



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

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

**Re: Requested Rate Changes                    GHI HMO Select, Inc.  
                                                                  Group Health Incorporated  
                                                                  HIP Insurance Company of New York  
                                                                  Health Insurance Plan of Greater New York**

Dear Superintendent Lawsky and Mr. Lovejoy,

Health Care for All New York ("HCFANY") respectfully objects to the proposed rate increases ranging from 9.53 percent to 37.19 percent posted for 2013 for the following insurance products:

- GHI HMO Select, Inc. (GHI Healthy NY HMO)
- Group Health Incorporated (GHI Healthy NY EPO, GHI Direct Pay, GHI Small Group)
- HIP Insurance Company of New York (HIP Small Group EPO/PPO)
- Health Insurance Plan of Greater New York (HIP Healthy NY, HIP Direct Pay, HIP Small Group HMO, HIP Large Group)



submitted by subsidiary companies of EmblemHealth and currently pending before the New York State Department of Financial Services (the “Department”).<sup>1</sup>

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 many EmblemHealth plan members who have filed comments on the proposed increases to the Department’s website. Their personal stories amply document 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 EmblemHealth’s Proposed Rate Increases*

HCFANY objects to EmblemHealth’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 EmblemHealth’s proposed rate increases.

As described in greater detail below, HCFANY urges the Department to reject EmblemHealth’s proposed rate increase based on three grounds. First, the submitted medical trend data for the majority of EmblemHealth’s products do not appear to warrant the increases it seeks. Second, EmblemHealth has reported low medical loss ratios across multiple products. Third, HCFANY believes that the Department should carefully review whether EmblemHealth should be required to draw upon its substantial capital reserves in lieu of imposing the requested rate increases. The remainder of this letter addresses these concerns in turn.

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<sup>1</sup> These rate increase applications correspond respectively to applications submitted July 17-19, 2012, SERFF file numbers: GRPH-128551906, GRPH-128538147, GRPH-128536281, GRPH-128539080, HPHP-128544439, HPHP-128551663, HPHP-128544265, HPHP-128544627, HPHP-128544756 (hereafter “Rate Applications”).



## I. *EmblemHealth's Medical Trend Assumptions*

HCFANY urges the Department to reject EmblemHealth's proposed rate increases in products where the medical trend data it submitted appears to be problematic in the following two ways. First, EmblemHealth's historic trends, derived from reported claim and premium experience, are inconsistent with reports issued by national experts in that: (i) EmblemHealth's annual trend figures are far higher; and (ii) EmblemHealth's trend across years appears to be increasing far more rapidly. Second, EmblemHealth's experienced trend does not appear to support its current and future trend assumptions, which lead to the overall requested rate increases.

### *EmblemHealth's Inconsistent Medical Trend Rates*

The historical data contained in the EmblemHealth Rate Applications show that the growth in medical spending in many of its Small Group products has been high for multiple years.<sup>2</sup> This is surprising, in that multiple studies 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.”<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

In contrast, much of the trend data extrapolated from the EmblemHealth Rate Applications shows experienced trends far above these national estimates. EmblemHealth itself discuss yet another national standard of medical trend, the Standard and Poor's Healthcare Economic Index, which EmblemHealth states shows an 8.46 percent trend.<sup>7</sup> The reported experience for 2009, 2010, and 2011 in the Rate Applications shows a far different picture for EmblemHealth.

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<sup>2</sup> “Per Member Per Month (PM/PM) Claim Trend Date.” [Enclosed.] Taken from Rate Applications, *supra* note 1. (Exhibit 7: Historical Data by Each Policy Form Included in Rate Adjustment Filing.)

<sup>3</sup> PwC Health Research Institute, “Medical Cost Trend: Behind the Numbers 2013,” 2013 at 2.

<sup>4</sup> *Id.* at 5.

<sup>5</sup> Sibson Consulting, “2012 Segal Health Plan Cost Trend Survey.” 2011.

<sup>6</sup> Milliman, “2012 Milliman Medical Index,” May 2012.

<sup>7</sup> Actuarial Memorandum. Rate Applications, *supra* note 1.



For example, the HIP Small Group EPO product shows a trend at least double to those referenced above. The reported experience for this product shows a trend of 18.3 percent in 2010 and 16.86 percent in 2011:

<b>HPHP-128544439 - HIPIC Small Group EPO</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	30.75- 37.19%
1/1/2011	12/31/2011	\$358.30	16.86%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$306.60	18.30%	13.50%	2012
1/1/2009	12/31/2009	\$259.18		14.11%	2013

This experienced trend is far above the national standard and should be closely scrutinized by the Department. Throughout this comment similarly high trends are illustrated. HCFANY urges the Department to closely scrutinize all products included in the Rate Applications with such alarming trend data.

The reports cited above also show a relatively consistent medical trend throughout reported years. The deviation from one year to the next in trend is not substantial. For example, the Behind the Numbers report shows no change in the current estimate of 6 percent for medical cost trend in both 2010 and 2011.<sup>8</sup> Sibson Consulting shows single digit increases and decreases in trend from 2001 to 2010.<sup>9</sup> The historic gain or loss in medical trend generally rises or falls by a magnitude of a few percentage points. In multiple products in EmblemHealth’s Rate Applications the deviation from this reality is cause for concern.

Both of EmblemHealth Direct Pay products in the Rate Applications show substantial gains in medical trend from 2010 to 2011. For example, the HIP Direct Pay product shows a 25 percent gain in the rate of increase between 2010 and 2011. The actuarial memorandum for this product does not explain the rapid deviance in its trend experience. In fact, the justification methodology outlined in the actuarial memorandum does not take into account 2009 data or the 2010 experienced trend. The stated methodology “compared the projected CY13 cohort medical claims with a target loss ratio to the 2012 Standardized Premium.”<sup>10</sup>

<sup>8</sup> Supra note 3.

<sup>9</sup> Supra note 5, at 4.

<sup>10</sup> Actuarial Memorandum, SERF Number HPHP-128544265, Rate Applications, supra note 1.



<b>HPHP-128544265 - HIP Direct Pay</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	
1/1/2011	12/31/2011	\$721.67	26.63%		26.00%
				<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$569.92	1.52%	14.88%	2012
1/1/2009	12/31/2009	\$561.37		10.16%	2013

Similarly abnormal trend data can be found in the HIP Small Group Comprehensive Health HMO. While the actuarial memorandum for this product distinguishes between the Comprehensive Health product and other small group products in HIP’s portfolio, there is no accounting for the trend for this product moving from -6.4 percent to 21.29 percent over the course of one year. While the assumed trend for this product may seem in line with this phenomenon, at 19.7 percent for 2012 and down to nearly 9 percent for 2013, the fluctuation in this product’s trend data bears scrutiny.

<b>HPHP-128544627 - HIP Small Group Comprehensive Health HMO</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	
1/1/2011	12/31/2011	\$283.88	21.29%		18.91%
				<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$234.06	-6.40%	19.17%	2012
1/1/2009	12/31/2009	\$250.08		8.98%	2013

With respect to historic trend data, HCFANY is concerned that the EmblemHealth submissions are problematic in two ways: First, EmblemHealth fails to explain their very high trend histories relative to the industry’s independent studies on medical trend. Second, they appear to be inconsistent with these same reports in that the trend throughout reported years seems erratic. Accordingly, HCFANY urges the Department to scrutinize closely EmblemHealth’s submissions and require the company to account for these apparent inconsistencies. Failing convincing actuarial justification, the requested increases for products with such anomalous medical trend data should be rejected pending rationally analytic justification. Where such justification does exist in the Rate Applications, HCFANY urges the Department to require EmblemHealth to outline clearly its justifications to regulators, its subscribers, and the general public.

*EmblemHealth’s Prospective Medical Trend Appears to Be Unsupported by Historical Claims Experience*

EmblemHealth’s proposed rate increases appear to be based on medical trend assumptions that are unsupported by the historic medical cost data EmblemHealth submitted with its Rate Applications. Where medical costs are either decreasing or the trend appears to be slowing, HCFANY urges the Department to reject the proposed rate increases. The medical trend assumptions for two product segments – Healthy NY and Small Group – are of particular concern.



In its three Healthy NY products, EmblemHealth’s medical costs are either decreasing or the trend is slowing. Two of the three Healthy NY products have substantial decreases: from 33.3 percent in 2010 to -7.6 percent in 2011 for the GHI Healthy NY HMO:

<b>GRPH-128551906 - GHI HMO Healthy NY</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	
1/1/2011	12/31/2011	\$222.46	-7.60%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$240.76	33.30%	12.66%	2012
1/1/2009	12/31/2009	\$180.61		14.92%	2013

and 34.7 percent in 2010 to an almost flat trend in 2011 for the HIP Healthy NY product:

<b>HPHP-128551663 - HIP Healthy NY</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	
1/1/2011	12/31/2011	\$274.62	-0.83%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$276.93	34.70%	13.55%	2012
1/1/2009	12/31/2009	\$205.59		17.40%	2013

While such irregular data bears close scrutiny akin to the data discussed above, it is certainly not the basis for respective rate increases of 12.6 percent and 13.55 percent for the GHI Healthy NY HMO and HIP Healthy NY products.

As described above, EmblemHealth appears to claim that dramatic *increases* in historic trend experience justify large prospective trend estimates. However, for products showing dramatic historical trend experience *decreases* EmblemHealth retains high prospective trend assumptions as well. This practice appears to be unfair to EmblemHealth enrollees and should be closely scrutinized by the Department.

The requested rate increase of the third Healthy NY product in the Rate Applications is based on assumed medical trends that are far higher than indicated by recent claims experiences. The GHI EPO Healthy NY product shows a slowing rate of increase in medical costs from 7.9 percent (2010) to 2.76 percent (2011) over the historical period. Still, EmblemHealth uses high trend assumptions and requests a disproportionate 24.5 percent overall rate increase for this product. Throughout the Rate Applications the actuarial memoranda submitted by EmblemHealth make reference to a “reasonableness test” wherein their actuary compares trend assumptions to the 8.46



percent trend from the aforementioned Standard and Poor Healthcare Economic Index.<sup>11</sup> Yet for this product, EmblemHealth nearly doubles this figure, assuming medical trend of 16.03 percent in 2013. Absent any concrete evidence in support of such a large trend projection, HCFANY does not agree that this trend assumption is reasonable and urges the Department to consider denying the proposed rate increase in its entirety.

<b>GRPH-1285398147 - GHI EPO Healthy NY</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	24.50%
1/1/2011	12/31/2011	\$217.74	2.76%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$211.89	7.90%	15.76%	2012
1/1/2009	12/31/2009	\$196.37		16.03%	2013

EmblemHealth's Rate Applications for its small group products also present questions. For example, they appear to assume future medical trends (13 to 14 percent) far greater than indicated by their past experience (2.17 percent in 2010 and 7.41 percent in 2011). They also ask for rate increases even greater than these potentially-inflated assumed trends. The chart below illustrates:

<b>GRPH-128539080 - GHI Small Group</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	19.40%
1/1/2011	12/31/2011	\$320.67	7.41%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$298.53	2.17%	14.16%	2012
1/1/2009	12/31/2009	\$292.20		13.63%	2013

More problematic are instances where the rate of increase in medical expense decreased from 2010 to 2011, but EmblemHealth assumes this trend will reverse and costs will again increase more rapidly. No justification is provided by EmblemHealth for the assumed rapid increases in medical spending. For example, the GHI Small Group PPO filing shows a 26.64 percent trend in 2010 and 7 percent trend in 2011. Despite this EmblemHealth assumes a 12.51 percent trend for 2012 and 15.23 percent trend for 2013, and the request a 24.67 requested overall rate increase. This increase appears to be inconsistent with the Small Group's reported experience and warrants close Departmental scrutiny.

<sup>11</sup> Actuarial Memorandum SERF Number GRPH-1285398147, Rate Applications, supra note 1.



<b>HPHP-128544439 - HIPIC Small Group PPO</b>					
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	24.67%
1/1/2011	12/31/2011	\$418.87	7.00%	<u>Assumed Trend Data</u>	
1/1/2010	12/31/2010	\$391.47	26.64%	12.51%	2012
1/1/2009	12/31/2009	\$309.12		15.23%	2013

Accordingly, HCFANY urges the Department to closely scrutinize EmblemHealth's trend data which, in many product lines, does not appear to support the requested rates of increases.

### *II. Low Medical Loss Ratios*

A second area of concern stems from HCFANY's review of the 2011 NAIC filings for companies owned by EmblemHealth. These filings show a failure to meet the required 82% level for community rated products in New York.

For example, Group Health Inc. has posted an MLR of 79.8 percent for its Individual product segment in 2011 and is requesting a 12 percent increase for 2013.<sup>12</sup> And, while EmblemHealth's HIP Insurance Company subsidiary is not part of the current Rate Applications, they report an extremely low MLR of 35% in the individual market in 2011.<sup>13</sup> These historic failings in the EmblemHealth individual product segments are cause for concern and call into question any rate increase in this product segment.

Accordingly, we request that the Department closely scrutinize the EmblemHealth Rate Applications in this regard and reject any increase based in part on MLR for individual products under the authority of EmblemHealth.

### *III. EmblemHealth Total Capital and Surplus*

According to its 2011 Rate Filings with NAIC, EmblemHealth has built what appears to be one of the largest capital reserves of any carrier in the State of New York across its group of companies: over \$1.5 billion. While a review of EmblemHealth's rate filings does not explicitly indicate that it seeks more premium dollars to be allocated to its further accumulation, any addition to this reserve from rate increases should be rejected. Given its substantial capital reserves, HCFANY urges the Department to disallow any portion of EmblemHealth's proposed rate increases to the extent they accrue any further contribution to its capital reserves.

<sup>12</sup> Group Health Inc. NAIC 2011 Health Annual Statement (Non-Key) Supplemental Health Care Exhibit.

<sup>13</sup> HIP Insurance Company NAIC 2011 Health Annual Statement (Non-Key) Supplemental Health Care Exhibit.





### *Conclusion*

HCFANY's review of the submission of EmblemHealth in support of its Rate Applications for its community rated products does not reveal adequate evidence supporting proposed rate increases of 9.53 percent to 37.19 percent. HCFANY urges the Department to closely review EmblemHealth's submissions, especially in the areas of medical trend, low medical loss ratio data, and any unnecessary contribution to its already substantial capital reserves. Absent any additional information in support of their rate increase proposal, HCFANY urges the Department to reject EmblemHealth'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

**Emblem (GHI/HIP) Per Member Per Month (PM/PM) Claim Trend Data 2012**

GRPH-128551906 - GHI HMO Healthy NY					GRPH-1285398147 - GHI EPO Healthy NY					HPHP-128551663 - HIP Healthy NY				
Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:	Experience Period		Adj. Incurred Claims PM/PM	Trend (Percent Change)	Requested Increase:
1/1/2011	12/31/2011	\$222.46	-7.60%	12.66%	1/1/2011	12/31/2011	\$217.74	2.76%	24.50%	1/1/2011	12/31/2011	\$274.62	-0.83%	13.55%
1/1/2010	12/31/2010	\$240.76	33.30%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$211.89	7.90%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$276.93	34.70%	<u>Assumed Trend Data</u>
1/1/2009	12/31/2009	\$180.61		19.33% 2012	1/1/2009	12/31/2009	\$196.37		15.76% 2012	1/1/2009	12/31/2009	\$205.59		17.40% 2012
				14.92% 2013					16.03% 2013					13.23% 2013
GRPH-128536281 - GHI Direct Pay					HPHP-128544265 - HIP Direct Pay					HPHP-128544756 - HIP Large Group				
1/1/2011	12/31/2011	\$514.02	16.11%	12.00%	1/1/2011	12/31/2011	\$721.67	26.63%	26.00%	1/1/2011	12/31/2011	\$385.73	11.65%	8.47-
1/1/2010	12/31/2010	\$442.69	4.88%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$569.92	1.52%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$345.48	7.44%	Increase: 8.90%
1/1/2009	12/31/2009	\$422.10		14.08% 2012	1/1/2009	12/31/2009	\$561.37		14.88% 2012	1/1/2009	12/31/2009	\$321.57		<u>Assumed Trend Data</u>
				14.30% 2013					10.16% 2013					10.02% 2012
														9.03% 2013
GRPH-128539080 - GHI Small Group					HPHP-128544627 - HIP Small Group HMO Excluding Comprehensive Health Plan					HPHP-128544439 - HIPIC Small Group EPO				
1/1/2011	12/31/2011	\$320.67	7.41%	19.40%	1/1/2011	12/31/2011	\$490.87	15.12%	9.53-9.66%	1/1/2011	12/31/2011	\$358.30	16.86%	30.75-
1/1/2010	12/31/2010	\$298.53	2.17%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$426.41	8.78%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$306.60	18.30%	Increase: 37.19%
1/1/2009	12/31/2009	\$292.20		14.16% 2012	1/1/2009	12/31/2009	\$391.99		12.49% 2012	1/1/2009	12/31/2009	\$259.18		<u>Assumed Trend Data</u>
				13.63% 2013					8.83% 2013					13.50% 2012
														14.11% 2013
HPHP-128544627 - HIP Small Group Comprehensive Health HMO					HPHP-128544439 - HIPIC Small Group PPO									
1/1/2011	12/31/2011	\$283.88	21.29%	18.91%	1/1/2011	12/31/2011	\$418.87	7.00%						
1/1/2010	12/31/2010	\$234.06	-6.40%	<u>Assumed Trend Data</u>	1/1/2010	12/31/2010	\$391.47	26.64%						
1/1/2009	12/31/2009	\$250.08		19.17% 2012	1/1/2009	12/31/2009	\$309.12							
				8.98% 2013										