

NEW JERSEY
SMALL EMPLOYER HEALTH BENEFITS PROGRAM BOARD
Trenton, NJ 08625

IN THE MATTER OF BANKERS
SECURITY LIFE INSURANCE
SOCIETY'S APPEAL OF THE NEW
JERSEY SMALL EMPLOYER HEALTH
BENEFITS PROGRAM BOARD'S
DENIAL OF NON-MEMBER STATUS
FOR CALENDAR YEAR 1994

FINAL ADMINISTRATIVE ORDER No. 96-02

WHEREAS, the New Jersey Small Employer Health Benefits Program ("SEH") Board is authorized by the Small Employer Health Benefits Act of 1992, N.J.S.A. 17B:27A-17 et seq., and regulations promulgated thereunder, to administer the SEH Program, to assess members of the SEH Program on the basis of their proportionate share of administrative expenses, and to take any legal actions necessary to recover assessments owed to the SEH Program;

WHEREAS, pursuant to N.J.A.C. 11:21-8.1, carriers may be certified as non-members of the SEH Program by filing an appropriate certification with the SEH Board by March 1 of the year following the calendar year for which non-member certification is sought;

WHEREAS, the Bankers Security Life Insurance Society ("Bankers") requested non-member status in the New Jersey SEH Program on February 21, 1995, which notice was received by the SEH Board on March 3, 1995; and asserted non-member status on the basis of N.J.S.A. 17B:27A-25(d). In response to Bankers' request, the SEH Program Executive Director, on May 25, 1995, advised Bankers that a request for non-member status on the basis of N.J.S.A. 17B:27A-25(d) had to comply with the certification described in the SEH Program rules, N.J.A.C. 11:21-8.3(b). On June 6, 1995 Jeffrey N. Mason of Bankers submitted a certification of non-member status in conformance with N.J.A.C. 11:21-8.3(b);

WHEREAS, the SEH Board considered and denied Bankers' request for non-member status on October 18, 1995 on the grounds that Bankers request for non-member status, notwithstanding its non-member certification, failed to satisfy the criteria set forth in N.J.A.C. 11:21-8.3. The Board's decision was conveyed to Bankers by letter to Francis A. Podlesney dated October 26, 1995, incorporated herein by reference and attached hereto;

WHEREAS, Bankers appealed the Board's decision on November 10, 1995 on the grounds that the fact that the health insurance policy issued to ASBA was issued in Illinois, not New Jersey, should not have been relevant to the analysis of Bankers' application for non-member status.

WHEREAS, the SEH Board has considered Bankers' appeal with regard to the Board's denial of Bankers' request for non-member status.

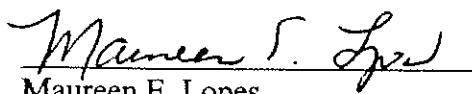
Based on the undisputed facts, the Board's legal conclusions are the following:

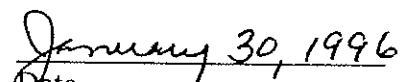
- 1) the Board finds that a contested case hearing is not required because Bankers' letter appealing the Board's decision did not request a hearing or raise an issue of material fact with regard to the Board's decision that would have required an opportunity for a hearing under N.J.A.C. 11:21-8.6(c) or the Administrative Procedure Act; and
- 2) the Board finds unpersuasive Bankers' assertion that N.J.A.C. 11:21-8.3(b)(2) does not require that the carrier seeking non-member status have issued one group health insurance policy in New Jersey, since this runs contrary to the plain wording of the Board's rule and the intent of the law.

NOW THEREFORE, pursuant to the authority granted to the Board by N.J.S.A. 17B:27A-17 et seq., and all powers expressed or implied therein, and the decision of the Board as expressed by approval of the issuance of this Final Administrative Order;

IT IS on this 29th day of January, 1996,

ORDERED that Bankers' appeal of the Board's denial of non-member status for calendar year 1994 is denied. Bankers is hereby directed to file with the Board a market share report, which is Exhibit CC of the Appendix to the SEH Program Rules, N.J.A.C. 11:21-1.1 et seq., on or before February 21, 1995 so that Bankers may be included in the 1994 assessment of member carriers. As a member of the SEH Program, Bankers is subject to all other provisions and requirements set forth in the law and rules, including, but not limited to, continuation of non-standard health benefits plans, offering of standard plans, minimum loss ratios, filing of rates, enrollment reports, etc.


Maureen E. Lopes
Chair, SEH Board


Date