American Cancer Society ☙ Children's Defense Fund/New York ☙ Community Service Society of New York ☙
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 16, 2012

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

RECEIVED
AUG 20 2012
HEALTH BUREAU
N.Y.C. OFFICE

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

Re: **Requested Rate Changes – Oxford Health Insurance, Inc.**
Oxford Health Plans (NY)
United Healthcare Insurance Company of NY

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York ("HCFANY") respectfully objects to the proposed rate increases of up to 38.8 percent posted for Q1 2013 – Q4 2013 for the following insurance products:

- Oxford Health Insurance, Inc. (Individual Grandfathered POS OON);
- Oxford Health Plans (NY) (Individual Grandfathered POS IN, Individual POS, Individual HMO);
- United Healthcare Insurance Company of NY (Individual Healthy NY)

(together "Oxford/United") currently pending before the New York State Department of Financial Services.[1]

[1] These rate increase applications correspond respectively to applications submitted on July 17, 2012, SERFF file numbers: XFRD-128554162, XFRD-128554047, XFRD-128554053, XFRD-128554062, UHLC-128521313 (hereafter "Rate Applications").

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 Oxford/United plan members who have filed comments on the proposed increases to the Department's website. Their personal stories amply document the human toll any 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, small group, and community-rated large 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 sole proprietors, small businesses and their employees, whose interests we 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 Yorkers an enhanced understanding of the basis for the proposed rate increase in question and improves our capacity to provide meaningful commentary on them.

HCFANY's Objection to Oxford/United's Proposed Rate Increase

HCFANY objects to Oxford/United'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 significantly adjust Oxford/United's proposed rate changes.

As described in greater detail below, there are five grounds for HCFANY's objection. First, the assumed medical trends upon which Oxford/United based it requested rate changes do not appear to be supported by recently experienced trends or by studies of projected medical trends. Second, the proposed increase of 38.8 percent for the Individual Healthy NY product is based on widely fluctuating data, from which trends cannot be accurately predicted. Third, the proposed rate decrease of 6 percent for the Individual Grandfathered POS product inadequately addresses the extremely low Medical Loss Ratio from the previous period for this product. Fourth, the proposed increases include disproportionate burdens on individual products. Finally, the financial status of the Oxford/United family of companies – as evidenced by their reported Total Capital and Surplus and their distribution of dividends to stockholders – indicates that raising premium rates may not be necessary.

I. Oxford/United's Medical Trend Assumptions Appear to Be Unsupported

HCFANY urges the Department to reject Oxford/United's proposed rate changes because its projected medical trends are inconsistent with independent analyses of national medical trend data and with Oxford/United's own recent medical trend experience. Oxford/United utilizes almost exactly the same assumed medical trends for each of the products at issue: 15.13 percent for 2012 and between 12.30 percent and 12.50 percent for 2013. However, instead of presenting clear historical data and outlining the method of calculation used to achieve these figures, the Rate Applications simply state that the factor is comprised of unit cost, utilization, and deductible leveraging.[2]

A close examination of the historical data contained in the Oxford/United Rate Applications indicates that the medical trend for all but one of the reviewed products was lower in 2011 than in 2010.[3] However, for these products Oxford/United assumes—without explanation—a higher trend in 2012 than was experienced in 2011. For example, the Individual POS product experienced a -3.34 percent trend in 2011, but Oxford still projects a trend of 15.13 percent for 2012. HCFANY urges the Department to investigate all of Oxford/United's projections which assert that their medical trend will increase in the next year when it has decreased from the previous year.

Oxford/United's decreasing experienced trends are consistent with multiple studies that indicate that the tapering of medical trend is a national phenomenon. PriceWaterhouse Coopers LLP recently issued its annual Behind the Numbers report—based on interviews with insurance carriers—estimating a medical trend 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."[4] 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 predicted trend rates were actually greater than their subsequently revised estimates.[5] Data analyses performed by Sibson Consulting and Milliman are consistent with the Behind the Numbers report. Sibson found declines in medical trend rates from 2010 to 2012.[6] 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.[7]

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[2] Rate Applications, supra note 1 (Actuarial Memorandum).

[3] "Oxford/United Individual Plans Per Member Per Month (PM/PM) Claim Trend Data 2012." [Enclosed]. Taken from Rate Applications, supra note 1 (Exhibit 7: Historical Data by Each Policy Form Included in Rate Adjustment Filing.)
The trend for the United Healthcare Individual Healthy NY product is the only one that increased in the prior two years.

[4] PwC Health Research Institute, "Medical Cost Trend: Behind the Numbers 2013," 2013 at 2.

[5] *Id.* at 5.

[6] Sibson Consulting, "2012 Segal Health Plan Cost Trend Survey." 2011.

[7] Milliman, "2012 Milliman Medical Index," May 2012.

Oxford/United's expectations of increased medical trend run contrary to the prediction of these respected national experts.

Despite Oxford/United's own experience indicating that its medical trend rates are decreasing, as well as national studies indicating that medical trends are decreasing, Oxford/United still projects a trend of 15.3 percent for 2012, which is higher than all but one of the reviewed products' experienced trends in 2011. Pursuant to our review of the application, Oxford/United provides neither evidence nor a rationale for its apparently inflated trend projections relative to independent actuarial data and its own recent experience. Therefore, HCFANY asks that the Department closely scrutinize Oxford/United's trend projections prior to the approval of any proposed rate increases.

II. *Oxford/United Proposes a Very Large Rate Increase for the Individual Healthy NY Product*

The requested rate increase of 38.80 percent for the Individual Healthy NY product is very large, and accordingly warrants special scrutiny by the Department. Though the most recent experience year shows a trend of 52.56 percent, this follows a year of substantial ***negative*** trend experience (-20.74 percent), as indicated by the chart below:

UHLC-128521313 - Individual Healthy NY					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	38.80%
				Assumed Trend Data	
1/1/2011	12/31/2011	$299.05	52.56%		
1/1/2010	12/31/2010	$196.02	-20.74%	15.13%	2012
1/1/2009	12/31/2009	$247.30		12.30%	2013

These numbers themselves are so inconsistent as to raise further questions. What factors lead to these dramatic fluctuations from negative 20 percent to a positive 52 percent within a single two year window of time? Is it realistic to expect these factors to continue to affect medical spending in this product? Because the requested increase is so large and the underlying data is so unstable, HCFANY asks that the Department give it particular attention.

III. *The Individual Grandfathered POS Product Warrants a Greater Rate Decrease*

Oxford/United's proposed rate ***decrease*** of 6 percent for its Individual Grandfathered POS product is insufficient in light of the product's last reported Medical Loss Ratio (MLR) of 74.1 percent. This is substantially below the MLR required by law and indicates that rebates will likely ensue. As with its other products, Oxford/United justifies its new rate based on medical trend assumptions of 15.13 percent for 2012 and 12.50 percent for 2013. But last year this product experienced a negative medical trend of -3.34 percent, as indicated by the chart below. This is not surprising, as the few consumers who remain in this product are likely far healthier than the market as a whole; the policy lacks a drug benefit and consumers with significant health concerns are unlikely to remain insured by it. This product's extremely low MLR is evidence that Oxford/United has based past rates on inflated medical trend assumptions. Therefore, a rate decrease of greater than 6 percent may be necessary in order to target a loss ratio within the permissible range.

XFRD-128554047 - Individual Grandfathered POS IN					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	-6.00%
				Assumed Trend Data	
1/1/2011	12/31/2011	$452.27	-3.34%		
1/1/2010	12/31/2010	$467.92	28.10%	15.13%	2012
1/1/2009	12/31/2009	$365.29		12.50%	2013
XFRD-128554162 - Individual Grandfathered POS OON					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	-6.00%
				Assumed Trend Data	
1/1/2011	12/31/2011	$452.27	-3.34%		
1/1/2010	12/31/2010	$467.92	28.10%	15.13%	2012
1/1/2009	12/31/2009	$365.29		12.50%	2013

HCFANY asks that the Department apply special scrutiny to the proposed rate change for this product.

IV. *The Rate Increase for the Standardized Individual HMO and POS Products Rests on Several Suspect Elements*

The Application for an increase in excess of 13 percent in the individual HMO and POS products has several significant components of concern.

First, Oxford/United attributes 7.4 percent of the 13.2 percent increase in medical expenses to insufficient reimbursement from the direct pay stop loss pools. But Oxford/United notes elsewhere in its application that enrollment decreases in the direct pay products have in fact led to increases in the amounts available per subscriber from the stop loss pools. Underfunding of the stop loss pools is a serious problem, as HCFANY has argued for years. It is unclear, though, why that underfunding should have such a particularly large effect on premiums this year given the mitigating factor of decreased enrollment.

Second, Oxford/United attributes 1.1 percent of the increase to "deductible leveraging." Oxford/United's claim is that, because deductibles remain the same, the impact of rising medical costs is not distributed between the member and the plan, but rather is shouldered entirely by the plan. However, it seems that some of this burden might fall on the member, since increasing medical costs are realized by members until they meet the deductible, and by the plan only after the member meets the deductible. It is therefore very difficult to determine from the submitted information whether Oxford/United's claims about deductible leveraging are accurate.

Third, the biggest portion of Oxford/United's premium increase – amounting to more than $100 per member per month - is attributable to increasing the "underwriting gain." If this rate increase were approved, the amount realized by Oxford/United after paying medical and administrative expenses would increase from 1.3 percent of premiums in 2012 to 7.8 percent of premiums in 2013. Over half the proposed premium increase, therefore, is devoted to increased corporate profits.

Underwriting gains in the direct pay market would under Oxford/United's proposal be higher as a proportion of premiums than those Oxford has proposed and received approval for in its small group plans. Since direct pay premiums are themselves higher than any group premiums to begin with, approval of these rates would confirm the direct pay products, the most vulnerable and troubled market segment in New York's health insurance industry, as the center of greatest profits for Oxford/United. As has been repeatedly documented in the United Hospital Fund's "The Big Picture" reports, this perverse practice of reaping the highest profits from the market segment least able to bear it is pervasive across the industry, and the Department of Financial Services should not, through its rate approvals, perpetuate this discrimination.[8]

V. *Oxford/United's Financial Status Does Not Appear to Warrant Rate Increases*

According to NAIC filings, the three Oxford/United companies under review have combined Total Capital and Surplus in excess of $2.2 billion.[9] Even taking into consideration the size of these companies and the number of members they cover, $2.2 billion is a large measure of corporate comfort. Given that Oxford/United has these funds at its disposal, it appears that its financial stability does not depend on increasing rates. Additionally, all three companies have distributed substantial dividends to stockholders in recent years. Oxford Health Plans distributed $105 million dividends to stockholders in 2011. United Healthcare Insurance Company of NY distributed $40 million dividends to stockholders in 2010. Oxford Health Insurance, Inc. distributed $20 million dividends to stockholders in 2011. Furthermore, United HealthGroup, the reviewed companies' parent company, recently released their quarterly earnings, reporting a year-over-year increase of 9 percent.[10]

[8] United Hospital Fund, "The Big Picture: Private and Public Health Insurance Markets in New York," 2009, available at http://www.uhfnyc.org/assets/753.

[9] 2011 Health Annual Statement. United Health Insurance Company of NY had a Total Capital and Surplus of $572,674,994; Oxford Health Insurance, Inc. had $573,727,059; and Oxford Health Plans (NY) had $1,107,299,592.

[10] News Release, United HealthGroup Reports Second Quarter Results, available at http://www.unitedhealthgroup.com/invest/2012/UNH-Q2-2012-RelERSupp.pdf (last visited August 15, 2012).

HCFANY asks that the Department consider the apparently strong financial health of these companies when examining their proposed rates, and urges the Department scrutinize any claim by Oxford/United that increasing rates is necessary to the financially sustainability of the company. Oxford/United appears to have ample funds with which to operate its business and pay medical claims without requiring increased contributions to profit from consumers.

Conclusion

HCFANY's review of the voluminous submission of Oxford/United in support of its Rate Applications does not reveal adequate evidence supporting the proposed rate increases of up to 38.8 percent. HCFANY urges the Department to review closely Oxford/United's submissions, particularly as they relate to assumed medical trend. We also request that the Department focus special attention on the Individual Healthy NY, Individual Grandfathered POS products, and Individual standardized HMO and POS products. HCFANY requests that the Department review the proposed changes in light of Oxford/United's robust financial health. Absent any additional information in support of their proposals, HCFANY urges the Department to reject Oxford/United's proposed rate increases and increase their proposed rate decreases.

Very truly yours,

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

cc: Troy Oechsner
John Powell

Attachment: "Oxford/United Individual Plans Per Member Per Month (PM/PM) Claim Trend Data 2012."

Oxford/United Individual Plans Per Member Per Month (PM/PM) Claim Trend Data 2012

XFRD-128554047 - Individual Grandfathered POS IN

Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	-6.00%
				Assumed Trend Data	
1/1/2011	12/31/2011	$452.27	-3.34%	15.13%	2012
1/1/2010	12/31/2010	$467.92	28.10%	12.50%	2013
1/1/2009	12/31/2009	$365.29			

XFRD-128554053 - Individual POS

Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	13.30%
				Assumed Trend Data	
1/1/2011	12/31/2011	$1,431.76	13.49%	15.13%	2012
1/1/2010	12/31/2010	$1,261.58	21.94%	12.50%	2013
1/1/2009	12/31/2009	$1,034.57			

XFRD-128554062 - Individual HMO

Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	13.30%
				Assumed Trend Data	
1/1/2011	12/31/2011	$1,033.03	14.10%	15.13%	2012
1/1/2010	12/31/2010	$905.36	24.56%	12.50%	2013
1/1/2009	12/31/2009	$726.87			

XFRD-128554162 - Individual Grandfathered POS OON

Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	-6.00%
				Assumed Trend Data	
1/1/2011	12/31/2011	$452.27	-3.34%	15.13%	2012
1/1/2010	12/31/2010	$467.92	28.10%	12.50%	2013
1/1/2009	12/31/2009	$365.29			

UHLC-128521313 - Individual Healthy NY

Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	38.80%
				Assumed Trend Data	
1/1/2011	12/31/2011	$299.05	52.56%	15.13%	2012
1/1/2010	12/31/2010	$196.02	-20.74%	12.30%	2013
1/1/2009	12/31/2009	$247.30			