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Make The Road New York ☿ Metro New York Health Care for All Campaign
New Yorkers for Accessible Health Coverage ☿ New York Immigration Coalition
Public Policy and Education Fund of New York/Citizen Action of New York ☿ Raising Women's Voices ☿
Schuyler Center for Analysis and Advocacy

August 27, 2012

Benjamin M. Lawsky
Superintendent of Financial Services
One State Street
New York, NY 10004

Mr. Charles Lovejoy
Health Bureau
New York State Insurance Department
25 Beaver Street
New York, NY 10004

RECEIVED

AUG 28 2012

HEALTH BUREAU
N.Y.C. OFFICE

Re: Requested Rate Changes – HealthNow New York Incorporated

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York (“HCFANY”) respectfully objects to the proposed rate increases of up to 29.7 percent posted for 2013 for the insurance products included in the HealthNow New York Incorporated (“HealthNow”) Rate Application currently pending before the New York State Department of Financial Services (the “Department”).¹

HCFANY is a coalition of more than 130 consumer and small business health advocacy organizations dedicated to achieving affordable, comprehensive, and high-quality health care for all New York residents. HCFANY joins the objections of the HealthNow plan members who have filed comments on the proposed increases to the Department’s website. Small businesses owners in particular have raised their voices to object to the HealthNow rate increases:

¹ This rate increase application was submitted on or about July 18, 2012, SERFF file number: HLTH-128574301 (hereafter “Rate Application”).

Health Care For All New York
c/o Elisabeth Ryden Benjamin, Community Service Society of New York
105 E. 22nd Street, New York, New York 10010
(212) 614-5461



“If these rate increases are approved, it would further push an unnecessary weight onto the shoulders of small businesses, forcing many of us to drop coverage for our employees.”²

“If granted permission by your department, we will not be able to continue with this health insurance plan . . . Perhaps, we will have to revise our employee's benefit level. It will certainly deter or even prohibit us from hiring any new staff.”³

These stories, and the others posted on the Department's website, amply illustrate the human toll any rate increase would take.

Before turning to our concerns about these specific rate applications, HCFANY first would like to commend the Department on its effort to restore the process to approve health insurance rate increases prior to their adoption for New York's individual and small group markets. HCFANY believes that a robust prior approval process is a vital protection against staggering health insurance rate increases—which routinely outpace inflation and wage growth in New York—endured by the individuals, sole proprietors, small businesses and their employees whose interests we seek to represent. We are particularly gratified by the Department's most recent efforts to increase transparency and public disclosure in the rate filing process. As evidenced by our comments below, the posting of actuarial memoranda and other carrier materials affords New York's individuals and small businesses an enhanced understanding of the basis for the proposed rate increase in question and improves our capacity to provide meaningful commentary upon them.

HCFANY's Objection to HealthNow's Proposed Rate Increases

HCFANY objects to HealthNow's Rate Applications based upon its review of information available from the National Association of Insurance Commissioners (“NAIC”) and the additional actuarial memoranda and supporting documentation posted on the Department's website. Based on the data reviewed, HCFANY urges the Department to reject or reduce substantially HealthNow's proposed rate increases.

As described in greater detail below, HCFANY urges the Department to reject HealthNow's proposed rate increase based on two grounds. First, the HealthNow Rate Application is full of inconsistencies, omissions, and contradictions, which calls into question the validity of requested

² Anonymous Comment from Department website, “August 2, 2012 – Letters,” available at https://myportal.dfs.ny.gov/c/document_library/get_file?uuid=c511ef4b-f34e-472b-84ce-c5e29fb7b2b6&groupId=538523.

³ Anonymous Comment from Department website, “August 12, 2012 – Letters,” available at https://myportal.dfs.ny.gov/c/document_library/get_file?uuid=fce2187e-1f44-4a4c-80cd-32747adbbf2d&groupId=538523.



rates. Second, the requested rate increases for HealthNow's Healthy NY and Direct Pay products are unwarranted by the medical trends the increases are based upon. The remainder of this letter addresses these concerns in turn.

I. Inconsistencies, Omissions, and Contradictions within the HealthNow Rate Application

The HealthNow Rate Applications and actuarial memoranda contain inconsistencies that make it nearly impossible to accurately evaluate the validity of its rate request. A typical Rate Application with the Department follows a standardized format and must contain: a Narrative, an Actuarial Memorandum, and standard Exhibits 1-7. HealthNow has supplemented its filing with documents it titles Exhibits A-F. HCFANY's review of HealthNow's Narrative, Actuarial Memorandum, Exhibits 2 and 7, and Exhibit As (there are four) and Exhibit B has uncovered internal inconsistencies, omissions and contradictions, which are described in further detail below.

Inconsistencies

The HealthNow Rate Application is inconsistent in three ways: (1) the method of grouping products is inconsistent throughout the Rate Application; (2) medical trend data is reported inconsistently throughout the Rate Application; and (3) overall rates are reported inconsistently. These inconsistencies are addressed in turn.

First, HealthNow has submitted one filing for all products, but then proceeds to inconsistently group the products in the Rate Application. The Department's website lists three separate applications – Large Group, Small Group, and Healthy NY/Direct Pay – all with identical Rate Applications. All three applications use the same Actuarial Memorandum, which lists three "rating pools" – Western NY – Buffalo Region, Northeastern NY – Albany Region, and Individual. By contrast, Exhibit 7 (which describes important historical claim data) uses entirely different regional product groupings – Buffalo, Albany, and Central NY. The use of discordant product categories obfuscates the review process and potentially signals poor data analysis throughout the Rate Application.

Second, the trend information presented in HealthNow's Rate Application also appears to be inconsistent. Typically, carriers report projected medical trend data for 2012-2013 in Exhibit 2. But HealthNow reports its trend data for 2010 and 2011 on Exhibit 2, rendering its disclosures inconsistent with the rate applications posted by other insurers seeking rate increases. Elsewhere, in Exhibit B, HealthNow reports trend data for 2012 and 2013, but only for selected regions (Albany and Buffalo), further obscuring its filings. Finally, many of the trend figures HealthNow does report in B do not match the trend data listed in the multiple Exhibit As discussed below.



Third, HealthNow's Rate Application contains inconsistent Rate requests. Most carriers file Rate Narratives which clearly describe rate requests being sought in the entire Rate Application. Along with these Rate Narratives, carriers are supposed to file an Actuarial Memorandum, which outlines the methodology used by a carrier's actuary to support the requested rates. These documents should be consistent with one another. However, in the case of HealthNow, their Rate Narrative and Actuarial Memorandum are inconsistent and refer to discordant products. In addition, HealthNow has filed multiple supplemental "Exhibit As" to its Rate Application. HCFANY's review of HealthNow's Rate Narrative and Exhibits reveal that the requested rates often failed to match the regions or product types in question.⁴ HealthNow's Rate Application presents myriad inconsistencies which are confusing to the public, potentially confounding to regulators, and may indicate systemic deficiencies in the actuarial methodology for calculating rate requests in this application.

Omissions

HealthNow's application fails to include historical information that is important for the Department to review when making a determination on a rate increase request. Historical data is typically listed in Exhibit 7 of the Rate Application. HealthNow's Exhibit 7 lists approximately 180 historic claim fields that lack data. For example, the Total HMO Direct Pay – Albany product segment does not contain information on claim adjustments. This is particularly concerning since direct pay products are subject to claim adjustments and the exclusion of this data does not allow for a valid analysis of this product segment. HealthNow's failure to include data in approximately 180 fields precludes the Department from making a sound evaluation of the historic medical trend numbers for the Albany and Central NY regions. HCFANY urges the Department to require HealthNow to submit a corrected Exhibit 7 and reject any rate increases for the HealthNow products with missing data fields.

Contradictions

HCFANY is also concerned because HealthNow's Rate Application presents contradictory rates for products that cover nearly 100,000 New Yorkers. As described in the Table below, these

⁴ The Exhibit As describe data for multiple regions and products. For example, while the Narrative and the Exhibit As describe rates for Albany Large Group and Small Group products, HealthNow fails to list its requests for Central New York Large Group and Small Group in the Exhibit As (despite identifying these in its Narrative). Similarly, rate increase requests often do not correspond between the Narrative and Exhibit 7 of the Rate Application. For example, the Narrative lists Direct Pay HMO/POS under CNY East and Exhibit 7 lists HMO Direct Pay and its Albany products with the same rate change amount. Finally, even where the products correspond in HealthNow's submissions, it lists different rates (e.g. while it lists an 8.2 percent increase for Albany Direct Pay in its Narrative; it lists a 2.9 percent decrease for the Albany Direct Pay group on Exhibit A and Exhibit 7).



contradictory rates affect consumers in the Small Group and Large Group products in the Albany and Buffalo regions:

Product	Exhibit A	Exhibit 7	Lives
Buffalo			
Aqua/POS/HDHP	15.8%	11.2%	45,547
Buffalo PPO	23.3%	19.5%	179
Buffalo Traditional LG	12.0%	9.4%	429
Buffalo Traditional SG	-1.6%	-1.1%	1,397
Buffalo HMO 100 LG	16.0%	11.8%	3,482
Buffalo HMO 100 SG	9.8%	9.9%	6,760
Buffalo HMO 200 LG	4.0%	0.7%	9,519
Buffalo HMO 200 SG	6.0%	6.7%	1,653
Albany			
Aqua/POS/HDHP	12.0%	9.9%	8,270
Albany EPO	20.4%	19.5%	10,895
Albany PPO	4.1%	3.0%	649
Albany Traditional LG	29.7%	6.0%	10
Albany Traditional SG	4.3%	6.0%	180
Albany HMO 100 SG	15.3%	19.5%	1,886
Albany HMO 200 LG	10.2%	7.0%	1,199
Albany HMO 200 SG	15.2%	19.5%	411

In summary, HCFANY believes that the inconsistencies, omissions and contradictions presented in the HealthNow Rate Application are so rampant that the entire application should be rejected. HealthNow should be provided an opportunity to submit an entirely new application, with ample notice to its consumers to provide comment on a coherent application. In any event, we urge that all proposed increases should be rejected at this time.

II. *HealthNow Healthy NY and Direct Pay Products*

In the event that the Department does not require HealthNow to resubmit its application or correct the deficiencies described in the Section I of this letter, HCFANY urges the Department to pay special attention to HealthNow's proposed rate increases for its HealthyNY and Direct Pay products.



The HealthNow Rate Application seeks increases in its Healthy NY and Direct Pay products that are triple their trend data and national trend data.⁵ The medical trend assumptions for these two products are as follows:

Healthy NY Medical Trend Assumptions

	Buffalo	Albany	CNY
2012	8.1%	6.9%	8.1%
2013	7.5%	6.9%	7.5%

Direct Pay Trend Assumptions

	Buffalo Traditional	Buffalo HMO	Albany HMO
2012	8.1%	8.1%	6.9%
2013	7.5%	7.5%	6.9%

But HealthNow seeks a rate increase that triples these relatively modest trend descriptions, without explanation. For example, HealthNow seeks a 19.4 percent increase for the HealthyNY product in Albany, but lists a trend of only 6.9 percent in the Rate Application. No explanation for this discrepancy is offered. Similarly, for its Direct Pay product in Buffalo, HealthNow seeks a 19.5 percent rate increase, but its Rate Application lists an 8.1 percent trend for 2012 and estimates an even *lower* trend of 7.5 percent in 2013. Again, no explanation is provided for the increase that appears to be inconsistent with the trend data. Accordingly, HCFANY urges the Department to pay particular attention to the Rate increases for the HealthyNY and Direct Pay products, where New York's consumers are in a comparatively weaker bargaining position than their counterparts in group products.

Conclusion

⁵ The historical data for these two products in the HealthNow Rate Applications roughly corresponds with multiple studies that indicate that medical trend has held steadily under 10 percent nationally for multiple years. PriceWaterhouse Coopers LLP recently issued its annual Behind the Numbers report—based on interviews with insurance carriers—estimating a medical trend of no more than 7.5 percent for 2013. The report concludes that since 2009 “[h]ealthcare spending growth in the United States has slowed considerably.” (PwC Health Research Institute, “Medical Cost Trend: Behind the Numbers 2013,” 2013 at 2.) And, in its own estimation the Behind the Numbers report has consistently been a conservative predictor of medical trend. In 2010, 2011, and 2012 their initial predicted trend rates were actually greater than their subsequently adjusted estimates. (*Id.* at 5). Data analyses performed by Sibson Consulting and Milliman are consistent with the Behind the Numbers report. Sibson found and projected declines in medical trend rates from 2010 to 2012. (Sibson Consulting, “2012 Segal Health Plan Cost Trend Survey,” 2011.) The 2012 medical index from Milliman shows a cost increase of 6.9 percent between 2011 and 2012, the second straight year that their estimated rate of increase has gone down. (Milliman, “2012 Milliman Medical Index,” May 2012).



HCFANY's review of the HealthNow Rate Application finds that there is inadequate evidence supporting proposed rate increases up to 29.7 percent. HCFANY urges the Department to require HealthNow to resubmit its application in its entirety. In the event it chooses to evaluate the Application as is, we urge the Department to subject it to its highest and most vigorous level of scrutiny. Because of the rampant inconsistencies, omissions and contradictions included in this Rate Application, HCFANY urges the Department to reject HealthNow's proposed rate increases in their entirety.

Very truly yours,

Elisabeth R. Benjamin, MSPH, JD
Health Care For All New York

cc: Troy Oechsner
John Powell