedures to ensure full compliance with Section 3224-a (a), (b) and (c) of the New York Insurance Law. 24

*The Company has complied with this recommendation.*

Explanation of Benefits Statements

7. It is recommended that the Company issue proper EOBs that include all of the requisite information required by Sections 3234 (a) and (b) of the New York Insurance Law. Accordingly, subscribers will be properly informed of their appeal rights and how their claims are processed. 26

*The Company has complied with this recommendation.*

Utilization Review

8. It is recommended that the Company fully comply with Sections 4903(b) and (d) of the New York Insurance Law and send a notice of adverse determination to subscribers as well as to the providers when a pre-authorization or a retrospective utilization review is conducted. 27

*The Company has complied with this recommendation.*

9. It is recommended that the Company comply with Section 4903(e) of the New York Insurance Law and include all required information in its notice of adverse determination when a pre-authorization or a retrospective utilization review is conducted. 28

*The Company has complied with this recommendation.*

**ITEM NO.****PAGE NO**

10. It is recommended that the Company send a proper notice of final adverse determination of standard or external utilization review appeals in accordance with Sections 4904(c) and 4910(b) of the New York Insurance Law to its subscribers and, in connection with retrospective adverse determinations, to the providers.

29

*The Company did not comply with this recommendation*

*A similar recommendation is included in this report under item G.*

## **7. SUMMARY OF COMMENTS AND RECOMMENDATIONS**

<u>ITEM</u>	<u>PAGE NO</u>
<p>A.     <u>Board of Directors</u></p> <p>It is recommended that directors who do not participate consistently in the required meetings improve upon their attendance or be replaced.</p>	<p>7</p>
<p>B.     <u>Complaint Handling</u></p> <p>i.     It is recommended that the Company comply with its policy and procedures and mail out resolution letters to the complainant.</p> <p>ii.    It is recommended that the Company comply with its policy and procedures and send an acknowledgement letter to the complainant if the case takes more than 30 days to resolve.</p>	<p>19</p> <p>20</p>
<p>C.     <u>Producer Termination</u></p> <p>It is recommended that the Company implement a procedure that tracks producer license renewals and expirations and ensures that producers with an expired license are issued an appointment termination.</p>	<p>21</p>
<p>D.     <u>Policy Termination Notice</u></p> <p>It is recommended that the Company comply with New York Regulation 78 (Parts (a), (b), (c), (d), (e), and (f)) and include the required provisions in its termination notices.</p>	<p>22</p>
<p>E.     <u>Utilization Review</u></p> <p>It is recommended that the Company comply with Section 4904(c) of the New York Insurance Law, and ensure that the utilization review agent notify the insured, the insured's designee and, where appropriate, the insured's health care provider, in writing of the appeal determination within two business days of the rendering of such determination.</p>	<p>23</p>

Appointment No. 30588

**STATE OF NEW YORK  
INSURANCE DEPARTMENT**

I, **James J. Wrynn**, Superintendent of Insurance of the State of New York, pursuant to the provisions of the Insurance Law, do hereby appoint:

**Froilan Estebal**

as a proper person to examine into the affairs of the

**United Concordia Insurance Company of New York**

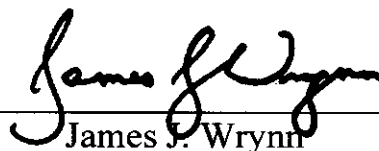
and to make a report to me in writing of the condition of the said

**Company**

with such other information as he shall deem requisite.

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

this 31<sup>st</sup> day of August, 2010



James J. Wrynn  
Superintendent of Insurance

