REPORT ON EXAMINATION
OF
PUPIL BENEFITS PLAN, INC.

AS OF DECEMBER 31, 2019

EXAMINER: **ASHOK GUPTA, CLU**

DATE OF REPORT: **October 1st, 2024**

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

October 1, 2024

Madam:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 32055, dated April 20, 2020, attached hereto, I have made an examination into the condition and affairs of Pupil Benefits Plan, Inc., a not-for-profit corporation licensed pursuant to the provisions of Article 43 of the New York Insurance Law, as of December 31, 2019, and respectfully submit the following report thereon.

The examination was conducted remotely due to the COVID-19 pandemic.

Wherever the designations the "Plan" or "PBP" appear herein, without qualification, they should be understood to indicate Pupil Benefits Plan, Inc.

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

1. SCOPE OF THE EXAMINATION

The previous examination of Pupil Benefits Plan, Inc. was conducted as of December 31, 2014. This examination of the Plan was a combined (financial and market conduct) examination and covered the five-year period January 1, 2015 through December 31, 2019. The financial component of the examination was conducted as a financial examination, as defined in the National Association of Insurance Commissioners ("NAIC") *Financial Condition Examiners Handbook, 2020 Edition* (the "Handbook"). The examination was conducted observing the guidelines and procedures in the Handbook and, where deemed appropriate by the examiner, transactions occurring subsequent to December 31, 2019, 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 utilizes that evaluation in formulating the nature and extent of the examination. The examiner planned and performed the examination to evaluate the Plan's current financial condition, as well as to identify prospective risks that may threaten the future solvency of the Plan.

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

Information concerning the Plan's organizational structure, business approach and control environment 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

For the calendar years 2015 to 2019, the Plan was audited by the accounting firm Teal, Becker & Chiaramonte, CPAs, P.C. ("TBC"). The Plan received an unmodified opinion in each of those years. Certain audit workpapers of TBC 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 concerning issues 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 departures from laws, regulations or rules, or which are deemed to require an explanation or description.

2. EXECUTIVE SUMMARY

The results of this examination revealed certain operational deficiencies during the examination period. The most significant findings of this examination include the Plan's failure to comply with the requirements of Section 4309(a)(2) of the New York Insurance Law relative to the limitation of expenses, the Plan's failure to maintain financial records for the time frames prescribed by Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)) and the Plan's failure to take steps to ensure compliance with Section 3224-a(b) of the New York Insurance Law, regarding denial of claims.

3. DESCRIPTION OF THE PLAN

Pupil Benefits Plan, Inc. is a not-for-profit medical expense indemnity corporation, organized pursuant to the New York Not-For-Profit Corporation Law and Section 4302(c) of the

New York Insurance Law, and commenced business on July 18, 1941. The Plan provides hospital, medical and dental benefits for accidental bodily injury sustained by elementary, middle and high school students while engaging in school sponsored activities. Benefits under the Plan's policies are secondary; therefore, all other primary insurance policies, except Medicaid, TRICARE, Child Health Care Plus and ERISA, must be exhausted before payments are to be made under the Plan. The Plan's maximum exposure per injury per student is $50,000.

The Plan was exempt from federal income tax under the provisions of Section 501(c)(4) of the Internal Revenue Code through June 30, 1987. Effective July 1, 1987, the Plan became subject to federal income tax in accordance with changes made to the Tax Reform Act of 1986. The Plan, as a non-profit corporation organized under Article 43 of the New York Insurance Law, is exempt from New York franchise tax under Article 33, Section 1512 of the New York Tax Law.

A. Corporate Governance

Pursuant to the Plan's charter and by-laws, management of the Plan is to be vested in a board of directors consisting of not less than twenty-four (24) members, who are elected annually at the Plan's annual meeting, which is held on the first Saturday after Labor Day in September. As of December 31, 2019, the directors of the Plan were as follows:

Name and Residence	Principal Business Affiliation
Provider Representatives	
Daniel DiChristina, MD Jamesville, NY	Orthopedic Surgeon, Ortho East Syracuse, PC

Frank Segretto, MD Oakdale, NY	Orthopedic Surgeon, Elite Sports Medicine
Nicholas Belasco, DO Sugar Loaf, NY	Private Practice, Bon Secours Community Hospital
<u>Subscriber Representatives</u> Brita Donovan Stillwater, NY	Superintendent, Galway Central School District
Carl Normandin Potsdam, NY	Executive Director, New York State Public High School Athletic Association – Section X
David Gleason Jordan, NY	Assistant Superintendent, Geneva City School District
Jeffrey Ziegler Queensbury, NY	Interim Superintendent, Duanesburg Central School District
Lisa Faille Roscoe, NY	Assistant Superintendent, Monticello Union Free School District
Michael Graney Ticonderoga, NY	Superintendent, Bolton Central School District
Mike McCarthy Saratoga Springs, NY	Superintendent, Mechanicville Central School District
Paul Jenkins Glens Falls, NY	Superintendent, Glens Falls Central School District
Ronald Clamser Hopewell Junction, NY	Assistant Superintendent, Dobbs Ferry Union Free School District
Scott Whittimore Ballston spa, NY	Business Manager Queensbury Central School District
Tom Combs Center Moriches, NY	Executive Director, New York State Public High School Athletic Association – Section XI

Public Representatives

Cliff A. Moses Morrisville, New York	Treasurer, Pupil Benefits Plan
Dale C. Schumacher Pittsford, New York	President, Pupil Benefits Plan
Edward Cinelli Bayport, NY	Retired
Edwin Devoe Branch Port, New York	Secretary, Pupil Benefits Plan
Glen Jones, P.A. Ballston Lake, New York	Physician's Assistant, Ellis Hospital
James Rose Patterson, NY	Director of Health, Physical Education/Athletics Yonkers City School District
John Wells Taberg, NY	Retired
Lyn Derway Hudson Falls, NY	Retired
Michael Kardash Mechanicville, NY	Retired
Stanley W. Maziejka Glens Falls, NY	Retired

The Plan's by-law requires the board to meet at least once a year. The minutes of all meetings of the board of directors and committees thereof held during the examination period were reviewed. All such meetings were well attended, with all board members attending at least one-half of the meetings for which they were eligible to attend.

The Plan's elected board of directors participate on a voluntary basis. The board is primarily comprised of high ranking current and retired school district officials. None of the Plan's directors receive compensation nor participate in the Plan's daily operations.

The principal officers of the Plan as of December 31, 2019, were as follows:

Name	Title
Dale C. Schumacher	President
Edwin Devoe	Secretary
Thomas D. McGuire	Executive Director
Cliff A. Moses	Treasurer

Section 4301(k)(2)(B) of the New York Insurance Law states, in part:

> "Not more than ten days after…, such corporation shall furnish, in writing, the following information to the superintendent: the name and address of…an employee-officer of such corporation; and a biographical statement concerning such person."

During the examination, it was noted that the Plan failed to file, with the Department, a biographical affidavit for one of directors Stanley W. Maziejka, as required by Section 4301(k)(2)(B) of the New York Insurance Law.

It is recommended that the Plan comply with Section 4301(k)(2)(B) of New York Insurance Law and file a biographical affidavit of all directors correctly and in a timely manner.

A similar recommendation was included in the prior report.

The Plan's daily operations are led by the Executive Director, who is assisted by the Marketing Manager. Both officers have been identified as key personnel for the ongoing operations of PBP; hence it would pose a great difficulty to the Plan, should either or both decide to leave Pupil Benefits Plan, Inc. Their level of responsibility for the Plan is at such a high level

that the loss of either officer poses a significant risk of interruption to the Plan's operations. As such, it is imperative that PBP develop a succession plan. At the time of the examination, PBP did not have a detailed activities-oriented and time-bound succession plan which would ensure smooth succession for the Executive Director and for the Marketing Director.

It is recommended that the Plan develop a formal succession plan for its primary officers. This plan should list job duties, including various activities, and their timely completion.

A similar recommendation was included in the prior report on examination.

B. Territory and Plan of Operation

The Plan is authorized to operate throughout New York State. All business is conducted from its home office in Glenville, New York. The Plan employs three (3) senior officers and six (6) full-time staff members.

Enrollment in the Plan is achieved by means of group contracts made with elementary, middle and high schools registered and approved by the Board of Regents of the State of New York. For the 2019/ 2020 school year, the Plan insured 362 schools and 678,027 students. The table below indicates the direct premiums written during the examination period.

Year	Premiums	No. of Students
2015	$10,247,311	793,892
2016	$8,945,637	684,246
2017	$8,729,455	673,588
2018	$8,308,507	622,455
2019	$8,430,300	678,027

C. Reinsurance

The Plan did not maintain any reinsurance arrangements during the period under examination.

D. Significant Operating 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	$27,488,226	60.85%
Claims adjustment expenses	$3,363,132	7.45%
General administrative expenses	$7,473,710	16.55%
Net underwriting gains	$6,845,510	15.15%
Premiums	$45,170,578	100.00%

As of December 31, 2019, the Plan's total adjusted capital was $7,904,840. This amount was above the Plan's authorized control level risk-based capital requirement of $469,658.

E. Internal Controls

The Plan does not have an Audit Committee. The Plan is not required to comply with Sarbanes Oxley, the NAIC Model Audit Rule, or Insurance Regulation No. 118 (11 NYCRR 89). The examiner noted that the Plan's documentation of its control procedures is limited, and in some respects, outdated. This limited the examiner's evaluation of control procedures to observance and interviews. It should be noted that at companies such as the Plan, where proper segregation of duties may not be feasible and/or cost prohibitive; the documentation of control processes enhances the awareness and highlights the boundaries of employees' and officers' responsibilities.

It is recommended that the Plan formalize and document its internal controls processes and procedures by key functions.

A similar recommendation was included in the prior report on examination.

It is further recommended that the Plan perform risk assessments, by key functions, and document mitigating strategies utilized by the Plan.

A similar recommendation was included in the prior report on examination.

F. Limitation of Expenses

Section 4309(a)(2) of the New York Insurance Law states in part:

> "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…twenty per centum reduced by one per centum for each five million dollars or fraction thereof above one million dollars of premiums received…"

In accordance with the provisions of Section 4309(a)(2) of the New York Insurance Law, the Plan's expenditures, other than benefit payments made to or on behalf of persons covered under contracts issued by the Plan, were limited to 18% of its premiums received during 2019.

The examination review revealed that the Plan's ratio of expenses paid to direct premiums written, for each of the five years under examination, was above the maximum ratio mandated by Section 4309(a)(2) of the New York Insurance Law, and is displayed as follows:

Year	Direct Written Premiums	Expenses	Expense Ratio	Maximum Expense Ratio per Section 4309(a)(2) of the NYIL
2015	$10,247,311	$2,113,279	20.6%	18%
2016	$8,945,637	$2.234,528	25.0%	18%
2017	$8,729,455	$2,222,221	25.5%	18%
2018	$8,308,507	$2,204,400	26.5%	18%
2019	$8,430,300	$2,290,403	27.2%	18%

It was also noted that PBP's expense ratio increased each year during the examination period.

It is recommended that the Plan comply with the requirement of Section 4309(a)(2) of the New York Insurance Law relative to the limitation of expenses.

A similar recommendation was included in the prior two reports on examination.

G. Record Retention

Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)) states:

> "(b) Except as otherwise required by law or regulation, an insurer shall maintain… (7) A financial record necessary to verify the financial condition of an insurer, including ledgers, journals, trial balances, annual and quarterly statement workpapers, evidence of asset ownership, and source documents, for **six calendar years** from its creation or until after the filing of the report on examination in which the record was subject to review, whichever is longer."

According to the Plan's record retention schedule included below the retention of the following financial records of the Plan do not comply with the time frames prescribed by Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)):

- Bank reconciliations: 3-year retention period.

- Duplicate deposit slips: 2-year retention period.
- Internal audit reports: 3-year retention period.
- Petty cash vouchers: 3-year retention period.

It is recommended that PBP retain its financial records for the time frames prescribed by Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)).

A similar recommendation was included in the prior report on examination.

4. FINANCIAL STATEMENTS

The following statements show the assets, liabilities and surplus as of December 31, 2019, as contained in the Plan's 2019 filed annual statement, a condensed summary of operations, and a reconciliation of the surplus account for each of the years under examination.

Independent Accountants:

The firm of Teal, Becker & Chiaramonte, CPAs, P.C. ("TBC") 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 flow for the years then ended.

TBC concluded that the statutory financial statements presented fairly, in all material respects, the financial position of the Plan at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years' annual statements with no discrepancies noted.

A. Balance Sheet

Assets

Bonds	$ 3,707,820
Common stocks	1,054,851
Real estate	206,200
Cash and short-term investments	11,310,349
Receivables for Securities	10,379
Investment income due and accrued	15,909
Uncollected premiums in course of collection	44,048
Current federal income tax recoverable and interest thereon	360,320
Health care and other amounts receivable	8,676
Total assets	$ 16,718,552

Liabilities

Claims unpaid	$ 3,290,000
Unpaid claims adjustment expenses	450,033
Premiums received in advance	4,212,547
General expenses due or accrued	861,135
Total liabilities	$ 8,813,715

Surplus

Aggregate write-ins for other than special surplus funds	$ 1,053,788
Unassigned funds	6,851,052
Total surplus	7,904,840
Total liabilities and surplus	$ 16,718,555

Note: The Internal Revenue Service has not conducted any audits of the federal income tax return filed on behalf of the Plan through tax year 2019. 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 $6,018,993 during the five-year examination period, January 1, 2015 through December 31, 2019, detailed as follows:

Revenue		
Premium	$ 44,661,210	
Change in unearned premium reserves	502,651	
Aggregate write-ins for other non-health revenues	6,717	
Total revenue		$ 45,170,578
Expenses		
Claims	$ 27,488,226	
Claims adjustment expenses	3,363,132	
General administrative expenses	7,473,710	
Total expenses		$ 38,325,068
Net underwriting gain		$ 6,845,510
Surplus		
Net investment income earned	$ 552,025	
Net realized capital gains	243,187	
Net investment gain		$ 795,212
Aggregate write-ins for other income		$ 161,847
Net income before federal income taxes		$ 7,802,569
Federal income taxes incurred		$ 1,801,717
Net income		$ 6,000,852

Changes in Surplus

Surplus, per report on examination, as of December 31, 2014			$ 1,885,848
	Gains in Surplus	Losses in Surplus	
Net income	$ 6,000,852		
Change in net unrealized capital gains	45,357		
Change in non-admitted assets		$ 27,216	
Net increase in surplus			$ 6,018,993
Surplus, per report on examination, as of December 31, 2019			$ 7,904,841

5. MARKET CONDUCT ACTIVITIES

During this examination, a review was made of the way the Plan conducts its business practices and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct examination. The review was directed at the practices of the Plan in the following major areas:

A. Agents and Brokers
B. Claims Handling
C. Complaint Log
D. Standards for Prompt, fair and Equitable Settlement of Claims for Health Care and Payment of Health Care Services ("Prompt Pay Law")

A. Agents and Brokers

Part 243.2(b)(5) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(5)), states in part:

> "(b) Except as otherwise required by law or regulation, an insurer shall maintain… (5) A licensing record for six calendar years after the relationship is terminated for each Insurance Law licensee with which the insurer establishes a relationship. Licensing records shall be maintained so as to show clearly the dates of appointment and termination of each licensee."

It was noted from a sample review of 25 agents and brokers that the Plan did not maintain a current copy of their licenses and renewal agreements in 10 cases; and failed to maintain the producer agreements executed between the two parties, thereby violating Insurance Regulation No. 152 (11 NYCRR 243.2(b)(5)).

It is recommended that PBP retain complete producer agreements with updated renewals to remain in compliance with Part 243.2(b)(5) of Insurance Regulation No.152.

A similar recommendation was included in the prior report on examination.

B. Claims Handling

New York's Prompt Pay Law ("PPL") Section 3224-a(a) of the New York Insurance Law states:

> "Except in a case where the obligation of 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 to pay a claim submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within **thirty days** of receipt of a claim or bill for services rendered that is transmitted via the internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile."

If coverage is not cancelled and the premium is not received by December 31st, the Plan's policy is to not pay claims for the insured and put any additional claims on hold until 30 days. New York's Prompt Pay Law ("PPL") Section 3224-a(a) of the New York Insurance Law requires claims to be paid or denied within a prescribed time frame. Putting claims on hold puts the Plan at risk for noncompliance with the PPL. The Plan should notify delinquent policyholders that their coverage will terminate due to nonpayment, per the terms of the contracts. The Plan should then process claims accordingly, instead of putting claims on hold.

It is recommended that the Plan cease its claims processing policy of putting claims on hold and that it complies with Section 3224-a(a) of the New York Insurance Law.

A similar recommendation was included in the prior report on examination.

C. Complaint Log

The Plan failed to maintain its complaint log fully in the manner prescribed by Insurance Circular Letter No. 11(1978), which states in part:

> "As part of its complaint handling function, the company's consumer services department will maintain an ongoing central log to register and monitor all complaint activity. The log should be kept in a columnar form and list the following:
>
> 1. The date the complaint was received in-house.
> 2. The name of the complainant and the policy or claim file number.
> 3. The New York State Department of Financial Services file number.
> 4. The responsible internal division i.e., personal lines underwriting, property damage claims, etc.
> 5. The person in the company with whom the complainant has been dealing.
> 6. The person within the company to whom the matter has been referred for review.
> 7. The date of such referral.
> 8. Bearing in mind the appropriate regulation mandating timely substantive replies, the dates of correspondence to the Department Consumer Services Bureau.
>   A. The acknowledgement (if any).
>   B. The date of any substantive response.
>   C. The chronology of further contacts with this Department.
> 9. The subject matter of the complaint.
> 10. The results of the complaint investigation and the action taken.
> 11. Remarks about internal remedial action taken as a result of the investigation."

Circular Letter No. 11(1978) requires the complaint log to be used as a tool to identify any problem areas within the company. Additionally, the complaint log is to be used as an internal control for monitoring activity on individual cases and focusing accountability during the pendency of complaint investigations to insure timely and complete responses to the Consumer Services Bureau.

It is recommended that PBP register and monitor all complaint activity, whether from the Department or directly from its subscribers.

It is further recommended that the Plan include all required elements prescribed by Insurance Circular Letter 11(1978).

A similar recommendation was included in the prior report on examination.

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

The Plan does not accept electronic claims, only paper claims. To determine the Plan's compliance with New York's Standards for Prompt, Fair and Equitable Settlement of Claims for Health Care and Payment of Health Care Services ("Prompt Pay Law") (Section 3224-a of the New York Insurance Law), a population consisting of all claims adjudicated between January 1, 2019 and December 31, 2019 that were not paid within the time frame prescribed by Section 3224-a(a) of the New York Insurance Law for paper claims, was identified and tested.

The result of this review revealed that from the total population of 45,522 claims adjudicated in 2019, there were 31,649 (paper) claims that took longer than forty-five (45) days to pay.

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

> "Except in a case where the obligation of an insurer…to pay a claim submitted by a policyholder or person covered under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer…shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for services rendered that is transmitted via the

> internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile."

In a universe of 45,522 paid paper claims, 31,649 claims were identified where the potential violation of exceeding 45 days might have occurred. The examination team extracted an ACL sample of 167 claims out of these 31,649 claims and reviewed 25 of these sampled claims with the Plan. Based on the documentation provided by PBP, it was determined that no violation of Section 3224-a(a) of the New York Insurance Law occurred.

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

> "(b) In a case where the obligation of an insurer…to pay a claim…is not reasonably clear… an insurer…shall pay any undisputed portion of the claim…and notify the policyholder, covered person or health care provider in writing within thirty calendar days of the receipt of the claim:
>
> (1) that it is not obligated to pay the claim or make the medical payment, stating the specific reasons why it is not liable; or
>
> (2) to request all additional information needed to determine liability to pay the claim or make the health care payment."

In a universe of 111,677 denied claims, 71,469 claims were identified where potential violation of exceeding 30 days might have occurred. The exam team extracted an ACL sample of 167 claims out of these 71,469 claims and reviewed 50 of these sampled claims. Based on the documentation provided by PBP, it was determined that there were 6 violations of Section 3224-a(b) of the New York Insurance Law that occurred.

It is recommended that PBP take step to ensure compliance with Section 3224-a(b) of New York Insurance Law regarding the denial of its claims.

A similar recommendation was included in the prior report on examination.

6. SUBSEQUENT EVENTS

On March 11, 2020, the World Health Organization declared the spreading coronavirus (COVID- 19) outbreak a pandemic. On March 13, 2020, the coronavirus pandemic was declared a national emergency in the United States. The epidemiological threat posed by COVID-19 continues to have 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 New York State Department of Financial Services expects 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 New York State Department of Financial Services and all insurance regulators, with the assistance of the National Association of Insurance Commissioners (NAIC), continue to monitor the situation through a coordinated effort and will continue to assess the impacts of the pandemic on U.S. insurers.

To ensure compliance with Insurance Regulation No. 62 (11NYCRR 52.45 (f)), i.e., Minimum Loss Ratio ("MLR"), the Department reviewed Pupil Benefits Plan Inc.'s claims experience for previous ten years. It was determined that PBP did not comply with the MLR in 2019-20 and 2020-21. Hence the Department directed PBP to pay back an amount of $1,256,377

for the year 2019-20 and an amount of $3,144,628 for the year 2020-21 to all those schools who had purchased coverage in the respective premium years.

Additionally, the Department notified and directed PBP that it must update and submit its rates and forms to comply with New York Insurance Law Sections 4308(b), 4237(a)(3)(C), 3221, and Section 52.40 of Insurance Regulation 62 (Part 11 NYCRR 52.40). PBP was informed that continued use of outdated and noncompliant rates and forms is a violation of New York Insurance Law, and it will subject PBP to disciplinary action. PBP is in the process of updating and submitting its rates.

7. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination, as of December 31, 2014, contained the following 22 comments and recommendations (page number refers to the prior report on examination):

ITEM NO.		PAGE NO.
	Corporate Governance	
1.	It is recommended that the Plan report in its New York supplement only those board members who are actually on the board of directors as of the filing date of the New York supplement. *The Plan has complied with this recommendation.*	7
2.	It is recommended that the Plan file with the Department a biographical affidavit for the Treasurer and Executive Director, as required by Section 4301(k)(2)(B) of the New York Insurance Law. *The Plan has not fully complied with this recommendation. A similar recommendation is included within this report on examination.*	8
3.	It is recommended that the Plan develop a formal succession plan for its primary officers, subject to the approval of the board of directors. *The Plan has not complied with this recommendation in totality. PBP still lacks time-bound and detailed activities-oriented succession plan for its Executive Director and its Marketing Director. A similar recommendation is included within this report on examination.*	8
4.	It is recommended that PBP comply with Section 4301(j)(4)(M) of the New York Insurance Law by establishing a conflict-of-interest questionnaire for its board and executive members to complete and a formal written policy to provide guidance on conflicts of interest, and ethics. *The Plan has complied with this recommendation.*	8

ITEM NO. **PAGE NO.**

Internal Controls

5. It is recommended that the Plan formalize and document its internal controls process and procedures by key functions. 10

   The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

6. It is further recommended that the Plan perform risk assessments, by key functions, and document mitigating strategies utilized by the Plan. 11

   The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

Limitation of Expenses

7. It is recommended that the Plan comply with the requirement of Section 4309(a)(2) of the New York Insurance Law relative to the limitation of expenses. 11

   The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

Disaster Response Plan

8. It is recommended that the Plan devise a Disaster Response Plan in accordance with Insurance Circular Letter No. 4 (2015). 12

   The Plan has not complied with this recommendation.

9. It is also recommended that the Plan timely file with the Department its amended Disaster Response Plan and the Department's Disaster Response Plan Questionnaire and Business Continuity Plan Questionnaire, in accordance with Insurance Circular Letter No. 4 (2015). 12

   The Plan has not complied with this recommendation.

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Record Retention

10. It is recommended that PBP retain its financial records for the time frames prescribed by Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)). 13

The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

Advertisements

11. It is recommended that PBP note for each advertisement in its file, the manner and extent of distribution and, where applicable, the form number of any policy advertised, as required by Part 215.17(a) of Insurance Regulation 34 (11 NYCRR 215.17(a)). 19

The Plan has complied with this recommendation.

Agents and Brokers

12. It is recommended that PBP comply with Part 243.2(b)(5) of Insurance Regulation 152 (11 NYCRR 243.2(b)(5)) by maintaining a current copy of its agents and brokers' license and executed renewal agreements. 19

The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

Cancellation Policy

13. It is recommended that PBP amend its cancellation policy to provide for the return of unearned premiums in the event a policy contract is terminated, as required by Section 4304(c)(4) of the New York Insurance Law. 19

The Plan has complied with this recommendation.

Claim Forms

14. It is recommended that PBP comply with Part 86.4(a) of Insurance Regulation 95 (11 NYCRR 86.4(a)) by including the complete fraud warning statement in its claim forms. 20

The Plan has complied with this recommendation.

ITEM NO. **PAGE NO.**

15. It is also recommended that PBP comply with Part 86.4(d) of Insurance Regulation 95 (11 NYCRR 86.4(d)) by changing the type size of the fraud warning statement to a conspicuous size. 20

The Plan has complied with this recommendation.

Claims Handling

16. It is recommended that PBP cease its claims processing policy of putting claims on hold and that it comply with Section 3224-a of the New York Insurance Law. 21

The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

Complaint Handling

17. It is recommended that PBP reply to the Department within 15 business days, as required by Part 216.4(b) of Insurance Regulation 64 (11 NYCRR 216.4(b) 21

The Plan has complied with this recommendation.

Complaint Log

18. It is recommended that PBP include all required elements prescribed by Insurance Circular Letter 11 (1978). 22

The Plan has partly complied with this recommendation. A similar recommendation is included within this report on examination.

Member's Handbook

19. It is recommended that PBP update its members' handbook with the Department's current name and the telephone number and address of the Department's Consumer Assistance Unit. 23

The Plan has not complied with this recommendation.

ITEM NO. **PAGE NO.**

Privacy

20. It is recommended that PBP maintain a formal privacy policy, in written or electronic form, which describes the policy and procedures on handling of personal health information. 23

The Plan has complied with this recommendation.

21. It is recommended that PBP comply with Part 420.17(a) of Insurance Regulation 169 (11 NYCRR 420.17(a)) by obtaining authorization from the student or guardian before disclosing the student's nonpublic personal health information. 24

Prompt Pay Law

22. It is recommended that PBP take step to ensure compliance with Section 3224-a(b) of New York Insurance Law regarding the denial of its claims. 26

The Plan has not complied with this recommendation. A similar recommendation is included within this report on examination.

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

ITEM NO.		PAGE NO.
A.	Corporate Governance	
i.	It is recommended that the Plan comply with Section 4301(k)(2)(B) of New York Insurance Law and file a biographical affidavit of all directors correctly and in a timely manner. A similar recommendation was included in the prior report on examination.	8
ii.	It is recommended that the Plan develop a formal succession plan for its primary officers. This plan should list job duties, including various activities, and their timely completion. A similar recommendation was included in the prior report on examination.	9
B.	Internal Controls	
i.	It is recommended that the Plan formalize and document its internal controls processes and procedures by key functions. A similar recommendation was included in the prior report on examination.	11
ii.	It is further recommended that the Plan perform risk assessments, by key functions, and document mitigating strategies utilized by the Plan. A similar recommendation was included in the prior report on examination.	11
C.	Limitation of Expenses	
	It is recommended that the Plan comply with the requirement of Section 4309(a)(2) of the New York Insurance Law relative to the limitation of expenses. A similar recommendation was included in the prior report on examination.	12
D.	Record Retention	
	It is recommended that PBP retain its financial records for the time frames prescribed by Part 243.2(b)(7) of Insurance Regulation No. 152 (11 NYCRR 243.2(b)(7)). A similar recommendation was included in the prior report on examination.	13

ITEM NO.		PAGE NO.
E.	Agents and Brokers	
	It is recommended that PBP retain complete producer agreements with updated renewals to remain in compliance with Part 243.2(b)(5) of Insurance Regulation No.152. A similar recommendation was included in the prior report on examination.	18
F.	Claims Handling	
	It is recommended that the Plan cease its claims processing policy of putting claims on hold and that it complies with Section 3224-a(a) of the New York Insurance Law. A similar recommendation was included in the prior report on examination.	19
G.	Complaint Log	
i.	It is recommended that PBP register and monitor all complaint activity, whether from the Department or from subscribers. A similar recommendation was included in the prior report on examination.	21
ii.	It is further recommended that the Plan include all required elements prescribed by Insurance Circular Letter 11 (1978). A similar recommendation was included in the prior report on examination.	21
H.	Standards for Prompt, Fair and Equitable Settlement of Claims for Health Care and Payment of Health Care Services ("Prompt Pay Law")	
	It is recommended that PBP take step to ensure compliance with Section 3224-a(b) of New York Insurance Law regarding the denial of its claims. A similar recommendation was included in the prior report on examination.	22

Respectfully submitted,

_____
Ashok Gupta, CLU
Financial Services Examiner 2

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

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

_____
Ashok Gupta, CLU

Subscribed and sworn to before me
this _____ day of _____

APPOINTMENT NO. **32055**

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

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

Ashok Gupta

as a proper person to examine the affairs of the

Pupil Benefits Plan, Inc.

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 24th day of April,2020

LINDA A. LACEWELL
Superintendent of Financial Services

By: Alice W. McKenney

Alice McKenney
Deputy Bureau Chief
Health Bureau