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 18, 2011

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

Re: **Requested Rate Changes – Oxford**

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York ("HCFANY") seeks to object to the proposed rate increases of 14% to 32% posted for 2012 for Oxford on procedural and substantive grounds.[1] HCFANY is a coalition of over 100 consumer and health advocacy organizations dedicated to achieving affordable, comprehensive, and high-quality health care for all New York residents. We would like to thank you for the opportunity to comment both on the current prior approval process, and on the proposed rate increase in question.

On behalf of New York's individual and small business consumers who use health insurance, we commend the Department for its efforts to reinstate the prior approval process. We believe that the prior approval process is a vital protection against the staggering health insurance rate increases—which routinely outpace inflation and wage growth in New York—faced by the individuals and small businesses whose interests we represent.

[1] These rate increase applications correspond to state tracking numbers 2011060097, 2011060162, 2011060163, 2011060164, 2011070122, 2011070127, 2011060098, 2011060099, 2011070124, and 2011070126, 2011000000.

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

Recommended Procedural Improvements to the Prior Approval Process

We have procedural concerns about the timing, substantive content and location of the Department's public posting in the prior approval process. We would like to work closely with the Department to improve the prior approval process for New York's consumers and small businesses. Our concerns are: (1) timing of public notice of rate increases; and (2) availability of public notices on DFUS' website.

First, under the Prior Approval statute, consumers have only have 30 days from receipt of their notice of a proposed rate increase to provide comments—an exceedingly short time period. To facilitate comments, state law requires the Department to publicly post on its website each proposed rate increase along with the corresponding notices sent to enrollees, narrative summaries explaining the rate increases, and any comments received. For the second year in a row, the Department has not posted all carrier notices and relevant correspondence in time to afford consumers a chance to file meaningful comments within the 30 day public comment period. This year, for example, most notices were posted with only a few days to spare.

Second, for many carriers, the substantive content of the prior approval posting is either deficient or non-existent. HCFANY's review of the website found, for example, that as of August 10, 2011, Aetna did not have any documents posted, even though the public comment period closes on August 21, 2011. For many proposed increases (e.g., CDPHP, Empire, HealthNow, HIP, MVP, Oxford, or United Healthcare) no narrative summaries were posted at all. Narrative summaries provide key information that consumers and small businesses need in order to provide informed commentary and/or objections about their rate increases. Similarly, the carrier's financial statements, another valuable source of information, are not posted on the Department's website.

Finally, prior to August 10, 2011, the documentation provided for requested rate increases was not accessible via the "Requested Rate Changes" webpage, nor was the associated comment period listed on that page. In order to find that information, a consumer would need to go to the "Additional Rate Change Details" page, the description of which says only that it includes comments already submitted. While we are pleased that this issue has been corrected and the "Requested Rate Changes" page now links each plan directly to the "Additional Rate Change Details" page, we feel that the correction was made too late for many consumers who may have visited the site seeking information on plan justification of rate increases and left unable to find anything.

While we understand that budget cuts have led to short staffing at the Department, and recognize that existing staff work incredibly hard to accomplish its work, we believe that the public must be afforded adequate time and information, in a logical manner. In short, this process must be a top priority in order to enable the prior approval process to work for New York's consumers and small businesses. We hope that these procedural issues will not be a factor during future rate review periods.

Substantive Objection Related to Oxford's Proposed Increase

We do not believe that Oxford's proposed rate increases of 14% to 32% are justifiable based on the information provided. As the Department is aware, HCFANY strongly believes that consumers and advocates must have access to complete rate filing applications, including actuarial memoranda, in order to participate effectively in this rate review process. Without access to the relevant documentation, HCFANY was forced to resort to a cumbersome and expensive undertaking of researching the limited information publically available from Oxford's filings with the Securities and Exchange Commission and, for hundreds of dollars in fees, the National Association of Insurance Commissioners (NAIC). We reiterate that individual consumers and small businesses do not have the time or wherewithal to engage in similar investigations.

With the national rate of inflation at 3.6% and the New York medical trend at about 9%, and with no increases in the taxes imposed on health insurance carriers last year or in the near future, it is difficult to find a rationale for Oxford's proposed rate increases.

Oxford's requested rate increase of 14-32% appears to be unfairly financing outlandish administration costs with the premium dollars of hard-working New York consumers and small businesses. For example, the executive compensation for Stephen J. Hemsley, the CEO of United, Oxford's parent company, increased from $3,241,042 in 2008 to $9,901,916 in 2009 to $10,810,131 in 2010. A typical New Yorker earning minimum wage would have to work full-time for an entire year to earn what Mr. Hemsley earns in just over 2 hours. And, at the end of the day, that minimum wage worker would still not be able to afford to purchase coverage from Oxford, with or without the proposed rate increases. We urge the Department to closely inspect all of Oxford's administrative costs and ensure that New York's consumers and small businesses are not underwriting inappropriate non-medical spending with their hard-earned premium dollars.

Our objections do not end there. A close inspection of Oxford's NAIC filings shows that Oxford has been potentially over-charging its customers, reaping enormous profits, and sending those profits out-of-state. For example, in 2009, Oxford paid an eye-popping $800,000,000 dividend to its parent company. Further, in 2010 Oxford reported a medical-loss ratio (MLR) in the small employer line of business of 74.5%, well below New York's minimum MLR of 82%.[2] By our

[2] In another portion of their NAIC filing, Oxford reports a small group MLR of 82.8%. We are still investigating the discrepancy. If Oxford claims that this second reporting location is the more relevant one, then we would like to point out that their sister company, United Healthcare Insurance Company of NY, reports a small group MLR of 75.7% in that second reporting location. The difficulty we've had analyzing these NAIC reports, which were not free, only highlights the need for more of the type of transparency that will allow consumers to participate in this process.

calculations, if Oxford had kept their MLR within the legal limits, it would have represented a savings to those customers of $58,382,094, or about $41.40 per member per month. It's no wonder that Oxford reported a net income of more than $125 million in 2010.

While HCFANY believes—based on the limited information available—that retroactive rebates are potentially justified here, and potentially would offer some relief to those Oxford customers who might be found years after the fact, the real remedy required by New York's health insurance consumers is rate relief. Given its exorbitant executive compensation and its relatively paltry medical expenditures, we urge the Department to either reject Oxford's proposed 14% to 32% rate increase in its entirety or limit it to the rate of inflation.

Very truly yours,

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

cc: Troy Oechsner
John Powell