REPORT ON EXAMINATION

OF

GROUP HEALTH INCORPORATED

AS OF DECEMBER 31, 2018

EXAMINER:	**WAI WONG**
DATE OF REPORT:	**JULY 21, 2023**

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July 21, 2023

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 No. 31932, dated April 12, 2019, and annexed hereto, an examination has been made into the financial condition and affairs of Group Health Incorporated ("GHI"), a not-for-profit health service corporation licensed pursuant to Article 43 of the New York Insurance Law, as of December 31, 2018, and the following report thereon is respectfully submitted.

The examination was conducted at the home office of Group Health Incorporated, located at 55 Water Street, New York, NY.

Wherever the designations the "Plan" or "GHI" appear herein, without qualification, they should be understood to indicate Group Health Incorporated.

Wherever the designation "HIPNY" appears herein, without qualification, it should be understood to indicate the Health Insurance Plan of Greater New York, the direct Parent of GHI

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Wherever the designation "EmblemHealth" appears herein, without qualification, it should be understood to indicate EmblemHealth, Inc., the ultimate Parent of GHI and HIPNY.

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

A separate market conduct examination reviewing the manner in which GHI conducts its business practices and fulfills its contractual obligations to policyholders and claimants was conducted as of December 31, 2018. A separate report will be submitted thereon.

1. SCOPE OF THE EXAMINATION

The Plan was previously examined as of December 31, 2013. This examination of the Plan was a financial examination as defined in the National Association of Insurance Commissioners ("NAIC") *Financial Condition Examiners Handbook, 2019* Edition (the "Handbook") and it covers the five-year period from January 1, 2014 through December 31, 2018. 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, 2018, were also reviewed.

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

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

Information concerning the Plan's organizational structure, business approach and control environment 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 of Subjectively Valued Invested Assets
- Liquidity Considerations
- Appropriateness / Adequacy 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

The Plan was audited annually, for the years 2014 through 2018, by the accounting firm of Deloitte LLP ("Deloitte"). The Plan received an unqualified opinion in each of those years. Certain audit workpapers of Deloitte were reviewed and relied upon in conjunction with this examination. A review was also made of the Plan's Enterprise Risk Management / Own Risk Solvency Assessment. In addition, EmblemHealth Services Company, LLC ("EHS"), a wholly-owned subsidiary of HIPNY, has an agreement with KPMG, to provide internal audit services for EmblemHealth and all its affiliates, including Connecticare, Inc. and AdvantageCare Physicians, P.C. KPMG assists EmblemHealth with their internal controls over the financial reporting process including auditing the Plan's compliance with the Model Audit Rule ("MAR"). Where applicable, workpapers and reports were reviewed, and portions thereof were relied upon for this examination.

The examiner reviewed the corrective actions taken by the Plan with respect to the recommendations concerning financial issues contained in the prior report on examination. The results of the examiner's review are contained in Item 8 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 an explanation or description.

2. DESCRIPTION OF THE PLAN

GHI is a New York State not-for-profit corporation operating under the provisions of Article 43 of the New York Insurance Law.

On November 15, 2006, having received regulatory approval from the Department, GHI and HIPNY, a not-for-profit health service corporation licensed under the provisions of Article 43 of the New York Insurance Law, became affiliated companies, resulting in EmblemHealth Inc., a New York not-for-profit organization, becoming the sole member and Parent of HIPNY, GHI and their respective subsidiaries. HIPNY and GHI named an equal number of directors to the EmblemHealth Board of Directors.

On March 6, 2007, EHS was formed by a joint venture of HIPNY and GHI, in order to integrate operations of these two entities. On January 1, 2008, items such as vendor agreements and employees were transferred to EHS. GHI and HIPNY receive management and other services from EHS. Also, on that date, with the approval of the Department, GHI and HIPNY entered into a written guaranty assuming jointly and severally the employee related compensation liabilities of EHS.

In December 2010, with the approval of the Department, HIPNY replaced EmblemHealth as the sole corporate member of GHI. In 2013, EmblemHealth filed to restructure the ownership of EHS so that it is wholly owned by HIPNY. The Department issued a "non-objection" letter on December 23, 2013 regarding this transaction.

A. Management and Controls

1. Corporate Governance

EmblemHealth's corporate governance and controls structure includes the Internal Audit and Compliance Units. EmblemHealth's management is responsible for establishing and maintaining an effective internal control structure.

As part of the risk-focused examination approach, the examiner evaluated whether the Plan's management implemented effective oversight procedures to identify key risks inherent to the Plan's operations and applied adequate internal controls to mitigate those risks. Effective oversight of inherent business risks should include an internal audit function that comprehensively identifies and assesses key areas of risk. This can be accomplished through a formal risk identification and controls assessment process.

Corporate governance, internal audit, and MAR, Insurance Regulation No. 118 (11 NYCRR 89), controls for the Plan are provided by EmblemHealth, the ultimate Parent of GHI. Internal audit is outsourced to KPMG via a Master Services Agreement with EHS. As a result, EmbemHealth's management has designated a Project Sponsor who has the requisite skills and competencies for overseeing the services being provided. The Project Sponsor is responsible for establishing the objectives and scope and determining the nature, timing, and extent of testing procedures; for approving, in conjunction with the Audit Committee; the service delivery plan and for maintaining appropriate day-to-day oversight of the KPMG team. The Compliance Unit is responsible for developing and maintaining the Compliance Program, incorporating the rules, regulations and guidelines under applicable federal and state regulatory authorities, as well as EmblemHealth's corporate polices.

During the examination review, it was revealed that EmblemHealth and its operating subsidiaries, which includes GHI, has an investment committee of the board, that relies on the advice and recommendation of its consultant expert in the field of investments and further relies on its external auditors, Deloitte, to review the results.

2. Board of Directors

As of December 31, 2018, the amended by-laws of the Plan, provided that the Plan is to be managed by a Board of Directors ("the Board") consisting of not fewer than seven (7) nor more than fifteen (15) directors. An additional requirement of the by-laws is that the composition of the Board shall be structured and maintained in accordance with the requirements of Article 43 of the New York Insurance Law. The following listing, set forth by the classifications of Section 4301(k) of the New York Insurance Law, represents GHI's nine (9) directors and their principal business affiliations as of December 31, 2018:

Name and Residence	Principal Business Affiliation
Subscriber Directors	
Richard Berman, Palm Beach Gardens, FL	Associate Vice President, Strategic Initiatives, Muma College of Business, University of South Florida
Gregory Floyd Valley Stream, NY	President, Local 238, International Brotherhood of Teamsters
Jay Russ, Esq. Lloyd Harbor, NY	President, Russ and Russ, P.C.
Public Directors	
Stuart Altman Larchmont, NY	Professor of National Health Policy, The Heller School of Social Policy and Management
John D. Feerick New York, New York	Chairman, EmblemHealth, Professor of Law, Fordham University
Barbara Shattuck Kohn Washington, CT	Principal Counsel, Hammond Hanlon, Camp, LLC.
David Weiss Northport, NY	Professor Emeritus, Hofstra University and Long Island University
Employee Director	
Karen Ignagni New York, NY	President and CEO, EmblemHealth
Provider Director	
Bernard Schayes, MD New York, NY	Physician, Private Practice

As of October 24, 2018, Oliver Gray resigned from the Board pending retirement. He was replaced by Jo Ivey Boufford in 2019. As of December 31, 2019, GHI had eight (8) Board members.

According to its by-laws, the Plan's Board is required to meet four times a year and may hold special meetings as desired. The minutes of all meetings of the Board and committees thereof held during the examination period were reviewed. The review indicated all board and committee meetings were well attended, with all Board members attending at least one-half of the meetings they were eligible to attend.

3. Committees of the Board of Directors

Effective July 1, 2017, the Board adopted a resolution to designate and authorize the Board committees of EmblemHealth to function as GHI's Board committees, subject to the limitation of their respective by-laws. Additionally, on that date, the Board approved and adopted new committee charters for the Audit and Finance Committee, the Compensation Committee, the Compliance Committee, the Investment Committee, the Nominating and Governance Committee, and the Quality Committee.

On December 19, 2018, the Board approved and adopted revised by-laws combining the Audit, Finance and Investment Committees into one Committee and making other minor adjustments. Additionally, on that date, the Board approved and adopted new Committee charters for the Audit, Finance and Investment Committee, the Compensation Committee, and the Nominating and Governance Committee. Individuals serving on each committee as December 31, 2018 were as follows:

Audit and Finance Committee

John Feerick
Stuart Altman
Barbara Shattuck Kohn
Jay Russ
David Weiss, Ph.D.

Compliance Committee

John Feerick
Jay Russ
David Weiss, Ph.D.

Investment Committee

Karen Ignagni
David Weiss, Ph.D.

Nominating and Governance Committee

Karen Ignagni
Jay Russ

Quality Committee

Richard Berman
Oliver Gray
Bernard Schayes, M.D.

The control environment at GHI is influenced significantly by the Plan's Board, Audit and Finance Committee and Investment Committee. The Board and its Committee members were found to be sufficiently independent from management, experienced and knowledgeable. The Committees also interacted with the internal and external auditors as part of its oversight of the control environment.

The Board, as well as the Audit and Finance Committee met at least quarterly each year during the exam period. At the Audit and Finance Committee meetings, presentations are made by the internal auditors, KPMG, as well as external financial auditors, Deloitte, GHI financial analysts, compliance personnel, and the special investigations unit on fraud.

4. Executive Officers

Executive Officers of the Plan are elected by the Board at its annual meeting for a term of one year and serve at the discretion of the Board. The Executive Officers of the Plan at December 31, 2018, were as follows:

Name	Position
Karen Ignagni	President and Chief Operating Officer
Mike Palmateer	Chief Administrative Officer
Jeffrey Chansler	Chief Legal Officer and Corporate Secretary

B. Territory and Plan of Operation

GHI is a health service corporation licensed under Article 43 of the New York Insurance Law to do business in New York State only.

As of December 31, 2018, the Plan offered the following products: Hospital Preferred Provider Organization ("PPO"), Surgical-Medical PPO, Comprehensive PPO, Comprehensive Exclusive Provider Organization ("EPO"), Dental, Medicare Advantage, Medicare Supplement, Medicare Part D, Federal Employees Health Benefit Plan, and Child Health Plus.

As of December 31, 2018, the total number of members reported by the Plan was 1,723,598, which represented an increase of 258,224 (17.6%) members during the examination period. The following shows the number of members enrolled and corresponding total revenue at the end of each year of the five-year examination period:

Year	Enrollment	Total Revenue
2014	1,465,374	$ 1,894,658,970
2015	1,463,063	$ 912,664,754
2016	1,488,817	$ 908,770,910
2017	1,716,472	$ 774,101,058
2018	1,723,598	$ 808,073,127

The Plans total revenues decreased during the examination period while enrollment increased due to the Plans inability to underwriting and pricing issues.

C. Holding Company System

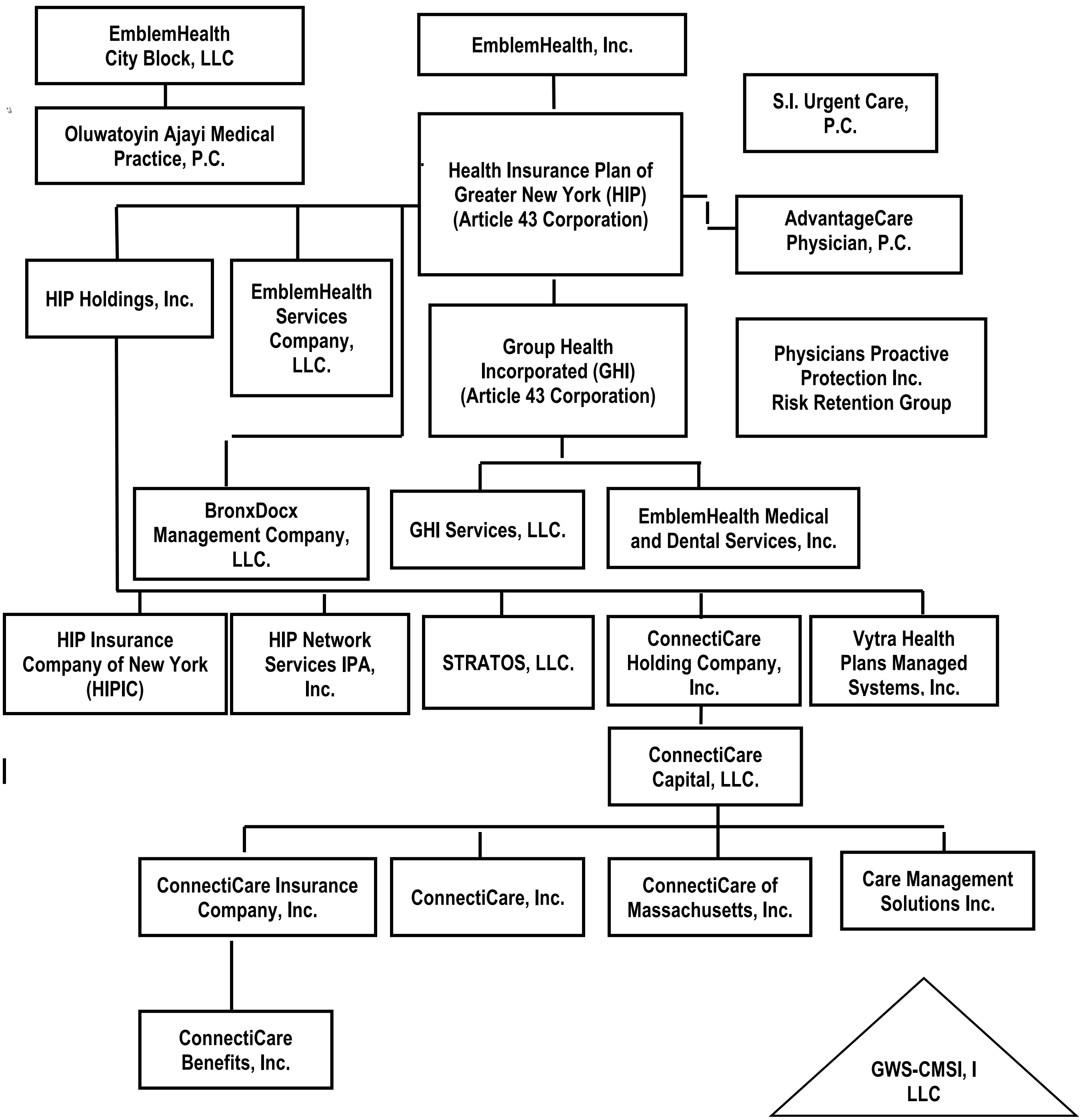
GHI is a not-for-profit health service corporation operating statewide in New York under the provisions of Article 43 of the New York Insurance Law. Its sole corporate member is HIPNY.

HIPNY is a wholly owned subsidiary of EmblemHealth, formerly known as HIP Foundation, Inc. EmblemHealth is a New York not-for-profit charitable organization established to implement, expand, and coordinate community outreach, medical research and other community-based activities that support the well-being of the diverse population of the New York metropolitan area.

GHI is the Parent of GHI Services, LLC and EmblemHealth Medical and Dental Services, Inc.

On December 31, 2009, with the approval of the Department, GHI merged with PerfectHealth, a for-profit stock accident and health company domiciled in New York and a direct subsidiary of HIP Holdings, Inc. GHI was the surviving entity after the merger. GHI funded this merger in the form of a New York Insurance Law Section 1307 loan due to HIP Holdings, Inc. in an amount of $311,381 with zero interest.

The holding company chart depicting the relationship between the Plan and significant entities in its holding company system as of December 31, 2018, is as follows:



On September 18, 2008, GHI entered into the following administrative service agreements with members of its holding company system:

- Administrative Services Agreement with EmblemHealth Services Company, LLC. (the "EHS Service Agreement")
- Administrative Services Agreement with ConnectiCare Capital, LLC. (the "CCC LLC. Service Agreement")
- Administrative Services Agreement with EmblemHealth Administrators, Inc. ("HIPA"), formerly known as HIP Administrators of Florida, Inc. (the "HIPA Service Agreement")

The aforementioned intercompany administrative service agreements were entered into for the purpose of the exchange of services and the use of certain personnel, facilities, equipment, personal property, licenses, and contracts owned or leased by each party named in the agreements.

Under the EHS Service Agreement, EHS provides management services and general administrative services such as accounting and financial services, investing, underwriting, rate and form development and filings, claims processing, and other services to GHI. The administrative services provided by EHS are reimbursed by GHI on a pro-rata basis through intercompany accounts.

The EHS Service Agreement was amended and restated on October 15, 2015, November 13, 2017, and April 25, 2018. The most recent amendment and restatement as of April 20, 2020 involved "January 2020 Assets" and Authorization and Fees, whereby "Funds paid by the Recipient to the Provided Company to purchase equipment and other capitalized assets…for which no fees or charges will be assessed by the Provided Company to any Recipient Company, will be paid in accordance with the applicable depreciation schedule…".

On July 13, 2016, HIPNY, EmblemHealth, EHS and Cognizant Healthcare Services, LLC, TriZetto Corporation, and Medicall entered into an agreement to provide Management Services including certain claims adjudication and medical management functions. However, GHI is not specifically mentioned in the agreement. According to the Plan's management, these services are provided to the Plan since EHS has an approved management services agreement with Emblem's insurance subsidiaries, including, but not limited HIPNY, GHI and HIP Insurance Company.

Under the CCC LLC Service Agreement, ConnectiCare Capital, LLC provides administrative services to EmblemHealth's ConnectiCare subsidiaries. Although GHI is a signing party of the CCC LLC Service Agreement, it should be noted that there were no direct services exchanged between GHI and ConnectiCare Capital, LLC during the examination period.

Under the HIPA Service Agreement, HIPA provides claims processing, customer service, enrollment processing, direct marketing, and grievance and appeals reviews to entities served by EHS, including GHI and HIPNY. The services were charged based on rates set forth in the HIPA Service Agreement.

The Plan's 2018 federal income tax return was consolidated with its 100% owned subsidiary EmblemHealth Medical and Dental Services, Inc. pursuant to their approved Intercompany Tax Allocation Agreement dated June 1, 1999.

D. Underwriting Ratios

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

	Amounts	Ratios
Claims	$4,442,698,754	83.85%
Claim adjustment expenses	361,313,340	6.82%
General administrative expenses	643,617,276	12.15%
Reinsurance recoveries	(653,188)	(.01%)
Decrease in reserves	(74,749,684)	(1.41%)
Net underwriting loss	(73,957,683)	(1.40%)
Total revenue	$5,298,268,815	100.00%

The Plans medical loss ratio for four out of the five years of the examination period were above or near 100% due to the Plans inability to control its claim adjustment and administrative expenses.

3. MEDICAL LOSS RATIO REPORTING

GHI's 2018 Medical Loss Ratio ("MLR") Annual Reporting Form for the state of New York was examined to assess compliance with the requirements of Title 45 of the Code of Federal Regulations ("CFR"), Part 158, which implements Section 2718 of the Public Health Service Act ("PHS Act"). Section 2718 of the PHS Act, as added by the Patient Protection and Affordable Care Act ("PPACA"), generally requires health insurance companies to submit to the Secretary of the U.S. Department of Health and Human Services ("HHS"), an annual report on their MLRs. The MLR is the proportion of premium revenue expended by a company on clinical services and activities that improve health care quality in a given market. Section 2718 of the PHS Act also requires a company to provide rebates to consumers if it does not meet the MLR standard (82% in the individual and small group markets and 85% in the large group market, in the state of New York).

This is the first examination of GHI's MLR Annual Reporting Form performed by the Department. The examination of GHI's 2018 MLR Annual Reporting Form covered the reporting period from January 1, 2016, through December 31, 2018, including 2016, 2017 and 2018 experience and claims run-out through March 31, 2019.

The examination was conducted in accordance with the NAIC's MLR Examination Reporting Instructions and its twenty-four (24) MLR Agreed Upon Procedures ("MLR AUPs"). The MLR AUPs set forth the procedures for performing an examination to evaluate the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. The examination included assessing the principles used and significant estimates made by GHI, evaluating the reasonableness of expense allocations, and determining compliance with relevant statutory accounting standards, MLR regulations and guidance, and the MLR Annual Reporting Form Filing Instructions.

Title 45 CFR §158.110(b) requires that a report for each MLR reporting year be submitted to the Secretary of HHS by July 31st of the year following the end of an MLR reporting year, on a form and in the manner prescribed by the Secretary of HHS. Based on the examiner's review, the 2018 MLR Annual Reporting Form filed by GHI contains some elements that are not fully compliant with the requirements of Title 45 CFR §158, as more fully described in the sections below.

Title 45 CFR §158.210 (a), (b) and (c) requires that an issuer must provide a rebate to enrollees if the issuer has an MLR below the required amount (82% in the individual and small group markets and 85% in the large group market for New York). GHI's three-year aggregate numerator and denominator for each market, along with the resulting credibility-adjusted MLR and rebate obligation, for the 2018 MLR Annual Reporting Form, as adjusted during the examination, are shown in the following table:

New York

Individual Market			
MLR Components	**Filed**	**Adjustments**	**Recalculated**
Adjusted Incurred Claims	$10,355,378	$(241,757)	$10,113,621
Plus: Quality Improvement Expenses	$47,550	$(14,542)	$33,008
Less: Federal Transitional Reinsurance			
Less: Federal Risk Adjustment Program net			
MLR Numerator	**$6,513,573**	**$(256,299)**	**$6,257,274**
Premium Earned	$4,796,009	$0	$4,796,009
Less: Federal & State Taxes and			

MLR Denominator	**$5,168,812**	**$0**	**$5,168,812**
Preliminary MLR	82.0%		82.0%
Credibility Adjustment	0.0%	0.0%	0.0%
Credibility–Adjusted MLR	**82.0%**		**82.0%**
MLR Standard	82.0%		82.0%
Rebate Amount	**$0**	**$0**	**$0**
Large Group Market			
MLR Components	**Filed**	**Adjustments**	**Recalculated**
Adjusted Incurred Claims	$1,305,890,131	$(4,427,556)	$1,301,462,575
Plus: Quality Improvement Expenses	$9,250,891	$(2,895,934)	$6,354,957
MLR Numerator	**$1,315,141,022**	**$(7,323,490)**	**$1,307,817,532**
Premium Earned	$1,479,665,376	$(3,518,478)	$1,476,146,898
Less: Federal & State Taxes and	$7,462,897	$0	$7,462,897
MLR Denominator	**$1,472,202,479**	**$(3,518,478)**	**$1,468,684,001**
Large Group Market			
MLR Components	**Filed**	**Adjustments**	**Recalculated**
Preliminary MLR	89.3%		89.0%
Credibility Adjustment	0.0 %	0.0%	0.0 %
Credibility–Adjusted MLR	**89.3%**		**89.0%**
MLR Standard	85.0%		85.0%
Rebate Amount	**$0**	**$0**	**$0**

A. <u>Market Classification</u>

According to Title 45 CFR §158.103, the applicable definitions of the individual market, small group market and large group market according to Section 2791(e) of the PHS Act are codified and applicable to the MLR calculation. Section 2791(e) of the PHS Act requires that small and large group market classifications be based on the *average number of employees on the business days of the calendar year preceding the coverage effective date*. In addition, according to Title 45 CFR §158.120, the MLR report must aggregate data for each entity licensed within the state where each health care coverage contract was issued, aggregated separately for the large group market, the small group market and the individual market. The examiners reviewed a sample of policies to verify that the appropriate group size and market classification determination was applied by the Plan in accordance with Title 45 CFR §158.103.

Testing of the market classification of the Plan's group policies revealed that it incorrectly reported the experience from one uninsured dental plan with its health insurance coverage subject to Title 45 CFR §158 on the 2018 MLR Annual Reporting Form. According to the 2018 MLR Annual Reporting Form Filing Instructions, issuers should report the experience for plans for which the reporting entity only performs administrative services for an employer that is at risk in the Uninsured (Self-funded) Plan's column on the MLR Annual Reporting Form. As a result of this error, the Plan's three-year aggregate incurred claims was overstated by $45,201 and earned premium was overstated by $4,455 in the large group market on the 2018 MLR Annual Reporting Form.

It is recommended that the Plan adopt and implement procedures to ensure that it properly reports experience from uninsured (self-funded) plans in an accurate manner in accordance with the MLR Annual Reporting Form Filing Instructions.

It was also noted that the Plan did not adequately maintain supporting documentation evidencing its enrollment for all its policies tested during the examination, as required by Title 45 CFR §158.502. The Plan could not provide the master policy for two of the policies tested during the examination, both minimum premium plan policies issued by the Plan for health care coverage of its own employees and the employees of various affiliates. According to Title 45 CFR §158.502, an issuer must maintain all documents and other evidence necessary to enable the Center for Consumer Information and Insurance Oversight ("CCIIO") to verify that the MLR is calculated accurately and that any rebates are calculated and disbursed in accordance with Title 45 CFR Part 158. Title 45 CFR §158.502(b) further requires that all such documentation must be maintained for the current year and the six prior years. Based on alternative testing procedures, the examiners were able to determine that the enrollment for the samples for which the master policies could not be provided were correctly classified.

It is recommended that GHI should adopt and implement a comprehensive MLR records maintenance program under which it maintains all documentation and evidence necessary to verify compliance with each element included in the MLR Annual Reporting Form, as required by Title 45 CFR §158.502 - Maintenance of Records. The records maintenance program should include maintaining copies of all master policies evidencing enrollment, for a period of not less than six (6) years.

Other than the incorrect reporting of one uninsured plan, and the failure to maintain a copy of master policies, as noted above, based on the procedures performed, the samples of policies, claims and other items tested during the examination were correctly assigned to the appropriate state, market and lines of business in accordance with Title 45 CFR §158.103 and Title 45 CFR §158.120.

B. Medical Loss Ratio Numerator

According to Title 45 CFR §158.221(b), the numerator of the MLR calculation is comprised of incurred claims, as defined in Title 45 CFR §158.140, expenditures for activities that improve health care quality as defined in Title 45 CFR §158.150, and Title 45 CFR §158.151, Cost Sharing Reductions Program as defined in Title 45 CFR §158.140(b)(1)(iii) and Federal

Transitional Reinsurance, Federal Risk Adjustment and Federal Risk Corridor Programs as defined by Title 45 CFR §158.140(b)(4)(ii).

Incurred Claims

The examiner reviewed the accuracy and appropriateness of the amounts reported within incurred claims as defined by Title 45 CFR §158.140, including the verification of the data used by GHI to calculate adjusted incurred claims and the validation of a sample of incurred claims reported by GHI.

It was noted that the Plan inappropriately included as incurred claims the amount paid to its pharmacy benefit manager ("PBM") for pharmacy claims transactions, in an amount that exceeded the total amount the PBM paid the corresponding pharmacy providers. According to Title 45 CFR §158.140(b)(3)(ii), if a third-party vendor reimburses the provider at one amount but bills the issuer a higher amount to cover its network development, utilization management costs, and profits, then the amount that exceeds the reimbursement to the provider must not be included in incurred claims. As a result of this error, the Plan overstated its three-year aggregate incurred claims on the 2018 MLR Annual Reporting Form by $241,757 in the individual market, and $7,896,378 in the large group market.

It is recommended that GHI should adopt and implement procedures to ensure that it properly reports incurred claims in accordance with Title 45 CFR §158.140, including ensuring that amounts paid to its PBM in excess of the cost of prescription drugs paid to pharmacies for the Plan's enrollees are not included as a part of incurred claims.

It was also noted that the Plan failed to properly report experience rating refunds in the "3/31" column on Part 2, Line 2.8b – *Experience rating refunds paid* and Line 2.9b – *Reserve for experience rating refunds* on its 2018 MLR Annual Reporting Form. According to the 2018 MLR Annual Reporting Form Filing Instructions, experience rating refunds pursuant to a retrospectively rated funding arrangement shall be reported as an adjustment to incurred claims. As a result of this error, the Plan understated its incurred claims in the large group market for the 2018 reporting year by $3,514,023, the net amount of experience rating refunds paid and related reserves, on its 2018 MLR Annual Reporting Form.

It is recommended that GHI should adopt and implement procedures to ensure that it properly reports incurred claims in accordance with the MLR Annual Reporting Form Filing Instructions, including ensuring that experience rating refunds are properly included in the calculation.

It was determined that with the exception of the incorrect reporting of prescription drug costs noted above, and the improper exclusion of experience rating refunds, incurred claims were accurately reported in compliance with Title 45 CFR §158.140.

<u>Quality Improvement Activities ("QIA")</u>

The examiner reviewed the accuracy and reasonableness of health care quality improvement expenses, including the validation of a sample of the QIA amounts reported, to ensure they are in conformity with the definition of Healthcare Quality Improvement Expenses as defined by Title 45 CFR §158.150 and Title 45 CFR §158.151, and to confirm that the allocation methodology is reasonable and complies with the requirements set forth by Title 45 CFR §158.170.

The Plan did not maintain adequate documentation to support the expenses it reported as QIA, in violation of Title 45 CFR §158.502. Title 45 CFR §158.502 requires an issuer to maintain all documents and other evidence necessary to enable CCIIO to verify that the data submitted complied with the definitions and criteria set forth in Title 45 CFR Part 158 and that the MLR and any rebates owed were calculated and provided in accordance with the regulation.

Part 243.2 (b)(8) of Insurance Regulation No. 152 (11 NYCRR 243.2) states in part:

> "(b) Except as otherwise required by law or regulation, an insurer shall maintain:
> 8) Any other record for six calendar years from its creation or until after the filing of a report on examination or the conclusion of an investigation in which the record was subject to review."

The largest category of QIA expenses was the salaries and related benefits of the employees whose roles and responsibilities included activities that are part of QIA that meet the definition at Title 45 CFR §158.150. The Plan did not provide sufficient time studies of employee activities or other quantifying documentation to substantiate the salary ratios used to allocate salary and other costs to QIA. Accordingly, alternative testing procedures were employed, which included reviewing the title description, job description, allocation percentages and other information related to employees whose salaries and other expenses were included as QIA. Based on the alternative procedures performed, the examiners concluded that in many of these cost centers, the Plan had allocated 140% of the associated salary and other direct expenses as qualifying QIA expenses, to reflect the Plan's inclusion of fully loaded direct and indirect expenses. In addition, the examiners were unable to verify the portion of direct salary expenses that were attributable to activities that do meet the definition of QIA due to the lack of a fully developed and documented quantitative analysis of the activities and time spent by staff on these activities.

The Plan incorrectly included in its 2018 MLR Annual Reporting Form certain activities and expenses that did not qualify as QIA in accordance with Title 45 CFR §158.150. The amounts reported included expenses for an employee fitness center and employee health and wellness expenses, which do not meet the definition of QIA. According to Title 45 CFR §158.150(b)(1)(iii), QIA activities must be directed toward enrollees, or provide health improvements to the population beyond those enrollees in coverages as long as no additional costs are incurred due to the non-enrollees. In addition, the Plan inappropriately included a portion of various overhead expenses allocated to QIA for activities such as finance administration, human resources and Information Technology ("IT") infrastructure. Based on the review of documentation provided by the Plan, and its rationale for why these expenses should be included in QIA, the examiners determined that these activities were not directly related to the performance of qualifying activities and thus did not meet the definition of QIA according to Title 45 CFR §158.150. As a result of this error, the Plan overstated its three-year aggregate QIA on the 2018 MLR Annual Reporting Form by $14,542 in the individual market and $2,895,934 in the large group market.

It is recommended that GHI should adopt and implement procedures to ensure that it complies with Title 45 CFR §158.502 and Part 243.2 (b)(8) of Insurance Regulation No. 152 by maintaining sufficient quantitative analyses to adequately support the QIA allocation percentages used to allocate salary costs to QIA.

The Plan should perform additional analysis to adequately differentiate between activities that do and do not qualify as QIA and perform additional quantitative analysis to ensure that the appropriate percentage of each activity or transaction that qualifies as a QIA pursuant to Title 45 CFR §158.150 is reported on its MLR Annual Reporting Form. For salary-related expenses classified as QIA, the Plan should perform time studies of employee activities and/or other quantitative analyses of salary ratios to support allocating any such amounts to QIA. Only salary amounts supported by quantitative analyses regarding allocation of time spent on qualifying QIA activities should be considered as allowable QIA expenses in the future.

Federal Premium Stabilization Programs

The examiner reviewed the accuracy of the amounts reported in connection with the Federal Transitional Reinsurance Program, the Federal Risk Adjustment Program and the Federal Risk Corridor Program as defined by Title 45 CFR §158.140(b)(4)(ii), including the verification of amounts to HHS program summary reports and GHI's transactional records as applicable during the three-year period included in the calculation of the 2018 MLR.

It was determined that GHI's Federal premium stabilization program amounts were accurately reported on the MLR Annual Reporting Form.

C. Medical Loss Ratio Denominator

According to Title 45 CFR §158.221(c), the denominator of the MLR calculation is comprised of premium revenue, as defined in Title 45 CFR §158.130, minus Federal and State Taxes and Licensing or Regulatory Fees, described in Title 45 CFR §158.161(a), and Title 45 CFR §158.162(a)(1) and (b)(1).

Earned Premiums

The examiner reviewed the accuracy and appropriateness of the amounts reported within earned premium as defined by Title 45 CFR §158.130, including the verification of the data used by GHI to calculate earned premium and the validation of a sample of policy premium reported by GHI.

The Plan improperly included adjustments for experience rating refunds (rate credits) in its calculation of premium written reported in the "3/31" column on Part 2, Line 1.1 – *Direct premium written o*n its 2018 MLR Annual Reporting Form. According to the 2018 MLR Annual Reporting Form Filing Instructions, amounts for rate credits paid or received shall be excluded from the calculation of direct premium written, and reported separately as a part of the calculation of incurred claims. As a result of this error, the Plan overstated its earned premium for the 2018 reporting year in the large group market by $3,514,023, the net amount of experience rating refunds paid and related reserves, on its 2018 MLR Annual Reporting Form.

It is recommended that GHI should adopt and implement procedures to ensure that it properly reports direct premium written in accordance with the MLR Annual Reporting Form Filing Instructions, including ensuring that experience rating refunds are properly excluded in the calculation.

It was determined, with the exception of the improper inclusion of experience rating refunds as noted above, GHI's earned premium was accurately reported on a direct basis and the data elements underlying the 2016, 2017 and 2018 premium as reported on the Plan's 2018 MLR Annual Reporting Form were compliant with Title 45 CFR §158.130.

Federal and State Taxes and Licensing / Regulatory Fees

The examiner reviewed the accuracy and appropriateness of Federal and State Taxes and Licensing / Regulatory fees, including confirmation that the allocation methodology was reasonable and complied with the requirements set forth by Title 45 CFR §158.170 and that taxes were reported in accordance with the provisions of Title 45 CFR §158.161 and Title 45 CFR §158.162.

It was determined that GHI's allocation methodology was reasonable and the Federal and State Taxes and Licensing / Regulatory fees were appropriately and accurately reported for each market segment on the Plan's MLR Annual Reporting Form.

D. Credibility Adjustment

According to Title 45 CFR §158.232, the Credibility Adjustment is the product of the base credibility factor multiplied by the deductible factor. The examiner reviewed the underlying data utilized in the determination of the base credibility and deductible factors, tested the accuracy of the calculation of the base credibility and deductible factors and the resulting Credibility Adjustment for the individual and large group markets.

It was determined that GHI's base credibility factor, deductible factor and Credibility Adjustment were accurately calculated and reported for each market segment on the MLR Annual Reporting Form.

E. Credibility-Adjusted MLR

According to Title 45 CFR §158.221(a), the calculation of the MLR is the ratio of the numerator to the denominator, plus the Credibility Adjustment. The examiner recalculated the credibility-adjusted MLR in accordance with Title 45 CFR Part 158 and the applicable MLR Annual Reporting Form Filing Instructions and determined GHI's credibility-adjusted MLR amounts were accurately calculated for each market segment on the 2018 MLR Annual Reporting Form.

F. Rebate Disbursement and Notice

According to Title 45 CFR §158.240, a rebate is required to be paid no later than September 30, following the MLR reporting year if an insurer's credibility-adjusted MLR is less than the MLR standard (82% for the individual and small group markets and 85% for the large group market, in the state of New York). According to Title 45 CFR §158.250, at the time any rebate of premium is provided to a policyholder, a notice of rebates must also be provided.

According to its 2016, 2017 and 2018 MLR Annual Reporting Forms, the Plan did not report any rebates owed for the individual and large group markets as a result of the MLR calculations. The Plan was not required to, and did not, issue any notice(s) for the 2016, 2017 or 2018 reporting years in accordance with 45 CFR §158.250.

G. Conclusion

The Department has examined the Plan's 2018 MLR Annual Reporting Form to assess compliance with the requirements of Title 45 CFR Part 158. The examination involved determining the validity and accuracy of the data elements and calculated amounts reported on the MLR Annual Reporting Form, and the accuracy and timeliness of any rebate payments. The Plan's 2018 MLR Annual Reporting Form contained some elements that were not fully compliant with the requirements of Title 45 CFR Part 158. The effect of the examination findings and resultant recalculation of the Plan's MLRs resulted in a decrease to the reported MLR for the large group market. As the recalculated MLR continued to meet or exceed the individual market MLR standard of 82% and the large group market MLR standard of 85%, these findings did not have an impact on the Plan's rebate liability in any of the markets in which it has health insurance coverage in effect subject to the requirements of Title 45 CFR Part 158.

It is recommended that the Plan should re-file its 2018 MLR Annual Reporting Form to rectify the errors and reflect the findings stated herein, adjusting both the current year (CY) and prior year (PY) columns as applicable.

As an alternative, the Plan should rectify the errors to reflect the findings stated herein in its 2020 MLR Annual Reporting Form. The Plan should make the corrections in the prior year column of its 2020 MLR Annual Reporting Form (Part 3, Column PY2). Additionally, the Plan should upload supplemental documentation with their 2020 MLR Annual Reporting Form noting that the discrepancy between the data reported on the 2018 MLR Annual Reporting Form and the corresponding prior year data reported on the 2020 MLR Annual Reporting Form resulted from the examination findings.

The corrective actions provided in this report should be shared with and adopted by, as applicable, any affiliated entities of the Plan, such as parent or subsidiaries, if any, that are subject to the MLR reporting and rebate requirements of Title 45 CFR Part 158.

H. Impact on Risk-Based Capital

According to Title 45 CFR §158.270(a), rebate payments having any adverse impact on GHI's Risk-Based Capital ("RBC") level requires notification by the Department to the Secretary of the HHS. It was determined that GHI's credibility adjusted MLR exceeded the minimum percentage for all market segments, and no rebates were issued for the 2018 MLR Reporting Year. Therefore, there was no impact on the RBC level that would warrant notification to the Secretary of HHS.

4. FINANCIAL STATEMENTS

The following shows the assets, liabilities and surplus as contained in GHI's 2018 amended filed annual statement, a condensed summary of operations and a reconciliation of the surplus account for each of the years under review. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Plan's financial condition as presented in its financial statements contained in the December 31, 2018 filed annual statement.

Independent Accountants

The accounting firm of Deloitte 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. GHI received an unqualified opinion in each of those years.

Deloitte 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 the audited 2018 financial statements did not reconcile to the filed annual statement. The differences were acknowledged in the management representation letter to Deloitte, and the differences were deemed to be immaterial.

A. Balance Sheet

Assets

Bonds	$ 345,312,253
Cash, and short-term investment	66,180,152
Receivables for securities	35,546
Subtotal, cash and invested assets	411,527,951
Investment income due and accrued	1,976,866
Uncollected premiums and agents' balances in course of collection	69,143,130
Deferred premiums, agents' balances and installments booked but deferred and not yet due	93,723
Accrued retrospective premiums	118,540
Amounts receivable relating to uninsured plans	121,174,189
Federal and foreign income tax recoverable and interest thereon	39,092,816
Net deferred tax asset	47,627,838
Health care and other amounts receivable	15,614,572
Receivables from the Federal Government, New York State and Other	169,046
Total assets	$ 706,538,671

Liabilities	
Claims unpaid	$ 101,614,902
Accrued medical incentive pool and bonus amounts	5,078,801
Unpaid claims adjustment expenses	4,063,598
Aggregate health policy reserves	17,500,561
Premiums received in advance	4,288,038
General expenses due or accrued	13,858,472
Amounts withheld or retained for the account of others	21,947,177
Remittances and items not allocated	6,442,306
Amounts due to parent, subsidiaries and affiliates	15,583,269
Liability for amounts held under uninsured plans	57,942,047
Unclaimed disbursements	27,922,561
Miscellaneous accounts payable	2,908,993
Pensions liability	62,241,174
Total liabilities	$ 341,391,899
Surplus	
Gross paid-in and contributed surplus	55,662,431
Surplus notes	165,311,381
Statutory reserves	100,907,203
Unassigned funds	43,265,757
Total surplus	$ 365,146,772
Total liabilities and surplus	$ 706,538,671

Note: The Internal Revenue Service has completed its audit of the consolidated income tax returns filed on behalf of GHI and its subsidiaries through tax year 2011. The audit was closed in August 2018. The examiner is unaware of any potential exposure of the Plan to any tax assessments and no liability has been established herein relative to such contingency.

B. Statement of Revenue and Expenses and Surplus

Surplus increased by $88,829,973 during the five-year examination period, from January 1, 2014 through December 31, 2018, detailed as follows:

Revenue		
Net premium income	$ 5,212,338,166	
Change in unearned premium reserve and reserve for rate credit	78,780,233	
Risk revenue	7,150,416	
Total revenue		$ 5,298,268,815
Expenses		
Hospital/ medical benefits	$ 1,652,064,929	
Other professional services	1,400,210,988	
Emergency room and out-of-area	346,334,976	
Prescription drugs	1,036,032,569	
Aggregate write-ins for other hospital and medical	8,055,292	
Total hospital and medical expenses	$ 4,442,698,754	
Less net reinsurance recoveries	653,188	
Claims adjustment expenses	361,313,340	
General administrative expenses	643,617,276	
Increase (decrease) in reserves for life and accident and health contracts	(74,749,684)	
Total underwriting deductions		$ 5,372,226,498
Net underwriting loss		$ (73,957,683)
Net investment income gain (loss)		(2,546,523)
Net realized capital gains less capital gains tax		282,752,651
Net gain (loss) from agents' or premium balances charged-off		(1,161,208)
Aggregate write-ins for other expenses		(12,519,611)
Net loss before federal income taxes		$ 192,567,626
Federal and foreign income taxes incurred		(24,728,245)
Net income		$ 217,295,871

Changes in Surplus

	Gains in Surplus	Losses in Surplus	
Surplus, per report on examination, as of December 31, 2013			$ 276,316,799
Net income	217,295,871		
Change in net unrealized capital Losses		147,529,414	
Change in net deferred income tax	58,841,868		
Change in non-admitted assets		17,366,395	
Cumulative effect of changes in accounting principles		137,323,122	
Aggregate write-ins losses in surplus	114,911,165		
Net change in surplus			88,829,973
Surplus, per report on examination as of December 31, 2018			$ 365,146,772

5. STATUTORY EXPENSE LIMITATION

Section 4309 of the New York Insurance Law states in part:

> "(a) No corporation subject to the provisions of this article shall, during any one year, disburse more than the percentages hereafter prescribed of the aggregate amount of the premiums received during such year as expenditures for expenses, which, for the purposes of this article, shall include all expenses paid or incurred by the corporation which do not constitute benefit payments made to or on behalf of persons covered under contracts issued by such corporations…
>
> (2) All other corporations: twenty per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received to fifteen per centum except that for any corporation which derives more than fifty per centum of its premiums received from the sale of contracts which provide hospital service benefits: seventeen and one-half per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received to twelve and one-half per centum…
>
> (b) If any such corporation shall in any calendar year make or incur expenses as hereinabove defined in excess of its expense limit the superintendent may, upon written application of such corporation and a showing that such corporation has taken steps in accordance with a plan submitted by the corporation and approved by the superintendent which will enable it to comply with the provisions of this section during the next

> calendar year, suspend the expense limit for such corporation for the calendar year in which the excess was incurred but the superintendent shall not suspend the expense limit for any such corporation for more than two calendar years in succession."

It is noted that for 2018, GHI's administrative expense ratio was 18.1%, which exceeded the 12.5% limitation set forth in Section 4309 of the NYIL.

It is recommended that GHI adhere to the administrative expense limitation set forth in Section 4309 of the NYIL.

Pursuant to Section 4309(b), GHI filed an application on June 1, 2015 with this Department to suspend the expense limitation. The Department granted GHI temporary forbearance from the NYIL Section 4309 expense limitation on September 21, 2016. The Department reserves its right to apply the NYIL Section 4309 expense limitation at any time.

6. SURPLUS NOTES

On December 31, 2009, GHI funded its merger with PerfectHealth in the form of a $311,381 surplus note due to HIP Holdings, Inc., at zero interest, pursuant to Section 1307 of the New York Insurance Law.

GHI received from HIPNY, Section 1307 statutory surplus notes of $40 million, $10 million, $80 million and $35 million on March 29, 2012, June 30, 2011, December 29, 2010, and March 31, 2010, respectively, with interest accruing at 2% per annum. As of December 31, 2018, the accrued interest payable to HIPNY on these Section 1307 notes was approximately $1.7 million, this amount was disclosed in the Notes to the Financial Statement of GHI's 2018 annual financial statement filing.

Section 1307(b) of the New York Insurance Law states in part:

> "Such borrowing…shall be repaid only out of free and divisible surplus of such insurer with the approval of the superintendent whenever, in his judgment, the financial condition of such insurer warrants…"

Section 1307(c) of the New York Insurance Laws states:

> "Any sum so advanced or borrowed shall not be part of the legal liabilities of such insurer and shall not be a basis of any set-off but until repaid all statements published by such insurer or filed with the superintendent shall show, as a footnote, the amount then remaining unpaid."

As of September 28, 2018, the Department granted approval to GHI to pay to HIPNY the accrued interest on its surplus notes through June 30, 2018. On September 28, 2018, GHI paid HIPNY $24.2 million of accrued interest. These funds were recorded as a decrease in net investment income earned for the Plan and an increase in net investment income earned for HIPNY. As of December 31, 2018, GHI reported $165,311,381 in Section 1307 statutory surplus notes.

7. SUBSEQUENT EVENTS

Subsequent to the exam date, GHI recorded two one-time transactions that were the result of an analysis pertaining to receivables and other invested assets in EHS. The first transaction was initially recorded at the beginning of 2015, related to a change in accounting principle when EmblemHealth adopted a mark-to-market accounting approach for its qualified pension plans. The change in accounting principle impacted EHS, HIPNY and GHI pension plans. There was an accounting process established for HIPNY and GHI to record the impact as an adjustment to capital and surplus to recognize all gains and losses that had not yet been recognized in earnings as of December 2014.

The adjustment to capital and surplus was recorded through the cumulative effect of the changes in accounting principles, change in minimum pension liabilities and change in non-admitted assets. The accounting process for EHS was not established at the time and, as a result remained on EHS' books and records. The total amount of this one-time transaction was $106.0 million and was reflected on HIPNY as an intercompany receivable and unrealized loss in other invested assets of EHS.

The second transaction related to the impairment of certain capitalized software assets recognized as part of a change in business strategy and operating model. The capitalized software was already reflected as non-admitted asset through SSAP 97 *Investments on Subsidiary, Controlled and Affiliated Entities (SSAP 97).* The amount of the impairment was $95.7 million.

The allocation for the $106.0 million was $25.4 to GHI. The allocation of the $95.7 million was $33.4 million to GHI. Due to the size of the amount and the one-time nature of these transactions, they were recorded as "Aggregate write-in for gains of (losses) in surplus. These transactions were reflected in the 3rd quarter 2019 statement.

On March 11, 2020, the World Health Organization declared the spreading coronavirus (COVID-19) outbreak a pandemic. On March 13, 2020, U.S. President Donald J. Trump declared the coronavirus pandemic a national emergency in the United States. The epidemiological threat posed by COVID-19 is having disruptive effects on the economy, including disruption of the global supply of goods, reduction in the demand for labor, and reduction in the demand for U.S. products and services, resulting in a sharp increase in unemployment. The economic disruptions caused by COVID-19 and the increased uncertainty about the magnitude of the economic slowdown has also caused extreme volatility in the financial markets.

The full effect of COVID-19 on the U.S. and global insurance and reinsurance industry is still unknown at the time of releasing this report. The Department is expecting the COVID-19 outbreak to impact a wide range of insurance products resulting in coverage disputes, reduced liquidity of insurers, and other areas of operations of insurers. The Department and all insurance regulators, with the assistance of the National Association of Insurance Commissioners (NAIC), are monitoring the situation through a coordinated effort and will continue to assess the impacts of the pandemic on U.S. insurers. The Department has been in communication with the Plan regarding the impact of COVID-19 on its business operations and financial position.

8. COMPLIANCE WITH PRIOR REPORTS ON EXAMINATION

The prior financial report on examination as of December 31, 2013, contained the following eleven (11) comments and recommendations (page numbers refer to the prior report):

ITEM NO.		PAGE NO.
	Management and Controls	
1.	It is recommended as a best practice that the Audit Committees of the Plan and EmblemHealth, Inc., adhere to the provisions of Standard 1110 of the IIA's *International Standards for the Professional Practice of Internal Auditing* by formally evaluating the performance of their Chief Audit Executive, and also by approving the annual compensation and salary adjustment of the position.	8
	The Plan has complied with this recommendation.	
2.	It is recommended that the Audit Committee of GHI evaluate the performance, and review and approve the compensation of said Chief Audit Executive jointly with the Audit Committees of EmblemHealth and HIPNY.	9
	The Plan has complied with this recommendation.	
3.	It is recommended that EmblemHealth/HIPNY/GHI ensure the objectivity and independence of their Internal Audit Department by not having its Chief Audit Executive report to the Compliance Officer directly, or indirectly, or vice versa.	10
	In 2017, the internal audit function was delegated to KPMG.	
4.	It is recommended that the Plan take corrective action by developing a policy to evaluate whether Board members who are unable or unwilling to attend Board meetings consistently should resign or be replaced. Furthermore, in selecting prospective Board members, 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.	12
	The Plan has complied with this recommendation.	

ITEM NO.		PAGE NO.
	Management and Controls	
5.	It is recommended that GHI update its by-laws to reflect the change in its committee structure and governance. *The Plan has complied with this recommendation.*	14
	Enterprise Risk Management	
6.	It is recommended that EmblemHealth adopt and implement its ERM function in accordance with the provisions of Insurance Circular Letter No. 14 (2011), Section 1503(b) of the New York Insurance Law, and Part 82.2(a) of Insurance Regulation No. 203. *The Plan has complied with this recommendation.*	16
	Insurance Regulation No. 118 - Model Audit Rule	
7.	It is recommended that GHI comply with the requirements of Part 89.5(e)(2) of Insurance Regulation No. 118 by attaching the required statement to its filed audited financial statements. *The Plan has complied with this recommendation.*	21
8.	It is also recommended that GHI's Audit Committee comply with the requirements of Part 89.5(h) of Insurance Regulation No. 118 by pre-approving all non-audit services performed by its CPA and documenting such action in its meeting minutes. *The Plan has complied with this recommendation.*	21
9.	It is recommended that GHI comply with the requirements of Part 89.12(e) of Insurance Regulation No. 118 by notifying the Department within 30 days of any change in membership of its Audit Committee. Such notice shall include a description of the reason for the change. *The Plan has complied with this recommendation.*	22

ITEM NO.		PAGE NO.
	<u>Statutory Reserve</u>	
10.	It is recommended that GHI maintain the minimum statutory reserve required by Section 4310(d)(2) of the NYIL.	27
	The Plan has complied with this recommendation.	
	<u>Statutory Expense Limitation</u>	
11.	It is recommended that GHI adhere to the administrative expense limitation set forth in Section 4309 of the NYIL.	28
	The Plan has not complied with this recommendation. A similar recommendation is included in this report.	

9. SUMMARY OF COMMENTS AND RECOMMENDATIONS

ITEM		PAGE NO.
A.	Medical Loss Ratio Reporting	
i.	It is recommended that the Plan adopt and implement procedures to ensure that it properly reports experience from uninsured (self-funded) plans in an accurate manner in accordance with the MLR Annual Reporting Form Filing Instructions.	20
ii.	It is recommended that GHI should adopt and implement a comprehensive MLR records maintenance program under which it maintains all documentation and evidence necessary to verify compliance with each element included in the MLR Annual Reporting Form, as required by Title 45 CFR §158.502 - Maintenance of Records. The records maintenance program should include maintaining copies of all master policies evidencing enrollment, for a period of not less than six (6) years.	21
iii.	It is recommended that GHI should adopt and implement procedures to ensure that it properly reports incurred claims in accordance with Title 45 CFR §158.140, including ensuring that amounts paid to its PBM in excess of the cost of prescription drugs paid to pharmacies for the Plan's enrollees are not included as a part of incurred claims.	22
iv.	It is recommended that GHI should adopt and implement procedures to ensure that it properly reports incurred claims in accordance with the MLR Annual Reporting Form Filing Instructions, including ensuring that experience rating refunds are properly included in the calculation.	23
v.	It is recommended that GHI should adopt and implement procedures to ensure that it complies with Title 45 CFR §158.502 and Part 243.2 (b)(8) of Insurance Regulation No. 152 by maintaining sufficient quantitative analyses to adequately support the QIA allocation percentages used to allocate salary costs to QIA.	25
vi.	It is recommended that GHI should adopt and implement procedures to ensure that it properly reports direct premium written in accordance with the MLR Annual Reporting Form Filing Instructions, including ensuring that experience rating refunds are properly excluded in the calculation.	27

Respectfully submitted,

____

Wai Wong, CFE
Financial Services Manager 2

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

<u>Wai Wong</u>, being duly sworn deposes and says that the foregoing report submitted by her is true to the best of her knowledge and belief.

____

Wai Wong

Subscribed and sworn to before me
this _____ of _____________, 2023

APPOINTMENT NO. **31932**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, ***LINDA A. LACEWELL,*** *Acting 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:*

Wai Wong

as a proper person to examine the affairs of the

Group Health Incorporated

and to make a report to me in writing of the 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 12th day of April, 2019

LINDA A. LACEWELL
Acting Superintendent of Financial Services

By:

Lisette Johnson
Bureau Chief
Health Bureau