

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

IN THE MATTER OF BUSINESS MEN'S  
ASSURANCE COMPANY OF NORTH  
AMERICA'S APPEAL OF THE NEW JERSEY  
SMALL EMPLOYER HEALTH BENEFITS  
PROGRAM BOARD'S ASSESSMENT FOR  
CALENDAR YEAR 1996

**ADMINISTRATIVE ORDER No. SEH 97-02**

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 for their proportionate share of administrative expenses, as determined by each carrier's net earned premium from small employer health benefits plans, and to take any legal actions necessary to recover assessments owed to the SEH Program;

WHEREAS, pursuant to N.J.A.C. 11:21-10.3, Business Men's Assurance Company of North America (hereinafter "BMA") filed a Market Share Report ("Exhibit CC"), dated February 23, 1996, which reported zero net earned premium for "health benefits plans" for calendar year 1995. The Exhibit CC was certified by Sidney W. Peacocke, Actuary - Financial Services;

WHEREAS, pursuant to N.J.A.C. 11:21-2.3, on December 3, 1996 the SEH Board assessed Pension in the amount of \$45 (hereinafter referred to as the "1996 assessment"), which included: 1) a share of the actual administrative expenses of the SEH Program for fiscal year 1996 and projected expenses for fiscal year 1997 in the amount of \$46; and 2) -\$1 for fiscal year 1995, based on a reconciliation of the actual administrative expenses for that year;

WHEREAS, by letter dated December 11, 1996, BMA appealed, but did not pay, the 1996 assessment on the grounds that BMA reported zero net earned premium for calendar year 1995 on Exhibit CC but was billed a share of the assessment based on a net earned premium of \$62,861. Pension sought rescission of the 1996 assessment;

WHEREAS, the SEH Board has considered BMA's appeal of the 1996 assessment. 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 Pension's letter appealing the 1996 assessment did not request a hearing or

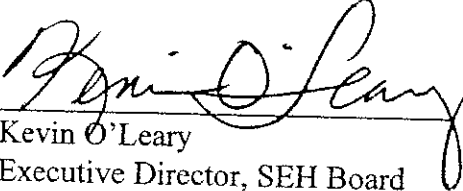
raise an issue of material fact that would have required an opportunity for a hearing under the Administrative Procedure Act;

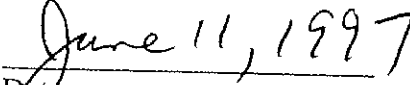
- 2) BMA's Exhibit CC was timely filed and reflects zero net earned premium for calendar year 1995. Pursuant to N.J.A.C. 11:21-1.2, a carrier is a "member" if it issues health benefits plans after November 30, 1992. Since BMA reported zero net earned premium, it no longer issues health benefits plans in New Jersey and was not, therefore, a member of the SEH Program in calendar year 1995. As a non-member of the SEH Program, BMA is not subject to assessment; and
- 3) The Board assessed BMA in error.

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 Administrative Order;

IT IS on this 19th day of February, 1997,

ORDERED that BMA's appeal of the calendar year 1996 assessment is granted.

  
Kevin O'Leary  
Executive Director, SEH Board

  
Date