

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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NEW YORK INSURANCE ASSOCIATION, INC.,
AMERICAN TRANSIT INSURANCE COMPANY,
EVEREADY INSURANCE COMPANY, GREATER NEW
YORK MUTUAL INSURANCE COMPANY, KINGSTONE
INSURANCE COMPANY, MERCHANTS INSURANCE
GROUP and UTICA MUTUAL INSURANCE COMPANY,

**AFFIDAVIT OF
PATRICIA L. SWOLAK**

Index No. 264-10

Plaintiffs,

-against-

STATE OF NEW YORK, ANDREW M. CUOMO, Governor of
the State of New York, BENJAMIN M. LAWSKY,
Superintendent of the New York State
Department of Financial Services, and ROBERT
L. MEGNA, as Director of Budget,

Defendants.

THE NEW YORK HEALTH PLAN ASSOCIATION, INC.;
AETNA HEALTH INC.; AETNA HEALTH INSURANCE COMPANY
OF NEW YORK; CDPHP UNIVERSAL BENEFITS, INC.;
CAPITAL DISTRICT PHYSICIANS' HEALTH PLAN, INC.;
HEALTH NET OF NEW YORK, INC.; HEALTH NET
INSURANCE OF NEW YORK, INC.; HEALTHNOW NEW YORK
INC.; INDEPENDENT HEALTH ASSOCIATION, INC.;
INDEPENDENT HEALTH BENEFITS CORPORATION; MVP
HEALTH PLAN, INC.; MVP HEALTH INSURANCE COMPANY;
MVP HEALTH SERVICES CORP.; PREFERRED ASSURANCE
COMPANY; OXFORD HEALTH INSURANCE, INC.; OXFORD
HEALTH PLANS (NY), INC.; UNITEDHEALTHCARE
INSURANCE COMPANY OF NEW YORK; and UNITEDHEALTHCARE
OF NEW YORK, INC.,

Intervenor-Plaintiffs,

-against-

STATE OF NEW YORK, ANDREW M. CUOMO, in his
official capacity as Governor of the State of
New York, BENJAMIN M. LAWSKY, in his official
capacity as Superintendent of the New York
State Department of Financial Services, and
ROBERT L. MEGNA, in his official capacity as
Budget Director of the State of New York,

Defendants.

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STATE OF NEW YORK)

COUNTY OF ALBANY)

PATRICIA L. SWOLAK, being duly sworn, deposes and says:

1. I am employed by the New York State Department of Financial Services (formerly the Insurance Department)¹ as a Supervising Insurance Policy Examiner and have been with the Department for 15 years.

2. During my employment with the Department, I assisted in the implementation of the Healthy New York Program and the Pilot Program for Entertainment Industry Employees. As a Supervising Insurance Policy Examiner, my responsibilities currently include assisting with the administration of the Healthy New York Program. I am also familiar with the Health Maintenance Organization Direct Pay Market Program.

3. The Healthy New York Program, the Health Maintenance Organization Direct Pay Market Program, and the Pilot Program for Entertainment Industry Employees are three programs administered by the Department which were funded through the Department's budget during fiscal years 2008-09 through 2011-12.

¹On March 31, 2011, the Legislature enacted Financial Services Law § 102, which, effective October 3, 2011, combined the Banking Department and the Insurance Department into the Department of Financial Services. L. 2011 Ch. 62 Pt. A §§ 1, 114(a). For the sake of clarity, I will refer to both the Insurance Department and the Department of Financial Services as "the Department."

4. As will be shown below, these programs provide more affordable insurance coverage to New Yorkers; ensuring the availability of such coverage is one of the Department's most important functions. The Healthy New York Program and the Health Maintenance Organization Direct Pay Market Program also provide insurance companies with customers who could not otherwise afford to purchase insurance policies.

**Healthy New York Program and Health Maintenance
Organization Direct Pay Market Program**

5. On December 30, 1999, the Legislature enacted Insurance Law §§ 4326 and 4327 (L. 1999 Ch. 1 ("the New York Health Care Reform Act of 2000") §§ 113 and 114), which created the Healthy New York Program. This program offers an option to both New York's small business owners and low income New York State residents to obtain health insurance at rates that are more affordable than other market offerings. The Healthy New York Program makes affordable insurance coverage available to qualified consumers by reducing their premiums and ensuring statewide coverage through the participation of New York's Health Maintenance Organizations ("HMOs"). Lower premiums result from the creation of a standardized, reduced benefit package, while reinsurance is also used to reimburse a portion of medical claims on behalf of covered enrollees.

6. In addition to the Healthy New York Program, the New York Health Care Reform Act of 2000 also created the related program known as the Health Maintenance Organization Direct Pay Market Program. This reinsurance program reimburses HMOs a percentage of eligible claims that they pay on behalf of qualified consumers.


7. The Healthy New York Program and the Health Maintenance Organization Direct Pay Market Program have been administered by the Department since the programs' inception in January 2001.

Pilot Program for Entertainment Industry Employees

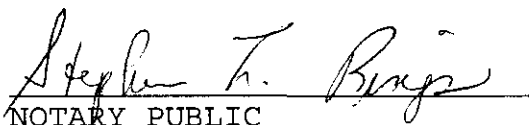
8. On September 21, 2004, the Legislature enacted Insurance Law § 1122 (L. 2004 Ch. 495 § 2), which created the New York State Health Insurance Continuation Assistance Demonstration Project. The purpose of this program is to subsidize COBRA (see the Consolidated Omnibus Budget Reconciliation Act of 1985 (P.L. 99-272)) premiums for members of the entertainment industry.

9. The pilot program for entertainment industry employees provides premium assistance to eligible New Yorkers. This particular program is geared towards the entertainment industry, whose members often experience episodic employment and must use COBRA to continue their health insurance coverage during periods of unemployment and underemployment. This program ensures that these workers do not go uninsured during such times.

10. The pilot program for the entertainment industry has been administered by the Department since it became operational in January 2005.


PATRICIA L. SWOLAK

Sworn to before me this
7th day of September, 2013


NOTARY PUBLIC

STEPHEN L. RINGS
Notary Public, State of New York
Qualified in Albany County
Reg. No. 4056374
Commission Expires March 7, 2014

17, 2014