



NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES
REPORT ON EXAMINATION
OF THE
NY 44 HEALTH BENEFITS PLAN TRUST

CONDITION:

JUNE 30, 2013

DATE OF REPORT:

NOVEMBER 25, 2014

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

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OF THE

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EXAMINER:

JOCATENA HARGROVE

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Linda A. Lacewell
Superintendent

July 31, 2019

Honorable Linda A. Lacewell
Superintendent of Financial Services
New York, New York 10004

Madam:

Pursuant to instructions contained in Appointment No. 31207, dated October 29, 2014 and annexed hereto, an examination has been made of the condition and affairs of the NY44 Health Benefits Plan Trust hereinafter referred to as “the Fund,” at the principal office of the Fund, located at 355 Harlem Road, West Seneca, New York 14224.

Wherever “Department” appears in this report, it refers to the New York State Department of Financial Services.

The report indicating the results of this examination is respectfully submitted.

1. EXECUTIVE SUMMARY

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 2013 filed annual statement. (See item 4 of this report)

The examiner's review of the Fund's market conduct activities did not reveal significant instances which deviated from the New York Insurance Law, Department regulations and circular letters and the operating rules of the Fund. (See item 6 of this report)

2. SCOPE OF EXAMINATION

The prior examination was conducted as of June 30, 2008. This examination covers the period from July 1, 2008 through June 30, 2013. As necessary, the examiner reviewed transactions occurring subsequent to June 30, 2013 but prior to the date of this report (i.e., the completion date of the examination).

This examination comprised a verification of the Fund's assets and liabilities as of June 30, 2013 to determine whether the Fund's filed June 30, 2013 annual statement fairly presents its financial condition. The examiner reviewed the Fund's income and disbursements necessary to accomplish such verification and utilized examination procedures, as deemed appropriate, in such review and in the review or audit of the following matters:

- Fund history
- Management and control
- Fund records
- Member benefits and contributions
- Market conduct activities
- Growth of Fund
- Accounts and records
- Financial statements

The examiner reviewed the corrective actions taken by the Fund with respect to the violations and comment contained in the prior report on examination. The results of that review are contained in item 7 of this report. This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules or which require explanation or description.

3. DESCRIPTION OF FUND

The Fund was established on May 15, 2003 pursuant to a collective bargaining agreement and declaration of trust (“the Trust Agreement”) between The Erie 1 BOCES Board of Education (“the Grantor”) and the Erie 1 BOCES Health Benefits Plan Trust (“the Trustees”). The Erie 1 BOCES Health Benefits Plan Trust changed its name to the NY44 Health Benefits Plan Trust as of July 1, 2010. The Trust Agreement provides that the purpose of the Fund is to provide health benefits to eligible and retired employees of the participating schools, districts, BOCES and community colleges.

The June 30, 2013 annual statement indicated that there were approximately 10,404 participants.

A. Management

The Trust Agreement requires that the board of trustees shall be comprised of ten trustees, consisting of five managerial representatives employed by the Grantor and five non-managerial employees of the Grantor, each of whom shall be a member of, and separately designated by, one of the four labor organizations that has a collective bargaining agreement with the Grantor.

The following is a list of the trustees as well as their principal business affiliation, as of June 30, 2013:

<u>Name</u>	<u>Appointed by the Employer</u> <u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
JoAnn Balazas	Director, Management Services Erie 1 BOCES Board of Education	2013
Carol Barber	Deputy Superintendent Erie 1 BOCES Board of Education	2013
Doreen Casacci	Associate Director, Special Education Services Erie 1 BOCES Board of Education	2004

<u>Appointed by the Employer</u>		
<u>Name</u>	<u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
Melody Jason	Executive Director, Instructional Programs and Services Erie 1 BOCES Board of Education	2012
Doreen Kausner	Coordinator of Finance Services, District Treasurer Erie 1 BOCES Board of Education	2013

<u>Appointed by the Labor Organization or Employees</u>		
<u>Name</u>	<u>Principal Business Affiliation</u>	<u>Year First Appointed</u>
Kathleen Ballard	SAANYS Erie 1 Management Association	2010
Joseph Borgisi	President Erie 1 Professional Education Association	2004
Scott Decker	Co-President Erie 1 American Federation of State County Municipal Employees Local 2567, 12-month employees	2012
Cynthia Kapturowski	President American Federation of State County Municipal Employees AFL-CIO New York State Council 66, Local 2341	2006
John Pope	Association Representative Erie 1 BOCES Administrators Association	2004

A review of the minutes indicated that the trustees' meetings were well attended.

B. Investment Powers of the Trustees

The Trust Agreement empowers the trustees to deposit all monies received by them in such banks as they may designate and to purchase investments that are legal investments for trust funds under the laws of New York.

As of June 30, 2013, the Fund's assets were mainly comprised of cash (81%) and government obligations (19%).

C. Member Benefits

The Fund provides health benefits to its active and retired employees and their dependents. Prior to January 1, 2008 the Fund provided insured benefits through Independent Health Corporation. On January 1, 2008, the Fund changed their method of providing benefits from the use of insurance carriers to self-insurance. The Fund uses Independent Health Corporation and MVP Health Care as benefit administrators.

D. Contributions

The collective bargaining agreements for the period under review called for the following annual contribution rates per employee per year:

Independent Health Corporation - Medical

	Single Amount	Family Amount	Administrative Fee
2009	\$402.32	\$1,063.03	\$5.00
2010	\$434.50	\$1,180.00	\$5.00
2011	\$473.50	\$1,260.00	\$6.00
2012	\$497.00	\$1,322.00	\$6.00
2013	\$526.50	\$1,400.00	\$7.00

Independent Health Corporation - Dental

	Single Amount	Family Amount	Administrative Fee
2009	\$29.00	\$90.00	\$3.00
2010	\$26.00	\$87.00	\$3.00
2011	\$26.00	\$87.00	\$3.00
2012	\$27.00	\$90.00	\$3.00
2013	\$27.00	\$90.00	\$3.00

MVP Health Care – East Central Region

	Single Amount	Family Amount	Administrative Fee
2011	\$473.50	\$1,260.00	\$7.00
2012	\$451.50	\$1,226.00	\$7.00
2013	\$478.50	\$1,298.50	\$7.00

MVP Health Care – Mid Hudson Region

	Single Amount	Family Amount	Administrative Fee
2011	\$520.00	\$1,386.00	\$7.00
2012	\$545.50	\$1,454.00	\$7.00
2013	\$578.00	\$1,540.00	\$7.00

E. Information to Members

The Fund's records indicate that annual reports are distributed to all members in accordance with Department Regulation No. 36. Benefit booklets describing the Fund's benefits procedures and eligibility requirements are given to all members.

4. FINANCIAL STATEMENTS

The following statements indicate the changes in assets, liabilities and reserve fund balance between the years ended June 30, 2008 and June 30, 2013, changes in the reserve fund balance for the period under examination, and a reconciliation of the reserve fund balance for each of the years under examination as extracted from the Fund's filed annual statements. The examiner's review of a sample of transactions did not reveal any differences which materially affected the Fund's financial condition as presented in its financial statements contained in the June 30, 2013 filed annual statement.

A. STATEMENT OF ASSETS, LIABILITIES AND RESERVE FUND BALANCE

The following table indicates the Fund's financial growth during the period under review:

	<u>June 30,</u> <u>2008</u>	<u>June 30,</u> <u>2013</u>	<u>Increase</u> <u>(Decrease)</u>
<u>Assets</u>			
Cash	\$ 892,474	\$21,514,308	\$20,621,834
Receivable – Contribution from employer	830	478,007	477,177
Bonds - Government obligations	<u>2,628,583</u>	<u>5,012,905</u>	<u>2,384,322</u>
Total assets	<u>\$3,521,887</u>	<u>\$27,005,220</u>	<u>\$23,483,333</u>
<u>Liabilities and reserve fund balance</u>			
Accounts payable	\$ 42,416	\$ 0	\$ (42,416)
Accrued expenses	0	2,605,464	2,605,464
Estimated health claims payable	<u>2,944,448</u>	<u>8,723,082</u>	<u>5,778,634</u>
Total liabilities	<u>\$2,986,864</u>	<u>\$11,328,546</u>	<u>\$ 8,341,682</u>
Reserve fund balance	<u>\$ 535,023</u>	<u>\$15,676,674</u>	<u>\$15,141,651</u>
Total liabilities and reserve fund balance	<u>\$3,521,887</u>	<u>\$27,005,220</u>	<u>\$23,483,333</u>

B. STATEMENT OF CHANGES IN RESERVE FUND BALANCE

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
<u>Additions to fund balance:</u>					
Employer contributions	\$35,131,961	\$63,021,195	\$75,532,349	\$ 96,694,516	\$124,998,027
Premium assessments	0	0	0	2,028,852	171,074
Investment income	71,929	95,400	132,827	160,567	231,152
Pharmacy rebates	287,547	565,261	783,065	937,884	1,412,735
Stop loss rebates	249,962	5,050	0	0	0
Administrative fees	0	374,491	401,265	598,470	731,896
Other	<u>0</u>	<u>2,946</u>	<u>15,251</u>	<u>0</u>	<u>0</u>
 Total additions	 <u>\$35,741,399</u>	 <u>\$64,064,343</u>	 <u>\$76,864,757</u>	 <u>\$100,420,289</u>	 <u>\$127,544,884</u>
 <u>Deductions from fund balance:</u>					
Benefits paid directly by the Fund	\$ 187,426	\$ 310,223	\$ 346,812	\$ 413,899	\$ 432,780
Payments to service organizations - health claims	33,961,009	57,450,227	72,114,239	93,077,185	114,005,030
Administrative expenses	2,249,541	2,817,475	3,430,847	3,310,491	4,920,444
Adjustment in asset value of investments	0	0	0	0	456,600
Operation expense	<u>0</u>	<u>188,652</u>	<u>181,952</u>	<u>183,970</u>	<u>206,408</u>
 Total deductions	 <u>\$36,646,976*</u>	 <u>\$60,766,577</u>	 <u>\$ 76,073,850</u>	 <u>\$ 96,985,545</u>	 <u>\$120,021,262</u>
 Net increase (decrease) in fund balance	 <u>\$ (905,577)</u>	 <u>\$ 3,927,403</u>	 <u>\$ 790,907</u>	 <u>\$ 3,434,744</u>	 <u>\$ 7,523,622</u>

*Due to accounting errors of the previous auditors the amounts do not add. The Fund contracted with a new auditing firm beginning July 1, 2010. The figures used for 2010 were the result of journal entry corrections made to correct the previous fiscal year's errors. The correction of the June 30, 2009 errors resulted in a corrected Fund balance of \$167,467.

C. RECONCILIATION OF RESERVE FUND BALANCE

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Reserve fund balance, December 31, previous year	\$ <u>535,023</u>	\$ <u>(167,467)</u>	\$ <u>3,927,401</u>	\$ <u>4,718,308</u>	\$ <u>8,153,052</u>
Total additions during year	\$35,741,399	\$64,861,447	\$76,864,757	\$100,420,289	\$127,544,884
Total deductions during year	<u>36,646,976</u>	<u>60,766,577</u>	<u>76,073,850</u>	<u>96,985,545</u>	<u>120,021,262</u>
Change in fund balance	\$ <u>(905,577)</u>	\$ <u>4,094,870</u>	\$ <u>790,907</u>	\$ <u>3,434,744</u>	\$ <u>7,523,622</u>
Reserve fund balance, December 31, current year	\$ <u>(167,467)*</u>	\$ <u>3,927,403</u>	\$ <u>4,718,308</u>	\$ <u>8,153,052</u>	\$ <u>15,676,674</u>

* Due to reporting errors of the previous auditors the amounts do not add. The Fund contracted with a new auditing firm beginning July 1, 2010. The figures used for 2010 were the result of journal entry corrections made to correct the previous fiscal year's errors. The correction of the June 30, 2009 errors resulted in a corrected Fund balance of \$167,467.

5. ADMINISTRATIVE EXPENSES

The following table shows a breakdown of the administrative expenses for the fiscal year ending June 30, 2013:

Administrative Expenses

Salaries	\$ 382,000
Allowances, expenses	16,174
Taxes	28,125
Fees and commissions	3,774,951
Insurance premiums	704,387
Other administrative expenses	<u>14,807</u>
Total administrative expenses	<u>\$4,920,444</u>

The following schedule shows the number of members, contributions, administrative expenses, the ratio of administrative expenses to contributions, and the administrative cost per member for the period under review:

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Number of members	4,485	6,150	6,677	7,996	10,404
Contributions	\$35,131,961	\$63,021,195	\$75,532,349	\$98,723,368	\$125,169,101
Administrative expenses	\$ 2,249,541	\$ 2,783,548	\$ 3,430,847	\$ 3,310,491	\$ 4,920,444
Ratio of administrative expenses to contributions	6.40%	4.42%	4.54%	3.35%	3.93%
Administrative cost per member	\$501.57	\$452.61	\$513.83	\$414.02	\$472.94

6. MARKET CONDUCT ACTIVITIES

The examiner reviewed various elements of the Fund's market conduct activities affecting claimants to determine compliance with applicable statutes and regulations and the operating rules of the Fund.

The examiner reviewed a sample of self-insured claims for medical, dental and prescription claims to determine whether the members were treated fairly and in accordance with plan benefits. Based upon the sample reviewed, no significant findings were noted.

7. PRIOR REPORT SUMMARY AND CONCLUSIONS

Following are the violations and comment contained in the prior report on examination and the subsequent actions taken by the Fund in response to each citation:

<u>Item</u>	<u>Description</u>
A	<p>The Fund violated Section 201.1(a)(4) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after changes in the membership of the board of trustees were made.</p> <p>The Fund has provided the necessary written notification to the Department.</p>
B	<p>The Fund violated Section 201.1(a)(2)(i) of Department Regulation No. 38 when it failed to provide written notification to the Department within 10 days after an amendment was made to the plan.</p> <p>The Fund has provided the necessary written notification to the Department.</p>
C	<p>The Fund violated Section 200.2(a) of Department Regulation No. 36 when it failed to provide a copy of the annual report required to be filed with the superintendent to each employee-member not later than five months after the close of the fund's fiscal period covered by the report.</p> <p>The Fund provides copies of their annual reports to each employee-member through their website.</p>
D	<p>The examiner could not review a sample of self-insured claims to determine whether the members were treated fairly and in accordance with plan benefits because there was no readily available access to the files.</p> <p>The examiner was given access to the files to review a sample of claims.</p>

APPOINTMENT NO. 31207

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

JO CATENA HARGROVE

as a proper person to examine the affairs of the

NY44 HEALTH BENEFITS PLAN TRUST

and to make a report to me in writing of the condition of said

FUND

with such other information as she shall deem requisite.

In Witness Whereof, I have hereunto subscribed my name and affixed the official Seal of the Department at the City of New York

this 29th day of October, 2014

BENJAMIN M. LAWSKY
Superintendent of Financial Services

By:



MICHAEL MAFFEI
ASSISTANT DEPUTY SUPERINTENDENT
AND CHIEF OF THE LIFE BUREAU

