REPORT ON EXAMINATION

OF

ORANGE-ULSTER SCHOOL DISTRICTS PLAN

AS OF DECEMBER 31, 2017

EXAMINER:	**CHARLES J. MCBURNIE**
REVIEWER:	**WAI WONG, CFE**
DATE OF REPORT:	**SEPTEMBER 21, 2022**

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September 21, 2022

Honorable Adrienne A. Harris
Superintendent of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 31761, dated April 30, 2018, attached hereto, I have made an examination into the condition and affairs of Orange-Ulster School Districts Health Plan, a municipal cooperative health benefit plan certified pursuant to the provisions of Article 47 of the New York Insurance Law, as of December 31, 2017, and respectfully submit the following report thereon.

The examination was conducted at the administrative office of Orange-Ulster School Districts Health Plan, located at 4 Harriman Drive, Goshen, New York.

Wherever the designations the "Plan" or "OUSDP" appear herein, without qualification, they should be understood to indicate the Orange-Ulster School Districts Health Plan.

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, 2013. This examination of the Plan was a combined (financial and market conduct) examination and covered the four-year period from January 1, 2014, through December 31, 2017. The financial component of the examination was conducted on a risk-focused basis as defined in the National Association of Insurance Commissioners ("NAIC") *Financial Condition Examiners Handbook, 2018 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, 2017, were also reviewed.

The financial portion 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 Plan's operations and utilized 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 identify prospective risks that may threaten the future solvency of "OUSDP"

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 and NAIC annual statement instructions.

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

These categories are as follows:

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

The examination also evaluated the Plan's critical risk categories in accordance with the NAIC's ten critical risk categories. These categories are as follows:

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

OUSDP was audited annually, for fiscal years 2014 through 2017, by the accounting firm Urbach Hacker Young LLP, ("UHY - LLP"). The Plan received an unmodified opinion in each of those years. Certain audit work papers of UHY - LLP. were reviewed and relied upon in conjunction with this examination.

The examiner reviewed the corrective actions taken by the Plan with respect to the recommendations contained in the prior report on examination. The results of the examiner's review are contained in Item No. 7 of this report.

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

2. DESCRIPTION OF THE PLAN

OUSDP is a municipal cooperative health benefits plan operating under the provisions of Article 47 of the New York Insurance Law. The Plan operates exclusively for the benefit of the employees, retirees and dependents of the Plan's member school districts and the Orange-Ulster Board of Cooperative Educational Services ("BOCES"). The Plan has been in existence since 1982 and is composed of eighteen (18) school districts and the Orange-Ulster BOCES. It was issued a certificate of authority on November 1, 2000, pursuant to the provisions of Article 47 of the New York Insurance Law. The Plan was issued a Certificate of Authority by the Superintendent on November 1, 2000. Pursuant to such Certificate of Authority and in accordance with the Municipal Cooperative Agreement, each of the participants of the Plan have agreed to share the costs and assume the liabilities for medical, hospital, surgical, and prescription drug benefits provided to covered employees (and retirees) and their dependents under the Plan.

For the examination period, there were eighteen (18) school districts and one (1) BOCES participating in the Plan. As of December 31, 2017, the nineteen (19) municipalities participating in the Plan were as follows:

- Chester Union Free School District
- Cornwall Center School District
- Eldred Central School District
- Florida Union Free School District
- Goshen Central School District
- Greenwood Lake Union Free School District
- Highland Central School District
- Highland Falls Central School District
- Kiryas Joel Village School District
- Marlboro Central School District
- Monroe-Woodbury Central School District
- Orange–Ulster BOCES
- Pine Bush Central School District
- Port Jervis City School District
- Rondout Valley Central School District
- Tuxedo Union Free Central School District
- Valley Central School District
- Warwick Valley School District
- Washingtonville School District

A. Corporate Governance

Pursuant to its Municipal Cooperative Agreement, management of the Plan is to be vested in a Governing Board, comprised of one (1) representative from each participating School District, including the BOCES. The Plan's Governing Board members, and their principal business affiliations as of December 31, 2017, was as follows:

Name and Residence	Principal Affiliation
Erin Brennan Rock Tavern, New York	Director of Business, Chester Union Free School District
Patrick Cahill Fishkill, New York	Assistant Superintendent for Management Services, Monroe-Woodbury Central School District
Lorelei Case Cuddebackville, New York	Assistant Superintendent for Business, Port Jervis City School District
Denise Cedeira Jeffersonville, New York	Assistant Superintendent for Business, Highland Falls Central School District
Deborah McBride Heppes Goshen, New York	Assistant Superintendent for Financials, Orange-Ulster BOCES
Timothy Holmes Uniondale, New York	Assistant Superintendent for Business, Warwick Valley School District
Jan Jehring Middletown, New York	Superintendent, Florida Union Free School District

Name and Residence	Principal Affiliation
Ann Lierow Lagrangeville, New York	Assistant Superintendent for Business, Greenwood Lake Union Free School District
Ruth Luis New Hampton, New York	Business Administrator, Eldred Central School District
Louise Lynch Salt Point, New York	Business Administrator, Highland Central School District
Marc Matatia Guilderland, New York	Business Administrator, Tuxedo Union Free Central School District
Kim McEvoy Accord, New York	Key Personnel, Rondout Valley Central School District
Robert Miller Johnson, New York	Assistant Superintendent for Business, Goshen Central School District
Paul Nienstadt Washingtonville, New York	Assistant Superintendent for Business, Washingtonville School District
Michael Pacella Newburgh, New York	Assistant Superintendent for Business, Pine Bush Central School District
Lisa Raymond Neversink, New York	Assistant Superintendent for Business, Valley Central School District
Harvey Sotland Poughquaq, New York	Assistant Superintendent for Business, Cornwall Central School District
Schaye Wercberger Central Valley, New York	Director of Business, Kiryas Joel Village School District
Patrick Witherow Middletown, New York	Business Administrator, Marlboro Central School District

According to its Municipal Cooperative Agreement, the Board of Directors is to meet at least once each quarter in the months of October, January, April and July. The time and the place within New York State of such meetings shall be provided in a written notice to the Board members provided by the Chairman, Secretary or their designee.

The minutes of all meetings of the Board of Directors were reviewed. Such meetings were generally well attended.

Article IV of the Plan's Municipal Cooperative Agreement states:

> *"The following officers of the Health Plan Committee shall be elected annually at the November meeting and shall have the duties set forth below:*
>
> *(i) Chairperson: The chairperson shall have general supervisory responsibilities for the Plan; and the Health Plan Committee such as (1) develop the agenda, (2) preside over meetings; and. (3) appoint sub-committees as required upon authorization from the full Board.*
> *(ii) Secretary: The Secretary includes (1) keeping official minutes of all Board meetings, send copies to all Board members, superintendents, plan administrator and claims administrator, (2) send out notices of all meetings, (3) conduct correspondence for the Board as directed by Chairperson and (4) act as Chairperson in the absence of the Chairperson.*
> *(iii) Plan Administrator: The Administrator shall be (1) responsible for custody of all Board minutes, correspondence and other official records of the Plan except for claims information, (2) designate the Plan's attorney in fact to receive process of summons or other legal process.*
> *(iv) Chief Fiscal Officer: The Chief Fiscal Officer is appointed by the Chairperson annually in November, who shall be a fiscal officer of a participating school district."*

Review of the Board of Directors' meeting minutes of the Health Plan Committee noted that the Plan's management failed to appoint the Chairman, Secretary, Plan Administrator and Chief Fiscal Officer, as required by Article IV of the Plan's Municipal Cooperative Agreement.

It is recommended that the Plan comply with Article IV of its Municipal Cooperative Agreement, by electing the Chairman, Secretary, Plan Administrator and Chief Fiscal Officer, in accordance with its Municipal Cooperative Agreement.

It was noted that although the Plan's Board authorized and established specific committees, such committees were not formalized within the Plan's Municipal Cooperative Agreement or other corporate documents.

It is recommended that the Plan revise its Municipal Cooperative Agreement or by-laws to include any and all of its standing committees.

During the examination period, the Plan did not maintain any committee minutes for the Plan. As a good business practice, the Plan should maintain minutes of the proceedings of its committees.

It is also recommended that the Plan, as a best practice, and in conformance with Section 624(a) of the New York Business Corporation Law, keep meeting minutes of its established committees.

The principal officers of the Plan as of December 31, 2017, were as follows:

Officers	Title
Deborah McBride Heppes	President
Lorelei Case	Chief Financial Officer
Lisa Raymond	Secretary
John Staiger	Interim Administrator

The Governing Board of the Plan designated John Staiger, Jr. as the Attorney-in-Fact, who is authorized to receive service on a summons or other legal paper in any action, suit or proceeding arising out of any contract, agreement or transaction involving the Plan.

B. Territory and Plan of Operation

As of December 31, 2017, the Plan held a Certificate of Authority to operate the business of a municipal cooperative health benefit plan as authorized by Section 4704 of the New York Insurance Law in the counties of Orange, Sullivan and Ulster. Pursuant to the requirements of Article 47 of the New York Insurance Law, the Plan is required to maintain contingency reserves equal to 5% of the annualized earned premium. The Plan met the contingency reserves requirement throughout the examination period.

It was noted that the Plan's official name on its Certificate of Authority, is the Orange Ulster School Districts Plan, however, the Plan at times refers to itself as the Orange Ulster School Districts Health Plan, in their filings and correspondence.

It is recommended that if the Plan continues to refer to itself as Orange Ulster School Districts Health Plan that it, officially submit to the Department a request to change its name on its Certificate of Authority to reflect the name it uses.

The Plan provides medical, hospital, surgical, prescription and drug benefits to eligible members and retirees of the participating school districts in Orange, Ulster and Sullivan counties. The Plan reported annual written premiums of $148,976,223 for the fiscal year ending December 31, 2017. The Plan's total lives covered as of December 31, 2017, was 19,274, a decrease of 2,234 from prior year December 31, 2016.

A review of the meetings minutes of the Plan noted that the Minisink Valley Central School and the Enlarged City School District, withdrew from the Plan, effective August 31, 2016, and September 30, 2017, respectively.

Below is a summary of the Plan's annual premium writings and corresponding member enrollment for the four-year examination period:

Calendar Year	Net Premium Income	Enrollment*
2014	$129,549,701	9,923
2015	$138,370,916	10,316
2016	$144,331,545	9,766
2017	$148,976,223	8,764

*Enrollment for covered employees and retirees

The Plan's total written premium increased to a total of $27,567,802 ($148,976,223-$121,408,421) or 22.7% for the examination period. Such increases were attributable to annual rate increases during the examination period for the examination period. Conversely, the Plan's member enrollment decreased by a total of 998 members or 10.2% from 2013 (9,762) through 2017 (8,764) due to withdrawal of two school districts, consolidations of some employment positions within the Plan's participating school districts and attrition.

C. Stop-Loss Coverage

As required by Section 4707 of the New York Insurance Law, the Plan maintains both aggregate stop-loss coverage and specific stop-loss coverage. The issuer of the stop-loss coverage, American Alternative Insurance Corporation, is a New York authorized reinsurer.

The following is a summary of the Plan's stop-loss coverage program as of December 31, 2017:

Type	Limits
Excess of loss (one layer)	100% of excess of $950,000 per member, per contract year.
Aggregate excess-of loss	$1,000,000 excess of the annual aggregate attachment point (100% of incurred claims expenses), for the current contract period.

As of January 1, 2018, the Plan replaced its stop loss coverage with America Alternative Insurance Corporation with stop-loss coverage from United States Fire Insurance Company, which is also a New York authorized reinsurer in New York State.

D. Administrative Services Agreements

The Plan entered into contractual agreements with the following vendors for various services, for the examination period:

Envision Pharmaceutical Services, Inc.

- Preparation and distribution of identification cards;
- Maintenance of appropriate records of each Plan participant;
- Preparation and distribution of enrollment forms and benefit claim forms; and
- Notification to the Plan's claimant of denials, the basis for the denials and the claimant's right to appeal the denials

Quantum Health Solutions, Inc.

- Evaluate data on specific provider patterns;
- Maintain a cohesive provider panel with ongoing orientations to the program Billing procedures;
- Contract preferred rates with outpatient and impatient providers in the company region;
- Orient Providers on the Orange-Ulster Contract;
- Data reports; and
- Coordinate with Plan's third-party administrator and medical network agreements

Empire HealthChoice Assurance, Inc. d/b/a, Empire BlueCross BlueShield

- Pharmacy benefits administrative services;
- Rebate and reporting services to Medicare D plans; and
- Pharmacy network contracting, claims processing services for covered drugs, perform standard concurrent utilization review analysis and formulary management services;
- First level review of written requests for appeal from members or participating pharmacies that consist of ministerial verification that claim(s) were processed in accordance with the Plan's benefits package member eligibility

HealthCare Strategies, ("HCS")

- Utilization Review, and case management;
- Outpatient Services Review; and
- Medical Information Help Line

Segal Consulting

- Provides annual actuarial certification of compliance regarding the Plan's premium rating and claims reserve process and stop-loss requirement as required by Article 47 of the New York State Insurance Law

Harris Beach PLLC

- Provides outside General Counsel Services to the Plan

Urbach Hacker Young LLP.

- Serves as the Plan's Certified Public Accountant ("CPA"). Provides financial audit services

The agreements between the Plan and Empire BlueCross BlueShield did not include a provision for the Plan to audit or have a third-party audit Empire BlueCross BlueShield's compliance with its obligations under the contract.

It is recommended that the Plan initiate audits of all services, including claims processing, provided by all its contracted third-party administrators.

It is further recommended that if the Plan is unable to have audits done of its third-party claims administrators that the Plan obtain annual certifications from its third-party claims administrators that claims are being processed in accordance with the Plan's Document and applicable statutes, rules and regulations (relative to claims submitted by the Plan's participants).

E. Municipal Cooperative Agreement

Section 4710(a)(1) of the New York Insurance Law states:

> "The governing board of the municipal cooperative health benefit plan shall:

> (1) file for approval with the superintendent a description of material changes in any information provided in the application for a certificate of authority in the form and manner proscribed by the superintendent."

During the review of the Plan's Municipal Cooperation Agreement, it was determined that the Plan used an MCA, dated 2012, which was never approved by the Superintendent.

It is recommended that the Plan submit its Municipal Cooperation Agreement to the Superintendent for approval prior to use.

During the examination period, the Plan amended its 2012 Municipal Cooperative Agreement ("MCA") without filing for approval with the Superintendent. It should be noted the Plan is obligated to comply with the most recently approved version of its MCA until the Department approves an amended version.

It is recommended that the Plan comply with Section 4710(a)(1) of the New York Insurance Law by filing for approval with the Superintendent, a description of the material changes in any information provided in the application for its Certificate of Authority.

Section 4705 (a)(7) of the New York Insurance Law states:

> "The municipal cooperation agreement, under which the municipal cooperative health benefit plan is established and maintained, and any amendment thereto, shall be approved by each participating municipal corporation by majority vote of each such corporation's governing body, and shall:
> (7) designate the plan's attorney-in-fact to receive service of summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving such municipal cooperative health benefit plan; and"

During the examination, the Plan was unable to provide any evidence that the Municipal Cooperation Agreement was approved by each participating municipal corporation by majority vote of each such corporation body.

It is recommended that the Plan adhere to Section 4705(a) of the New York Insurance Law, by having the Municipal Cooperation Agreement approved by each participating municipal corporation by a majority vote of each such corporation's governing's body.

The last approved Municipal Cooperation Agreement the Plan had in effect was dated as of 1999. A review of the agreement found the following deficiencies:

The Plan's MCA failed to designate the Plan's attorney-in-fact to receive service of summons or other legal processes in any action, suit or proceeding arising out of any contract, agreement or transaction involving such municipal cooperative health benefit plan.

It is recommended that the Plan adhere to Section 4705(a)(7) and designate the Plan's attorney-in-fact to receive summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving such municipal cooperative health benefit plan.

Section 4705(b)(2) of the New York Insurance Law states, in part:

> "(b) The municipal cooperation agreement shall provide that the plans chief fiscal officer…
> (2) shall, notwithstanding any provision of the general municipal law make payment in accordance with procedures developed by the plan's governing board and acceptable to the superintendent…"

The Plan's MCA failed to state that the Chief Financial Officer ("CFO") shall, notwithstanding any provision of the General Municipal Law make payment in accordance with procedures developed by the Plan's governing Board and acceptable to the Superintendent.

It is recommended that the Plan comply with the provisions of Section 4705(b)(2) of the New York Insurance Law, by including in its MCA that the CFO shall, notwithstanding any provision of the General Municipal Law, make payment in accordance with procedures developed by the Plan's governing Board and which are acceptable to the Superintendent.

Section 4705(b)(4) of the New York Insurance Law states, in part:

> "(b) The municipal cooperation agreement shall provide that the plans chief fiscal officer…
> (4) shall receive no remuneration, except that the participating municipal corporation employing the chief fiscal officer may be reimbursed for reasonable expenses incurred in connection with the duties of such fiscal officer in connection with the plan…"

The Plan's MCA failed to state the Plan's CFO, shall receive no remuneration, except that the participating municipal corporation employing the chief fiscal officer may be reimbursed for reasonable expenses incurred regarding the duties of such fiscal officer relating to the Plan.

It is recommended that the Plan comply with Section 4705(b)(4) of the New Insurance Law, by including in its MCA that the CFO, shall receive no remuneration, except that the participating municipal corporation employing the chief fiscal officer may be reimbursed for reasonable expenses incurred relating to the duties of such fiscal officer regarding the Plan.

Section 4705(d)(2)(D) of the New York Insurance Law states:

> "The municipal cooperation agreement shall provide that the governing board:
>
> (2) may enter into an agreement with a contract administrator or other service provider, determined by the governing board to be qualified, to receive, investigate, recommend, audit, approve or make payment of claims under the municipal cooperative health benefit plan, provided that…
>
> (D) all such agreements shall comply with the requirements of subdivision six of section ninety-two-a of the general municipal law."

The Plan's MCA failed to include a statement that any agreements entered into with a contract administrator or other service provider "…shall comply with the requirements of subdivision six of section ninety-two-a of the general municipal law.

It is recommended that the Plan include in its MCA a provision that all agreements entered into with a contract administrator or other service provider shall comply with the requirements of subdivision six of Section ninety-two-a of the general municipal law.

Section 4705(f) of the New York Insurance Law states:

> "The municipal cooperation agreement shall specify the rights and obligations of a municipal corporation withdrawing from a municipal cooperative health benefit plan to any contribution (or premium equivalent) refund or reserve fund or for any contingent assessment liability or other obligation."

The Plan's MCA did not specify the rights and obligations of a municipal corporation withdrawing from a municipal cooperative health benefit plan to any contribution (or premium equivalent) refund or reserve fund or for any contingent assessment liability or other obligation.

It is recommended that the Plan comply with Section 4705(f) of the New York Insurance Law and specify the rights and obligations of a municipal cooperation withdrawing from the

municipal cooperation health benefit plan to any contribution (or premium equivalent) refund or reserve fund or for any contingent assessment liability or other obligation.

Section 4705(g) of the New York Insurance Law states:

> "(g) Every municipal cooperation agreement shall contain a provision stating that nothing contained in such agreement shall be construed to waive any right a covered person possesses with respect to the confidentiality of medical records and that such right may only be waived upon the written consent of such covered person."

The Plan's MCA did not contain a provision stating that "nothing contained in such agreement shall be construed to waive any right a covered person possesses with respect to the confidentiality of medical records and that such right may only be waived upon the written consent of such covered person", in accordance with Section 4705(g) of the New York Insurance Law.

It is recommended that the Plan comply with Section 4705(g) of the New York Insurance Law and incorporate the language in its MCA that nothing contained in such agreement shall be construed to waive any right a covered person possesses with respect to the confidentiality of medical records and that such right may only be waived upon the written consent of such covered person.

F. Plan Document and Summary Description

Section 3217-a(a)(18) of the New York Insurance Law states, in part:

> "(a) Each insurer subject to this article shall supply each insured, and upon request each prospective insured prior to enrollment, written disclosure information, which may be incorporated into the insurance contract or certificate, containing at least the information set forth below. In the event of any inconsistency between any separate written disclosure statement and the insurance contract or certificate, the terms of the insurance contract or certificate shall be controlling. The information to be disclosed shall include at least the following…

> (18) a description of the method by which an insured may submit a claim for health care services"

FA review of the Plan Document and Summary Description (2006), found that it failed to include a description of the method by which an insured may submit a claim for health care services.

It is recommended that the Plan discloses the method by which an insured may submit claims for health care services in accordance with Section 3217-a(a)(18) of the New York Insurance Law.

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

> "(j) An insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law or a student health plan established or maintained pursuant to section one thousand one hundred twenty-four of this chapter shall accept claims submitted by a policyholder or covered person, in writing, including through the internet, by electronic mail or by facsimile."

A review of the Plan's Summary Plan Document determined that said Document did not contain the provision that a policyholder or covered person may submit claims via internet, electronic mail, paper, or facsimile, in accordance with Section 3224-a(j) of the New York Insurance Law.

It is recommended that the Plan, amend its Summary Plan Document, to reflect that a policyholder or covered person may submit claims via internet, electronic mail, paper, or facsimile, in accordance with Section 3224-a(j) of the New York Insurance Law.

Section 4709(c) of the New York Insurance Law states:

> "(c) Conspicuously printed on the first page of the plan document and summary plan description, in at least ten point bold-face type, shall be the following statement:
> This municipal cooperative health benefit plan is not a licensed insurer. It operates under a more limited certificate of authority granted by the superintendent of financial services. Municipal corporations participating in the municipal cooperative health benefit plan are subject to contingent assessment liability."

A review of the Plan Document and Summary Description (2006), determined that the Plan failed to include the statement "This municipal cooperative health benefit plan is not a licensed insurer. It operates under a more limited certificate of authority granted by the superintendent of financial services. Municipal corporations participating in the municipal cooperative health benefit plan are subject to contingent assessment liability."

It is recommended that the Plan comply with Section 4709(c) of the New York Insurance Law by including the above statement.

G. Underwriting Results

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

	Amounts	Ratios
Claims	$567,554,917	97.89%
General administrative expenses	45,660,709	7.87%
Net underwriting (loss)	(33,422,353)	(5.76%)
Premium	$579,793,273	100%

H. Internal Controls

The Plan relies on third-party administrators to process and pay claims to providers. A review of the Plan's oversight of its third-party administrators found the following deficiencies:

1. The Plan does not have an internal control function nor an Internal Audit Department. As a result, the Plan is unable to exercise proper oversight of the third-party administrators it uses to process and pay claims
2. The third-party service providers used by the Plan do not adequately review the eligibility of Out-of-Network providers for payments. This could result in payments to ineligible providers.

It is recommended that as a best business practice the Plan exercise greater oversight of its third-party administrators.

It is also recommended as a best business practice the Plan ensures that Out-of-Network providers are eligible to receive payments.

3. FINANCIAL STATEMENTS

The following statements show the assets, liabilities and surplus as of December 31, 2017, as contained in the Plan's 2017 filed annual statement, a condensed summary of operations, and a reconciliation of the surplus account for each of the years under examination. 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, 2017, financial statements.

The firm of Urbach Hacker Young LLP. was retained by the Plan to audit the Plan's combined statutory-basis statements of financial position as of December 31st , of each year in the

examination period, and the related statutory-basis statements of operations, surplus, and cash flows for the year then ended.

Urbach Hacker Young LLP. 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 year's annual statements with no discrepancies noted.

A. Balance Sheet

Assets

Bonds	$30,210,906
Cash and cash equivalents	25,202,087
Investment income due and accrued	131,716
Health care and other amounts	2,173,188
Aggregate write-in: Restricted Deposit	380,000
Total assets	$58,097,897

Liabilities

Unpaid claims	$16,570,000
Reserve and surplus requirement (per NYIL §4706(a)(1))	6,836,563
Premiums received in advance	12,441,931
Accounts payable	3,844,545
Total liabilities	$39,693,039

Surplus

Unassigned funds (surplus)	10,956,047
Surplus (per NYIL §4706(a)(5))	7,448,811
Total surplus	$18,404,858
Total liabilities and surplus	$58,097,897

B. Statement of Revenue and Expenses and Surplus

Surplus decreased by $4,493,626 during the four-year examination period, January 1, 2014, through December 31, 2017, detailed as follows:

Revenue		
Premiums	$561,273,385	
Non- health revenues	2,338,521	
Aggregate write-ins for other revenue	16,181,367	
Total revenue		$579,793,273
Expenses		
Hospital and medical claims	$411,548,052	
Prescription drugs	156,426,326	
Net reinsurance recoveries	(459,461)	
Compensation	1,085,796	
Professional fees	265,330	
Aggregate write-ins	44,309,583	
Total expenses		613,175,626
Net loss		$ (33,382,353)

	Gain in Surplus	Loss in Surplus	
Surplus, per report on examination, as of December 31, 2013			$22,898,484
Net loss		$33,382,353	
Change in surplus per NYIL §4706(a)(5)		2,929,008	
Aggregate write-ins for changes in other net worth items	$31,817,735	0	
Net decrease in surplus			$ 4,493,626
Surplus, per report on examination, as of December 31, 2017			$18,404,858

4. CLAIMS PAYABLE

The examinations total claims payable of $24,243,405 using the approved percentages and expected incurred claims and expenses as of December 31, 2017 is $836,842 or 3.58% more than the $23,406,563 reported by the Plan in its filed annual statement as of December 31, 2017. The Plan failed to comply with Section 4706(a)(1) of the New York State Insurance Law.

Section 4706(a)(1) of the New York Insurance Law requires that the Governing Board of a municipal cooperative health benefit plan establish a reserve fund, including a reserve for the payment of claims and expenses thereon reported but not yet paid, and claims and expenses thereon incurred but not yet reported, which shall not be less than an amount equal to twenty-five percent (25%) of expected incurred claims and expenses thereon for the current plan year, unless a qualified actuary has demonstrated to the superintendent's satisfaction that a lesser amount will be adequate. The Plan was granted approval by this Department on June 15, 2005 to reduce its reserves for claims and related expenses to 17% from 25% of the current year's expected incurred

claims and expenses. The Plan was granted additional approval by the Department on November 29, 2017 to reduce its reserves for prescription drug reserves and related expenses to 12% from 17% for the Plan's prescription drug reserve factor for year ending December 31, 2017.

The examination analysis of the captioned account was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Plan's internal records and in its filed annual and quarterly statements, as well as additional information provided by the Plan.

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 Plan's experience in projecting the ultimate cost of claims incurred on or prior to December 31, 2017.

It is recommended that the Plan's claim payable reserve comply with the requirements of Section 4706(a)(1) of the New York Insurance Law.

5. CLAIMS STABILIZATION RESERVE

As of December 31, 2017, the Plan did not maintain a claim stabilization reserve. This Plan has total reserves and surplus of about $41.8 million which is about 135.5% of the sum (about $30.9 million) of the claims reserve (about $23.4 million) and surplus (at $7.4 million).

Claim Stabilization Reserve and stop-loss insurance are mechanisms for maintaining solvency and stability of the Plan. The required minimum reserves and surplus for waiving the requirement for stop-loss insurance is assumed to be an indicator for providing a Claim

Stabilization Reserve. The assumption is that if total reserves and surplus is less than 150% of the sum of the claims reserve and surplus, then the Plan should gradually accumulate a Claim Stabilization Reserve.

The Claim Stabilization Reserve of $0 was reasonable but it is recommended that Orange-Ulster should gradually accumulate a Claim Stabilization Reserve and concurrently maintain overall financial solvency.

6. MARKET CONDUCT ACTIVITIES

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

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

A. Prompt Pay Law
B. Mental Health Parity and Addiction Equity Act ("MHPAEA")

A. Standards for Prompt, Fair and Equitable Settlement of Claims for Health Care and Payments for Health Care Services ("Prompt Pay Law")

The examination included a review of the Plan's claims settlement practice and oversight of the claims adjudication process. INDECS is the Plan's Third-Party Administrator of claims. As such, INDECS is responsible for some aspects of claims settlement, including out-of-network claim payments, issuance of explanation of benefits statements ("EOB"), and appeals. However, management of Orange-Ulster School District Plan retains the ultimate responsibility for

compliance with applicable provisions of the New York Insurance Law and related Regulations, and therefore its management must be diligent in its oversight of the claims settlement and related functions.

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"), requires all insurers to pay undisputed claims within thirty (30) days of receipt of a claim that is transmitted via the internet or electronic mail or forty-five (45) days of receipt of a claim submitted by other means such as paper or facsimile. If such undisputed claims are not paid within the respective thirty (30) or forty-five (45) days of receipt, interest may be payable.

A review of the Plan's submitted medical and hospital claims data for the period January 1, 2017, through December 31, 2017, relative to compliance with Section 3224-a of the New York Insurance Law did not reveal any problem areas.

B. Mental Health Parity and Addiction Equity Act ("MHPAEA")

Sections (a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146.180 - Treatment of non-Federal governmental plans states the following:

> "(a) *Opt-out election for self-funded non-Federal governmental plans*
> (1) *Requirements subject to exemption.* The PHS Act requirements described in this paragraph are the following…
>
> (v) Parity in mental health and substance use disorder benefits under section 2726 of the PHS Act…
>
> (2) General rule. For plan years beginning on or after September 23, 2010, a sponsor of a non-Federal governmental plan may elect to exempt its plan, to the extent the plan is not provided through health insurance coverage (that is, it is self-funded), from one or more of the requirements described in paragraphs (a)(1)(iv) through (vii) of this section…
>
> (c) Filing a timely election

> (1) Plan not governed by collective bargaining. Subject to paragraph (c)(4) of this section, if a plan is not governed by a collective bargaining agreement, a plan sponsor or entity acting on behalf of a plan sponsor must file an election with CMS before the first day of the plan year…
>
> (e) Notice to enrollees
> (1) Mandatory notification.
> (i) A plan that makes the election described in this section must notify each affected enrollee of the election and explain the consequences of the election. For purposes of paragraph (e) of this section, if the dependent(s) of a participant reside(s) with the participant, a plan need only provide notice to the participant."

The Plan failed to comply with Sections 146.180(a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146 - Treatment of non-Federal governmental plans by failing to file the required exemption notice with the Center for Medicare and Medicaid Services ("CMS").

Additionally, the Plan failed to provide notice to its enrollees that it elected not to comply with the requirements of the Mental Health and Substance Abuse Parity Act for the years 2015, 2016, 2017 and 2018.

It is recommended that the Plan comply with Sections 146.180(a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146.180 - Treatment of non-Federal governmental plans by filing the required exemption notice with the Center for Medicare and Medicaid Services ("CMS").

It is also recommended that the Plan comply with Sections 146.180(a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146.180 and provide notice to its enrollees that it has elected not to comply with the requirements of the Mental Health and Substance Abuse Parity Act.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination included eleven (11) recommendations detailed as follows (page number refers to the prior report on examination):

ITEM NO.		PAGE NO.
	Management and Controls	
1.	The Department recommends that directors who are unable or unwilling to attend board meetings consistently should resign or be replaced. Furthermore, in selecting prospective members of the board, a key criterion should be their willingness and commitment to attend meetings and participate in the board's responsibility to oversee the operations of the Plan. *The Plan has complied with this recommendation.*	9
	Report on Examination	
2.	The Department recommends that the Plan comply with Section 312(b) of the New York Insurance Law and obtain signed statements by each board member confirming that such member has received and read the report on examination. *The Plan has complied with this recommendation.*	10
	Stop Loss Coverage	
3.	The Department recommends that the Plan obtain and maintain aggregate stop-loss coverage in compliance with Section 4707(a)(1) of the New York Insurance Law. A similar finding was cited in the prior report on examination. *The Plan did comply with this recommendation.*	12

ITEM NO.		PAGE NO.
	Municipal Cooperation Agreement	
4.	The Department recommends that the Plan comply with Section 4710(a)(1) of the New York Insurance Law by filing for approval with the Superintendent, a description of the material changes in any information provided in the application for Certificate of Authority. *The Plan has not complied with this recommendation.*	13
	Plan Document	
5.	It is recommended that the Plan revise its Plan Document to comply with the Affordable Care Act and submit such document to the Superintendent for approval. *The Plan has complied with this recommendation.*	18
	Claim Processing	
6.	The Department recommends that the Plan require INDECS to implement or undergo periodic audits within a proactive quality assurance program in order to identify and correct errors that may be occurring on an ongoing basis, in addition to retroactive reviews. The results of such audits should be reported to the Plan's management, at least annually. A similar finding was cited in the prior report on examination. *The Plan has complied with this recommendation.*	21
	Rating	
7.	The Department recommends that the Plan comply completely with Section 4705(e)(3) of the New York Insurance Law by obtaining an annual independent actuarial opinion on the soundness of the Plan's premium equivalent rates. A similar finding was cited in the prior report on examination. *The Plan has complied with this recommendation.*	21

ITEM NO.		PAGE NO.
	Utilization Review	
8.	The Department recommends that the Plan not require members to utilize a Local School District Representative as ombudsman during the appeal of claims. A similar finding was cited in the prior report on examination. *The Plan has not complied with this recommendation.*	22
9.	The Department recommends that the Plan ensure that the appeal instructions issued to its members are orderly, complete, and consistent, stating specifically that the Level One appeal is also the Final Adverse Determination. A similar finding was cited in the prior report on examination. *The Plan has complied with this recommendation*	23
10.	The Department recommends that the Plan's Denial letters accurately and completely reflect the member's right of appeal, in accordance with the requirements of Article 49 of the Insurance Law. A similar finding was cited in the prior report on examination. *The Plan has complied with this recommendation.*	24
	Explanation of Benefit Statements	
11.	The Department recommends that the Plan comply with Section 3234(b)(7) of the New York Insurance Law by ensuring that its Explanation of Benefits statements accurately and clearly explain member appeal rights. A similar finding was cited in the prior report on examination. *The Plan has complied with this recommendation.*	24

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

ITEM		PAGE NO.
A.	Corporate Governance	
i.	It is recommended that the Plan comply with Article IV of its Municipal Cooperative Agreement, by electing the Chairman, Secretary, Plan Administrator and Chief Fiscal Officer, in accordance with its Municipal Cooperative Agreement.	7
ii.	It is recommended that the Plan revise its Municipal Cooperative Agreement or by-laws to include any and all of its standing committees.	7
iii.	It is also recommended that the Plan, as a best practice, and in conformance with Section 624(a) of the New York Business Corporation Law, keep meeting minutes of its established committees.	8
B.	Territory and Plan of Operation	
	It is recommended that if the Plan continues to refer to itself as Orange Ulster School Districts Health Plan that it, officially submit to the Department a request to change its name on its Certificate of Authority to reflect the name it uses.	9
C.	Administrative Services Agreements	
	It is recommended that the Plan initiate audits of all services including claims processing provided by all of its contracted third-party administrators.	12
	It is further recommended that if the Plan is unable to have audits done of its third-party claims administrators that the Plan obtain annual certifications from its third-party claims administrators that claims are being processed in accordance with the Plan's Document and applicable statutes, rules and regulations (relative to claims submitted by the Plan's participants).	12
D.	Municipal Cooperative Agreement	
i.	It is recommended that the Plan submit its Municipal Cooperation Agreement to the Superintend for approval prior to use.	13

ITEM		PAGE NO.
D.	Municipal Cooperative Agreement (cont'd)	
ii.	It is recommended that the Plan comply with Section 4710(a)(1) of the New York Insurance Law by filing for approval with the Superintendent, a description of the material changes in any information provided in the application for its Certificate of Authority.	13
iii.	It is recommended that the Plan adhere to Section 4705(a) of the New York Insurance Law, by having the Municipal Cooperation Agreement approved by each participating municipal corporation by a majority vote of each such corporation governing's body.	14
iv.	It is recommended that the Plan adhere to Section 4705(a)(7) and designate the Plan's attorney-in-fact to receive summons or other legal process in any action, suit or proceeding arising out of any contract, agreement or transaction involving such municipal cooperative health benefit plan.	14
v.	It is recommended that the Plan comply with the provisions of Section 4705(b)(2) of the New York Insurance Law, by including in its MCA that the CFO shall, notwithstanding any provision of the General Municipal Law, make payment in accordance with procedures developed by the Plan's governing Board and which are acceptable to the Superintendent.	15
vi.	is recommended that the Plan comply with Section 4705(b)(4) of the New Insurance Law, by including in its MCA that the CFO, shall receive no remuneration, except that the participating municipal corporation employing the chief fiscal officer may be reimbursed for reasonable expenses incurred relating to the duties of such fiscal officer regarding the Plan.	15
vii.	It is recommended that the Plan include in its MCA a provision that all agreements entered into with a contract administrator or other service provider shall comply with the requirements of subdivision six of Section ninety-two-a of the general municipal law.	16

ITEM		PAGE NO.
D.	Municipal Cooperative Agreement (cont'd)	
viii.	It is recommended that the Plan comply with Section 4705(f) of the New York Insurance Law and specify the rights and obligations of a municipal cooperation withdrawing from the municipal cooperation health benefit plan to any contribution (or premium equivalent) refund or reserve fund or for any contingent assessment liability or other obligation.	16
ix.	It is recommended that the Plan comply with Section 4705(g) of the New York Insurance Law and incorporate the language in its MCA that nothing contained in such agreement shall be construed to waive any right a covered person possesses with respect to the confidentiality of medical records and that such right may only be waived upon the written consent of such covered person.	17
E.	Plan Document & Summary Description	
i.	It is recommended that the Plan disclose the method by which an insured may submit claims for health care services in accordance with Section 3217-a(a)(18) of the New York Insurance Law.	18
ii.	It is recommended that the Plan, amend its Summary Plan Document, to reflect that a policyholder or covered person may submit claims via internet, electronic mail, paper or facsimile, in accordance with Section 3224-a(j) of the New York Insurance Law.	18
iii.	It is recommended that the Plan comply with Section 4709(c) of the New York Insurance Law by including the above statement.	19
F.	Internal Controls	
i.	It is recommended that as a best business practice the Plan exercise greater oversight of its third-party claim processors.	20
ii.	It is also recommended as a best business practice the Plan ensures that Out-of-Network providers are eligible to receive payments.	20

ITEM		PAGE NO.
G.	Claims Payable	
	It is recommended that the Plan's claim payable reserve comply with the requirements of Section 4706(a)(1) of the New York Insurance Law.	25
H.	Claim Stabilization Reserve	
	The Claim Stabilization Reserve of $0 is reasonable but it is recommended that Orange-Ulster should gradually accumulate a Claim Stabilization Reserve and concurrently maintain overall financial solvency.	26
I.	Mental Health Parity and Addiction Equity Act ("MHPAEA")	
	i. It is recommended that the Plan comply with Sections 146.180(a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146.180 - Treatment of non-Federal governmental plans by filing the required exemption notice with the Center for Medicare and Medicaid Services ("CMS").	28
	ii. It is also recommended that the Plan comply with Sections 146.180(a)(1)(v)(2), (c)(1) and (e)(1)(i) of 45 CFR 146.180 and provide notice to its enrollees that it has elected not to comply with the requirements of the Mental Health and Substance Abuse Parity Act.	28

STATE OF NEW YORK)

) SS.

)

COUNTY OF NEW YORK)

Alice McKenney, being duly sworn, deposes and says that the foregoing submitted report is true to the best of his knowledge and belief.

____

Wai Wong, CFE

APPOINTMENT NO. **31761**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, __MARIA T. VULLO__, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Charles McBurnie

as a proper person to examine the affairs of

Orange-Ulster School Districts Plan

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

Plan

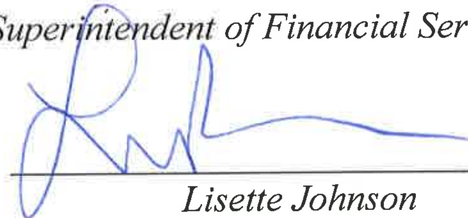
with such other information as he shall deem requisite.

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

this 30th day of April, 2018

MARIA T. VULLO
Superintendent of Financial Services

By:



Lisette Johnson
Bureau Chief
Health Bureau