Fiscal Year 2021 Revised Budget Proposal

Questions for the Department of Banking and Insurance

1. The New Jersey Health Insurance Premium Security Fund was established by P.L.2018, c.24 to support the establishment and operation of a health insurance reinsurance plan. The plan allows health insurance carriers that experience a sudden increase of high-cost claimants and high-cost claims to be reimbursed from the reinsurance fund. Collections from the State shared responsibility tax and any federal funds the State may receive for the support of the reinsurance program are dedicated to the fund. In addition, P.L.2018, c.24 requires the State to appropriate annually the residual amount that is necessary to fully fund the reinsurance plan. P.L.2020, c.43 included a supplemental appropriation of $77.0 million for this purpose for the traditional FY 2020. The Governor does not recommend budgeting for any General Fund support for the reinsurance plan for FY 2021 but recommends the enactment of a new language provision that would grant the Executive unrestricted supplemental appropriation authority for the program. The "Supplementary Information" section in February's FY 2021 Governor's Budget, available online, indicates a projected need for a $43.4 million transfer into the New Jersey Health Insurance Premium Security Fund in FY 2021.

- *Questions:* **Please identify the source of the anticipated $43.4 million transfer into the New Jersey Health Insurance Premium Security Fund in FY 2021. If it is the General Fund, please provide the rationale for not recommending a General Fund appropriation equal to the transfer amount in the Governor's FY 2021 Revised Budget Proposal. Please update the estimate of the amount that will have to be appropriated out of the State General Fund to support the New Jersey Health Insurance Premium Security Fund in the 12-month FY 2021.**

Response:

P.L. 2018, c. 24 created the state's reinsurance fund which took effect for plan year 2019. The structure laid out in the law requires the Individual Health Coverage Board (in but not of the Department) to notify the Legislature of the payment amount for plan year 2019 by June 30, 2020 and for the reinsurance payment to the carriers to be made by November 2020.

The final reinsurance payment amount is not yet determinable for plan year 2020, Fiscal Year 2021. Because of the passage of P.L. 2020 c.61 in July 2020, the Department anticipates that for FY2021 there should not be a need for a General Fund appropriation in order to fund the reinsurance payment to the carriers for plan year 2020 in November 2021.

Please note that the reinsurance payments to the carriers are primarily comprised of pass-through funding from the federal government and the revenue from P.L.2018, c.31. The Department is authorized to utilize revenue from P.L.2019, c.141 and P.L.2020, c.61 prior to the need to utilize funds from the General fund to make up the difference from the pass-through funding, revenue from P.L. 2018, c. 31, and the entire cost of the reinsurance program.

- **Please provide an accounting of Health Insurance Premium Security Plan expenditures for calendar years 2019, 2020, and estimated 2021. What is the annual cost to the department of administering the program? What is the number of positions required to administer the program? What impact, if any, has the outbreak of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), which causes coronavirus disease (COVID-19), had on the implementation of the program?**

Response:

For plan year 2019, the estimated reinsurance payments will be made no later than November 1, 2020. The program is expected to pay no more than $295,737,592 in claims costs for the 2019 plan year. An audit by an independent accounting firm is being finalized in the coming weeks to confirm the final number, which is not expected to exceed that amount.

Since there are several more months in plan year 2020, it is unknown what the total eligible claims will be for the 2020 plan year. An estimate based on carrier-provided data from early 2020 was $320,875,289 for the total claims cost of the program in 2020; however, since that time market impacts and reports from carriers indicate that the total cost is likely to be lower than estimated. Similarly, the total claims cost for the 2021 plan year have not been determined.

Health Insurance Premium Security Plan Expenditures	2019	2020	2021
Claims Audit Projected	$368,663	$400,000	$400,000
Estimated Reinsurance Payment	$295,368,929	$320,475,289	Not Determined
Total	$295,737,592	$320,875,289	$400,000

Since the creation of the reinsurance program, the Department has used existing resources to administer the program and no new positions were added. Additionally, to date the COVID-19 outbreak has not had an effect on the implementation of the reinsurance program.

- **Please project the separate and combined impacts of P.L.2018, c.24 and P.L.2018, c.31 on individual health insurance plans and premiums in plan years 2020 and 2021.**

Response:

Beginning in 2019, rates in the individual market are approximately 22 percent lower than they would have been absent the above-mentioned laws. Separately, P.L.2018, c.31, which continued a requirement to have health coverage in New Jersey following the federal government's repeal of the individual mandate penalty, lowered rates on average by 6.8%, and P.L.2018, c.24, which implements the state's reinsurance program, lowered rates on average by 15.1%. The impact of both laws carry over into the rates for plan years 2020 and 2021.

2. As authorized by P.L.2019, c.141, the State is currently transitioning the marketplace for certain individual health benefits plans from a federally-facilitated exchange to a State-based exchange. The State-based health insurance exchange is to be operational for the 2021 plan year. In transitional plan year 2020, the new State-based exchange operates on the federal platform. The State-based health insurance exchange platform is ultimately to be integrated with the platform for eligibility determinations under the NJ FamilyCare/Medicaid program. To fund the exchange, each carrier is charged a monthly assessment equal to that carrier's total monthly premiums charged for individual health benefits plans sold in the individual market as follows:
(1) 0.5 percent while the State is on a federally-facilitated exchange;
(2) 1.0 percent while the State is on a State-based exchange using the federal platform; or
(3) 3.5 percent while the State is on a State-based exchange. The department may adjust the 3.5 percent rate to ensure that the exchange is fully funded, but the rate may not exceed 4.0 percent of total monthly premiums charged.

Revenues collected from the assessment, as well as any other moneys received to support the exchange, are to be deposited in a special nonlapsing revolving fund, called the Health Insurance Exchange Trust Fund. Balances in the trust fund are to pay for the development and operation of the exchange; as well as outreach, enrollment, and other efforts that support the exchange, including any initiative that stabilizes the market or that may result in a net benefit to policyholders.

Prior to the outbreak of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2), the "Supplementary Information" section in February's FY 2021 Governor's Budget, available online, indicated that the Executive anticipated $9.0 million in assessment collections and trust fund expenditures in FY 2020. Then, for FY 2021, the Executive estimated $40.5 million in assessment collections and $31.0 million in expenditures. A portion of the projected expenditures cover expenses of the new division the department is establishing to administer the State-based health exchange. The new division has 19 funded positions at a total FY 2021 salary cost of $1.8 million.

In addition, subsequent to the issuance of a Request for Proposals, the department announced on January 6, 2020 that GetInsured was selected to develop and operate the exchange's technology platform for a base term of five years at a total cost of $39.8 million with calendar year 2021 costs approximating $7.6 million. MAXIMUS, in turn, was selected to operate the exchange's consumer assistance center for a base term of three years at a total cost of $17.8 million with calendar year 2021 costs approximating $7.1 million.

- ***Questions:*** **Please provide an update on the department's efforts to establish a State-based health insurance exchange. Will the exchange be operating on a State platform in plan year 2021, as planned? Has the stay-at-home order issued subsequent to the outbreak of COVID-19 delayed the implementation of the State-based health insurance exchange? Does the department's anticipate assessment collections and trust fund expenditures in FY 2020 and FY 2021 to remain unchanged? By what date will the exchange platform be integrated with the platform for eligibility determinations under the NJ FamilyCare/Medicaid program? Does integration mean that the two programs are operating on the same platform or that the two system platforms communicate with one another for the exclusive purpose of referring applications to the appropriate program?**

Response:

The efforts to establish a State-based Health Insurance Exchange are on schedule for implementation for the 2021 Open Enrollment Period that begins on November 1, 2020 and ends on January 31, 2021. New Jerseyans seeking coverage to start on or after January 1, 2021 will be able to complete an eligibility application, compare plans, and enroll in coverage on the new State-based Exchange platform. DOBI has worked with GetInsured and Maximus to ensure that the Exchange platform and Customer Assistance Center are prepared to operate as scheduled. The Department has provided program guidance to the vendors to ensure the establishment of a State-based Exchange that is tailored to New Jersey, including the incorporation of the state subsidy that was passed by the Legislature and signed into law by Governor Murphy at the end of July 2020.

While COVID-19 and public health guidelines have resulted in a shift in operations for many workplaces, including those in the state, they have not delayed the implementation of the State-based health insurance exchange.

The state previously sent more than $50 million to the federal government annually for its use of the federal exchange. The state began operating a State-based Exchange on the Federal Platform (SBE-FP) in September of 2019. On November 1, 2020, the state will begin operating a full State-based Exchange.

New Jersey's operation of a State-Based Exchange will allow it to provide significant benefits to its residents, including through investment in exchange components which have been significantly reduced at the federal level.

As per the P.L.2019, c.141, revenues collected from the assessment to fund the state exchange are to be deposited in a special nonlapsing revolving fund, called the Health Insurance Exchange Trust Fund. Balances in the Trust Fund are to be used for the purpose of supporting the exchange through initial start-up costs associated with establishment of the exchange, exchange operations, outreach, enrollment, and other means of supporting the exchange, including any efforts that can increase market stabilization and that may result in a net benefit to policyholders.

This assessment is collected monthly, based on the amount of premiums each carrier in the individual market collects for individual health plans in the month. The 1.0 percent assessment is being applied during calendar year 2020 as the state operates as an SBE-FP. The 3.5 percent assessment will be applied beginning in January 2021. Therefore, collections from the assessment in FY 2020 include six months of the 2020 plan year at 1 percent, from which the department has collected $10,437,950.17. FY 2021 will include six months of an assessment at 1 percent and six months at 3.5 percent, from which the department anticipates collecting $44,618,594.23. However, since enrollment can fluctuate throughout the year it is not clear what the total collections for FY2021 will be.

As per the Exchange law that states "the department shall coordinate the operations of the exchange with the operations of the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and the NJ FamilyCare Program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.) to determine eligibility for those programs as soon as practicable", the

Department has consistently and regularly worked with the Department of Human Services (DHS) to ensure coordination with NJ FamilyCare. In the first year, the State-based Exchange and NJ FamilyCare will refer consumers that are likely or may be eligible for the other program via an existing mechanism referred to as "Account Transfer." This known approach was taken to reduce risk and ensure success for the first-year implementation and to allow for more comprehensive, long-term strategy development on the future of Exchange and NJ Family Care integration. As a result of being a State-based Exchange, the Department and DHS will, for the first time, be able to closely monitor on an ongoing basis the transfers of consumers across systems. Both Departments are committed to continue to work together to ensure the best consumer experience.

- **Please delineate by component Health Insurance Exchange Trust Fund expenditures in the traditional FY 2020 and anticipated trust fund expenditures for the 12-month FY 2021.**

Response:

Exchange Expenditures	FY2020	FY2021 Projected
Salary and Fringe Benefits Expense	$54,667	$2,700,852
Development Costs	$5,932,297	$19,573,503
Marketing and Outreach	$1,481,705	$10,000,000
Navigator/ Enrollment Assistance Grants	$1,243,447	$4,000,000
Exchange Improvements/ Market Stabilization Efforts		$7,500,000
Total	$8,712,116	$43,774,355

- **Please provide an organizational chart for the unit administering the State-based health exchange. Please list, by title and salary range, the unit's full- and part-time positions.**

Response:

Attached please find the current organizational chart for the State-based Exchange(SBE), a new division within the Department The attached organizational chart and the below chart reflects the SBE division's current full and part-time department staff As noted above, the Department anticipates hiring additional staff during FY 2021.

Functional Title	**Salary Range Code**
DIRECTOR, STATE-BASED EXCHANGE	X 98
CHIEF OPERATING OFFICER AND DEPUTY DIRECTOR	X 98

ASSOCIATE COUNSEL	X 98
CARRIER OPERATIONS MANAGER	X 98
CONSUMER EXPERIENCE LEAD	X 98
POLICY ANALYST	X 98

- **Who owns the State-based health insurance exchange platform, the State or GetInsured? Is the State only paying for the use of the platform? Could the State readily operate the exchange or assign that responsibility to another vendor if, for whatever reason, it wished to end the relationship with GetInsured?**

Response:

GetInsured was selected through a competitive bidding process. The base term of the contract for GetInsured is for a period of five years, with two optional one-year extensions at the State's discretion. In addition to New Jersey, GetInsured currently runs the exchange platform for the state exchanges of Nevada, California, Idaho, Minnesota, Washington State, and Pennsylvania. GetInsured's commercial "off-the-shelf" Exchange platform provides the basic functionality required of all Exchanges under the Affordable Care Act. GetInsured's system allows for custom-built configurations that the Department has leveraged to tailor the Exchange to New Jersey, including the provision of state subsidies to lower premiums in addition to the federal Advance Payment of the Premium Tax Credit (APTC). The State owns all data associated with the Exchange. To the extent a different vendor is sought in the future, the State would retain current and historical consumer data and would be able to migrate such data to a new Exchange platform as needed to ensure a seamless experience.

3. The federal Affordable Care Act (ACA) established a minimum level of health care benefits, referred to as the Essential Health Benefits (EHB) package, that all qualified health plans (QHPs) offered nationwide must include. The ACA authorizes states to require QHPs to cover additional benefits, provided that states defray the costs of the mandated benefits. New Jersey recently enacted several laws that mandate certain health care benefits: P.L.2019, c.306; P.L.2019, c.343; P.L.2019, c.360; and P.L.2020, c.7.

The ACA requires state governments to defray the costs associated with benefit mandates enacted after December 31, 2011. In reply to a FY 2019 OLS Discussion Point, the department clarified that the cost defrayal obligation would only be triggered by a mandate to cover a service or supply that was not previously required. Defrayal was not triggered by newly enacted utilization management requirements.

- ***Questions:*** **What is the department's estimate for the costs for QHP to provide benefits pursuant to P.L.2019, c.306; P.L.2019, c.343; P.L.2019, c.360; and P.L.2020, c.7? Please explain whether each of these laws triggered the cost defrayal obligation the ACA places on state governments. For any law that triggered the cost defrayal obligation, please indicate the expenditures the State is projected to incur in FY 2020 and FY 2021 and the budget line(s) in which the added expenditures are included.**

Response:

CMS rules require that any state-required benefits applicable to the individual and/or small-group market that are enacted after December 31, 2011, other than for purposes of compliance with Federal requirements, are considered to be in addition to the essential health benefits (EHB) required under section 1302 of the Patient Protection and Affordable Care Act (PPACA). It remains the Department's understanding that, while the ACA requires state governments to defray the costs associated with mandates enacted after December 31, 2011, defrayal is triggered only by a mandate to cover a service or supply that was not previously required. Further, any changes to service delivery method, provider types, cost sharing, or reimbursement methods would not trigger the requirement for the state to defray the cost.

P.L.2019, c.306 requires health benefits coverage for fertility preservation services under certain health insurance plans. Since this law applies only to groups of more than 50 persons and defrayal only applies to QHPs in the individual and small group markets, this law does not impact defrayal.

P.L.2019, c.343 requires health benefits coverage for breastfeeding support. This law does not impose a new coverage requirement for a service or supply that was not already required, but rather alters provider types as it relates to lactation consultants, delivery methods as it relates to breastfeeding equipment, and limits cost sharing for those services and supplies. Furthermore, federal law requires coverage for breastfeeding support, counseling, and equipment for the duration of breastfeeding. Therefore, defrayal is not required.

P.L.2019, c.360 requires insurance coverage for preventive services. This law codifies an existing requirement under federal law for coverage of preventative services. Thus, defrayal is not triggered.

P.L.2020, c.7 addressed health insurance and Medicaid coverage as it relates to coronavirus disease 2019 and telemedicine services. This law requires coverage without cost-sharing for expenses incurred in the testing for coronavirus disease 2019 and the delivery of health care services through telemedicine or telehealth during certain emergencies. These are services that would otherwise be required coverages, but the law modifies the cost sharing and delivery methods associated with such services. Thus, defrayal is not triggered.

4. The Legislature added a language provision to the FY 2020 Appropriations Act that required the department to commission a comprehensive analysis of certain options for the State to provide more affordable health care coverage in the individual market, while reducing disruptions in coverage affordability for consumers who become ineligible for Medicaid due to an increase in the minimum wage or who will lose federal subsidies in the Marketplace. The Legislature allowed one year for the completion of the final report, but a gubernatorial line-item veto left the report without any specific deadline. The Governor's FY 2021 Revised Budget Proposal does not include any language related to the comprehensive analysis.

- ***Questions:*** **Please provide a status update on the comprehensive analysis of options for the State to provide more affordable health care coverage in the individual market. Has the department awarded a contract to conduct the analysis? If so, please specify the name of the contracted entity and the terms of compensation. If not, please specify by what date the department anticipates awarding a contract. Has the analysis been completed? By what date does the department anticipate the completion and submission of the final report? Please share the report if it has been completed. What cost does the department anticipate incurring for the analysis and the final report?**

Response:

Pursuant to language in the fiscal year 2020 budget, the department was required to commission an expansive actuarial and/or microsimulation study. "The Commissioner of Banking and Insurance shall commission an actuarial and/or microsimulation analysis of options for the State to provide more affordable health coverage in the individual market for both consumers who are currently eligible for federal financial assistance and those who are not, while reducing disruptions in coverage affordability for consumers who become ineligible for Medicaid due to an increase in the minimum wage or who will lose federal subsidies in the Marketplace or exceed the income limits for federal subsidies in the Marketplace for other reasons. The study shall include at least the following options: 1) implementing State subsidies for individuals up to 200 or 300 percent of federal poverty level to reduce or eliminate consumer payments for premiums and cost sharing; 2) lifting the cap on premium assistance in the Marketplace to aid those individuals with incomes of between 400 and 500 percent of the federal poverty level; 3) implementing the Affordable Care Act's Basic Health Program option; and 4) consumers' purchase of Medicaid, Medicaid-like or NJ FamilyCare plans. For these and any other options under examination, the study shall estimate effects on State costs, consumer costs, coverage levels, State economic activity, and federal revenue streams that may be available to implement these options, if any. Such amounts are appropriated as the Director of the Division of Budget and Accounting shall determine."

The Department awarded the contract for the above study to *Oliver Wyman* at a total base cost of $578,659. Given the breadth of the required work, the contract with the firm is divided into stages. The department anticipates that a significant portion of the work required under the budget language will be completed in 2020.

5. Effective as of January 1, 2021, P.L.2020, c.61 established a new annual assessment equal to 2.5 percent of net written premiums collected by issuers of certain health benefits and dental benefits plans. Collections from the assessment are to be used to increase the affordability in the individual market of and provide greater access to health insurance with a primary focus on households with an income below 400 percent of the federal poverty level.

- *Questions:* **Please provide the FY 2018, FY 2019, FY 2020, and estimated FY 2021 combined net written premiums for all health and dental insurers, breaking down these data by line of insurance that will be assessed under P.L.2020, c.61.**

Response:

Since P.L.2020, c.61 requires each entity subject to the act to annually file with the commissioner its net written premiums for the preceding year. The below chart includes premium by calendar years (CY). Since CY2020 has several more months of unavailable data, the premium for that year is an estimation. Similarly, the premium noted for CY2021 is also an estimation.

Net Written Premiums
Calendar Year (CY)

	CY 2018	CY 2019	CY 2020 Estimate	CY 2021 Estimate
Large Group	$5,546,893,689	$5,559,261,331	$5,571,656,549	$5,584,079,403
Individual Market	$2,061,858,729	$1,847,598,448	$2,068,324,104	$2,210,778,261
Dental	$221,820,769	$213,346,992	$207,159,929	$208,610,049
Vision	$85,159,590	$88,566,773	$92,110,275	$95,795,551
Total	$7,915,732,777	$7,708,773,544	$7,939,250,857	$8,099,263,264

- **Please provide an estimate of revenue to be collected by the department for FY 2021 under P.L.2020, c.61. Please provide the estimated number of payers in FY 2021. Please detail this information by line of insurance that will be assessed under P.L.2020, c.61.**

Response:

The assessment for FY2021 will be collected no later than May 1, 2021 and will be based on the reported net written premiums from the preceding year (CY2020), which is estimated to be $7,939,250,857. The estimated assessment amounts are in the chart below.

	Estimated HIA Amount	Payors
Large Group	$139,291,414	16
Individual Market	$51,708,103	9
Dental	$5,178,998	24
Vision	$2,302,757	6
Total	$198,481,272	55

- **Please provide an update on the specific programs and activities that will be supported by collections from the assessment. If any new program is to be established, please describe the program and set forth the date by which it is anticipated to become operational.**

Response:

The revenue from the HIA will be directed towards helping to fund one existing program, the reinsurance program created pursuant to the New Jersey Health Insurance Premium Security Act under P.L. 2018, c.24, and a new program that will provide a state subsidy to certain individuals purchasing coverage on the state based health exchange, Get Covered New Jersey, for plan year 2021.

In July 2020 the Legislature passed and the Governor signed, P.L.2020, c.61, or the New Jersey Health Insurer Assessment (HIA). The HIA is, in part, a continuation of a federal assessment on health insurance companies that will sunset at the end of the year. All of the revenue generated will be used to support residents and families purchasing policies on the individual market. It will provide funding to the state's reinsurance program and allow the state to provide state-level subsidies, in addition to federal subsidies that are available, for the majority of consumers purchasing insurance on the State-Based Marketplace when the ACA Open Enrollment Period begins on Nov. 1.

The subsidy program will be available to New Jerseyans with annual income up to 400% of the Federal Poverty Level, which allows an individual earning up to $51,040, and a family of four earning up to $104,800, to qualify for the subsidy program. Actual subsidy amounts will be based on an actuarial simulation study being conducted by the Department of Banking and Insurance in order to maximize the benefit for New Jerseyans.

The law sets the state HIA rate at 2.5% of net written premiums and applies it to certain fully insured health insurance markets. The assessment is expected to bring in approximately $200 million in revenue starting in calendar year 2021. Under the law, this revenue can only be used to increase affordability in the individual market and provide greater access to the uninsured through a number of means including subsidies, reinsurance, and other efforts.

6. On May 12, 2020, the department issued Bulletin No. 20-22, which for each month that the COVID-19 pandemic public health emergency is in effect requires premium reductions for the following policies: private passenger automobile insurance, commercial automobile insurance, workers' compensation insurance, commercial multiple-peril insurance, commercial liability insurance, medical malpractice insurance, and any other line of coverage where the measures of risk have become substantially overstated as a result of the COVID-19 pandemic. The department required insurance carriers to submit documentation on their insurer refund programs so that the department could determine adherence of the programs with department guidance. In addition, Order A20-03 required insurer groups writing any of the concerned lines of insurance to provide claim and premium activity reports to the department, as well as reports summarizing all actions taken or contemplated to refund or adjust premiums in response to Bulletin No. 20-22.

- **Questions: By line of insurance, please indicate the total amount and percentage of premium reductions that ratepayers have received in conformity with Bulletin No. 20-22. By line of insurance, please summarize each month's claim and premium activity in calendar year 2020 to date.**

Response:

To date, during the public health emergency, due to the department's actions, insurers have provided approximately $700 million dollars in relief to New Jerseyans. The relief amounts provided are those committed to by insurers through July and represent a minimum estimated amount.

The majority of premium relief was paid to consumers in April, May, and June; some insurers made single lump-sum payments, while others made monthly payments.

The form of premium relief varies by insurer and line of business, but includes:

- Uniform premium credits or dividend payments as a percentage of premiums
- Reduction of payroll for businesses whose operations were reduced
- Reclassification of drivers and workers to "work from home" status, applicable to both auto and Workers Compensation policies
- Vehicle "lay up" credits for commercial vehicles temporarily out of service
- "Part-time" or "retired" credits for physicians whose practices were reduced or closed

Line	Relief Provided by Insurers	Estimated Percent of April - June Premiums Returned to New Jerseyans	Estimated Apr-Jun Premiums
Private Passenger Auto	$551,148,669	27.1%	$2,034,479,012
Commercial Auto	$65,908,804	16.0%	$411,100,696
Workers Compensation	$35,804,688	5.8%	$618,768,053
Medical Malpractice	$11,600,577	14.3%	$80,994,291
Commercial Multi-Peril	$8,357,126	4.6%	$180,741,500
General Liability	$17,526,001	2.6%	$686,344,000

- **Have insurance carriers' initial refund programs complied with the requirements of Bulletin No. 20-22? In how many cases and in which lines of insurance has the department requested revisions to insurer refund programs? Has the department penalized any carrier for non-compliance? If so, please indicate the name of the insurer and the lines of insurance for which the insurer was out of compliance.**

Response:

Initial refunds were provided by June 15th in compliance with the bulletin. The Department continues to review data submitted by insurers and is having ongoing discussions with many insurers to ensure that appropriate relief continues to be provided. To date the Department has not taken enforcement action against a carrier in regard to Bulletin No. 20-22.

- **Within the context of the COVID-19 pandemic, what is the department's definition of excessive insurance rates? How is that definition different from the department's regular, non-pandemic interpretation of excessive insurance rates?**

Response:

Within the context of COVID-19, the Department is reviewing insurer financial data and claim experience to determine if insurers are generating any additional profit than they would have otherwise had without the COVID-19-related market impacts. While profit alone does not imply excessive rates, the Department expects that insurers should not realize any additional profit due to reduced claim activity associated with COVID-19.

For Private Passenger Automobile (PPA), the Excess Profits calculations are detailed in N.J.A.C. 11:3-20. The calculation considers seven years of premiums, losses, expenses, and investment income. The calculated profits are compared to expected profit provisions, plus an additional margin. Given that PPA rates are subject to the Department's approval, rates for each insurer are subject to regular review (usually at least annually), and insurers are not be able to unilaterally implement an increased or excessive rate.

For other lines, there is no stated definition of excessive rates. In general, this would be evaluated on a case-by-case basis, considering various factors including:

- Long-term profits of an insurer and its competitors
- How an insurer's rate compares to other competitors' rates in the market
- An insurer's financial condition
- The overall competitive nature of the market, and the availability of insurance

Please note that similar to PPA, rates for Homeowners, Other Personal Lines, Workers Compensation and are also subject to the Department's approval.

General Questions

7. Please identify any Department of Banking and Insurance program, service or activity suspended or discontinued upon the issuance of the COVID-19 public health emergency declaration; the status of the program, service or activity; and status for FY 2021. What number of persons, households, business entities or government entities were, are, or will be affected?

Response:

The Department has not suspended or discontinued any program, service, or activity due to Covid-19. Statewide restrictions on indoor activities due to Covid -19 caused the in-person testing centers operated by the State's contractor to be closed temporarily. When the restrictions on indoor activity were changed the centers were opened in accordance with the new guidelines. In order to address this issue the Department created a temporary insurance producer license and recently announced the creation of remote proctored testing that will individuals who want to take the licensing exams to become insurance producers, public adjusters and real estate agents to be able to do so remotely. This will provide New Jerseyans and other states' residents who want to work in these fields more flexibility to access examinations during the COVID-19 emergency. The new remote exam option will remain in place permanently, in addition to the current option available to license seekers to take the examination in-person at a testing site.

8. How much federal COVID-19 relief funding has the department received since March 2020, if any? Of those new funds, how much has been expended? Please provide a breakdown of the departmental accounts that have received the federal funding and the amount each account received.

Response:

The Department of Banking and Insurance has not received any federal COVID-19 relief funding.

9. How is the department adjusting its operations, training, and programming to eliminate any racial disparities and biases in its operations?

Response:

The Department takes very seriously the need for diversity and inclusion in its workplace and the industries it regulates. As a step in that process, on March 16, 2020, the Department hired its first Diversity and Inclusion Officer.

Question 2 Attachment

DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF THE NEW JERSEY STATE-BASED HEALTH INSURANCE EXCHANGE