STATE OF UTAH INSURANCE DEPARTMENT

REPORT OF FINANCIAL EXAMINATION

of

OPTICARE OF UTAH, INC.

of

West Valley City, Utah

as of

December 31, 2018

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September 17, 2020

Honorable Todd E. Kiser, Commissioner
Utah Insurance Department
3110 State Office Building
Salt Lake City, Utah 84114

Commissioner:

Pursuant to your instructions and in compliance with statutory requirements, a multi-state examination, as of December 31, 2018, has been made of the financial condition and business affairs of:

OPTICARE OF UTAH, INC.
West Valley City, Utah

hereinafter referred to in this report as "the Organization" or "Opticare" and the following report of examination is respectfully submitted.

SCOPE OF EXAMINATION

Period Covered by Examination

The last examination covered the period of January 1, 2010 through December 31, 2014. This full-scope examination covers the period of January 1, 2015 through December 31, 2018, including any material transactions and/or events occurring subsequent to the examination date and noted during the course of the examination.

Examination Procedures Employed

We conducted our examination in accordance with the National Association of Insurance Commissioners ("NAIC") *Financial Condition Examiners Handbook* ("Handbook"). The Handbook requires that we plan and perform the examination to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Organization and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Organization were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with Statutory Accounting Principles. The examination does not attest to the fair presentation of the financial statements included herein. If, during the course of the examination an adjustment is identified, the impact of such adjustment will be documented separately following the Organization's financial statements.

This examination report includes significant findings of fact, as mentioned in Utah Code § 31A-2-204(7)(a) and general information about the Organization and its financial condition. There may be other items identified during the examination that, due to their nature (e.g., subjective conclusions, proprietary information, etc.), are not included within the examination report but separately communicated to other regulators and/or the Organization.

SUMMARY OF SIGNIFICANT FINDINGS

Items of significance in this report are summarized below:

1. Uncollected premium balances older than 90 days as of December 31, 2018 were included in the Uncollected Premiums amount reported in the amended 2018 Annual Statement and were not nonadmitted as required by *Statement of Statutory Accounting Principles ("SSAP") No. 6*, which requires that any uncollected premium balances older than 90 days be nonadmitted. An examination adjustment reduced the Uncollected Premiums balance by $141,423, with a corresponding decrease to surplus. (See ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS, COMMENTS ON FINANCIAL STATEMENTS)

2. The total of customer accounts with credit balances, $86,379, was incorrectly reported on Line 4 - Aggregate Health Policy Reserves, p. 3, in the 2018 Annual Statement. Premiums collected for services not yet performed should be reported on Line 8 – Premiums Received in Advance, in accordance with the NAIC Annual Statement Instructions and *SSAP No. 54R*, which defines advance premiums as those premiums that have been received prior to or on the valuation date but which are due after the valuation date. An examination adjustment was made to reclassify this balance. (See ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS, COMMENTS ON FINANCIAL STATEMENTS)

3. As of December 31, 2018, the Organization had made certain advances to its affiliate, Standard Optical Company ("Standard"), totaling $385,958, which were reported as a nonadmitted asset in the amended 2018 Annual Statement. In November 2019, the Organization converted the 2018 advances receivable to a non-collateralized note receivable due from Standard in the amount of $385,958. Opticare did not provide notice of this transaction to the Utah Insurance Department ("Department") and did not include the note receivable in the 2019 Annual Statement, which is in violation of § 31A-16-106(1). (See SUBSEQUENT EVENTS)

4. The Organization made additional advances to Standard during the year ended December 31, 2019 and in the first quarter of 2020. As of March 31, 2020, total advances receivable due from Standard, reported as a nonadmitted asset in the March 31, 2020 Quarterly Statement, was $1,117,522. Opticare did not provide notice of these material transactions to the Department, which is contrary to the requirements of § 31A-16-106(1). (See SUBSEQUENT EVENTS)

5. Upon review of the 2019 Annual Statement in March 2020, the Department determined that the Risk-Based Capital ("RBC") Statement as of December 31, 2019 must be adjusted for the effect of the applicable investment limitations in Utah Code § 31A-18-106(1), which apply to a loan receivable from Standard. This loan receivable had a balance of $616,057 as of December 31, 2019, of which $502,481 is nonadmitted. In accordance with § 31A-17-602(5)(a), the Department adjusted the RBC Report for the nonadmitted portion of the asset.

   As a result of this adjustment, the Organization's total adjusted capital as of December 31, 2019 was $(77,073).

   On March 30, 2020, the commissioner approved foregoing any action, for up to 90 days, in accordance with § 31A-17-606(2)(d). The Organization provided a written plan of capital contributions totaling $350,000 to be made by its owners within 90 days and agreed to cease further cash and investments transfers, payment of expenses and other advances to Standard. Capital contributions totaling $350,000 were received during the 90-day period and the RBC mandatory control level event was eliminated on August 10, 2020. (See SUBSEQUENT EVENTS)

ORGANIZATION HISTORY

General

Opticare of Utah, Inc., dba Opticare Vision Services, is a limited health plan domiciled in the state of Utah. It was organized as a corporation on August 19, 1987 and obtained a certificate of authority as a limited health plan for vision services effective January 4, 1988, after which it began selling group and individual vision care insurance policies. Effective June 10, 2010, Opticare obtained a certificate of authority as a disability insurer (limited to optometry) in the state of Arizona for group and individual vision care insurance policies. Effective February 24, 2016, Opticare was issued a certificate of authority as an accident and health insurer in the state of Missouri for group and individual vision care insurance policies.

Dividends and Capital Contributions

The Organization did not declare, nor pay any dividends to stockholders during the examination period.

There were no capital contributions to the Organization during the examination period.

Subsequent to the examination period, the Organization received capital contributions in the amount of $350,000. (See SUBSEQUENT EVENTS)

Mergers and Acquisitions

There were no mergers and acquisitions during the examination period.

MANAGEMENT & CONTROL INCLUDING CORPORATE GOVERNANCE

Board of Directors

The Organization's bylaws indicate that the authorized number of directors shall be up to seven (7). The following persons served as directors and as members of the audit committee as of December 31, 2018:

Name and Location	**Title and Principal Occupation**
Stephen H. Schubach Sandy, UT	President Standard Optical Company
Aaron R. Schubach Salt Lake City, UT	Vice President Standard Optical Company
Mary S. McCarthey Salt Lake City, UT	President Mary S. McCarthey, LLC

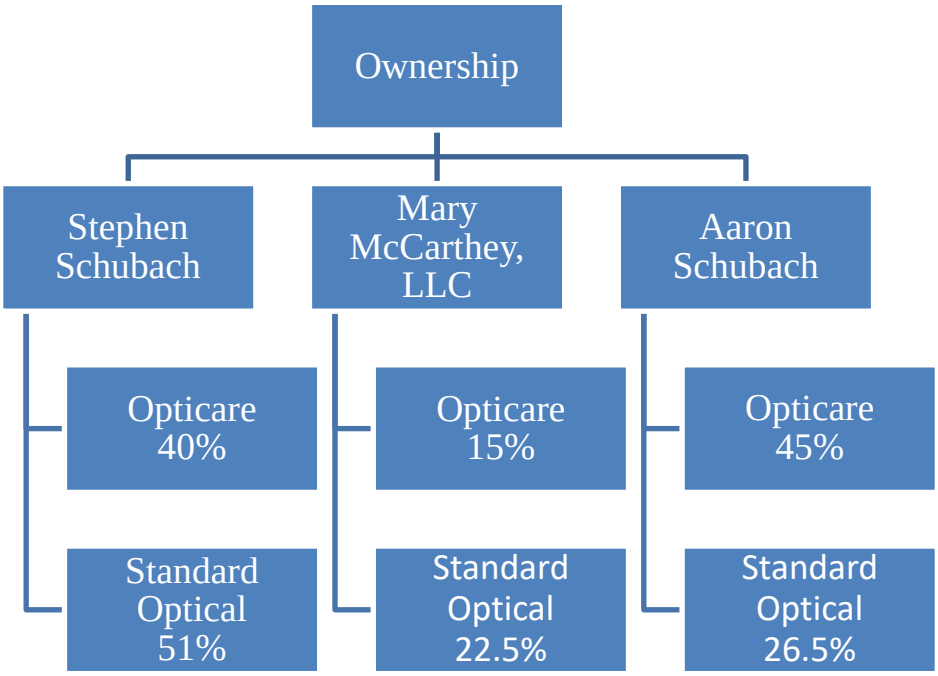
Officers

The officers of the Organization as of December 31, 2018 were as follows:

Name	**Title**
Stephen H. Schubach	President
Aaron R. Schubach	Chief Executive Officer
Matt Schaefermeyer	Chief Financial Officer

Holding Company

The Organization shares common ownership with affiliate Standard Optical Company as illustrated in the holding company organizational chart below:



Affiliate Agreements and Transactions

Management and Administrative Agreement with Standard
The Organization has a Management and Administrative Agreement ("Agreement") with Standard under which Standard provides administrative services to Opticare. The personnel providing management and administrative services to Opticare are full-time employees of, and are directly compensated by, Standard. In addition, Standard provides to Opticare: (1) office space including rent, related utilities and real estate taxes; and (2) computer network access and telecommunication services.

2017 Business Loans to Standard
In November 2017, the Organization extended two non-collateralized business loans to Standard, as documented in note payable agreements, dated September 30, 2017, between Standard and Opticare:

1. One-Year Loan - $80,000 principal amount, interest rate 7.5% fixed, term 12 months, monthly payment variable and increasing over the life of the loan.

2. Eight-Year Loan - $790,000 principal amount, interest rate 8.0% fixed, term 96 months, monthly payment $11,167.98.

Standard repaid the one-year loan in 2018, within the time period described in the agreement.

Standard has made regular payments on the eight-year loan, in accordance with the terms of the note payable agreement.

2018 Receivable from Standard
As of December 31, 2018, Opticare had made certain advances to Standard totaling $385,958. Subsequent to December 31, 2018, the Organization submitted a prior notice of intent to convert this receivable to a business loan to Standard, which was disapproved by the Department. The $385,958 receivable was reported as a nonadmitted asset in the amended statutory financial statements for the year ended December 31, 2018.

In November 2019, the Organization converted the 2018 advances receivable to a non-collateralized note receivable due from Standard in the amount of $385,958. Opticare did not provide notice of this transaction to the Department and did not include the note receivable in its statutory financial statements for the year ended December 31, 2019, which is in violation of § 31A-16-106(1). (See SUBSEQUENT EVENTS)

2019-2020 Receivable from Standard
Opticare made additional advances to Standard during the year ended December 31, 2019 and in the first quarter of 2020. As of March 31, 2020, the total receivable balance due from Standard, reported as a nonadmitted asset in the March 31, 2020 Quarterly Statement, was $1,117,522. Opticare did not provide notice of these material transactions to the Department, which is contrary to the requirements of § 31A-16-106(1). (See SUBSEQUENT EVENTS)

TERRITORY AND PLAN OF OPERATION

The Organization is licensed as a limited heath plan for vision services in the state of Utah. The Organization is also authorized to provide disability insurance limited to optometry in the state of Arizona and is licensed in the state of Missouri to provide group and individual vision care insurance policies.

The Organization's vision care plans and products are marketed by licensed employees of Standard, appointed independent producers, and vision kiosks. Opticare presents its vision care plans and products at trade shows, expositions, and health fairs.

REINSURANCE

Assumed

The Organization neither maintained, nor entered into any assumed reinsurance arrangements during the examination period.

Ceded

The Organization did not maintain, nor enter into any reinsurance arrangements during the examination period.

FINANCIAL STATEMENTS

The following financial statements are based on the amended statutory financial statements filed by the Organization with the Utah Insurance Department and present the financial condition of the Organization for the period ending December 31, 2018. The accompanying COMMENTS ON FINANCIAL STATEMENTS reflect any examination adjustments to the amounts reported in the amended annual statement and should be considered an integral part of the financial statements.

OPTICARE OF UTAH, INC.
BALANCE SHEET
as of December 31, 2018

ASSETS

	Net Admitted Assets	Comments
Cash and short-term investments	$ 633,444	
Other invested assets	697,228	
Uncollected premiums and agents' balances	195,251	(1)
Amounts receivable relating to uninsured plans	9,503	
Electronic data processing equipment and software	2,587	
Total Assets	$ 1,538,013	

LIABILITIES, CAPITAL AND SURPLUS

	Current Year	
Claims unpaid	$ 185,826	
Unpaid claims adjustment expenses	3,717	
Premiums received in advance	86,379	(2)
General expenses due or accrued	128,165	
Total Liabilities	$ 404,087	
Common capital stock	600,000	
Gross paid in and contributed surplus	61,470	
Unassigned funds (surplus)	472,456	(1)
Total Capital and Surplus	1,133,926	
Total Liabilities, Capital and Surplus	$ 1,538,013	

OPTICARE OF UTAH, INC.
STATEMENT OF REVENUE AND EXPENSES
for the Year Ended December 31, 2018

		Total
Net premium income	$	4,864,672
Total revenues	$	4,864,672
Hospital and Medical:		
Hospital/medical benefits	$	2,653,504
Total hospital and medical expenses	$	2,653,504
Less:		
Claims adjustment expenses		182,499
General administrative expenses		1,663,737
Total underwriting deductions	$	4,499,740
Net underwriting gain or (loss)	$	364,932
Net investment income earned		72,823
Net realized capital gains or (losses)		0
Net investment gains or (losses)	$	72,823
Net income or (loss) after capital gains tax and before all other federal income taxes	$	437,755
Federal and foreign income taxes incurred		0
Net income (loss)	$	437,755

OPTICARE OF UTAH, INC.
RECONCILIATION OF CAPITAL AND SURPLUS
2015 through 2018

	2015*	2016*	2017*	Per Exam 2018
Capital and surplus, December 31, prior year	$ 1,204,586	$ 1,212,428	$ 1,247,510	$ 1,415,875
Net income (loss)	15,439	(40,972)	187,406	437,755
Change in nonadmitted assets	(7,597)	76,054	(19,041)	(719,704)
Net change in capital and surplus for the year	7,842	35,082	168,365	(281,949)
Capital and surplus, December 31, current year	$ 1,212,428	$ 1,247,510	$ 1,415,875	$ 1,133,926

*Per the regulatory financial statements filed with the Utah Insurance Department

ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS

The following table summarizes the impact on capital and surplus from an adjustment to the amount reported as uncollected premiums identified during the examination:

Analysis of Changes to Surplus			
Surplus at Dec. 31, 2018 per amended Annual Statement			$ 613,879
	Increase	**Decrease**	
Line 15.1 Uncollected Premiums, p. 2, Assets		$ 141,423	
Net decrease			$ (141,423)
Surplus at Dec. 31, 2018 after adjustment			$ 472,456

The following table summarizes reclassifications made as a result of the examination that do not impact surplus:

Summary of Reclassifications				
Annual Statement Line Item	**Balance per Annual Statement**	**Increase**	**Decrease**	**Adjusted Balance**
Line 4 - Aggregate health policy reserves, p. 3, Liabilities	$ 86,379		$ (86,379)	$ 0
Line 8 - Premiums received in advance, p. 3, Liabilities	$ 0	$ 86,379		$ 86,379

COMMENTS ON FINANCIAL STATEMENTS

(1) Uncollected premiums and agents' balances $195,251

Uncollected premiums balances older than 90 days as of December 31, 2018 that were collected subsequent to December 31, 2018 and prior to March 31, 2019 were included in the Uncollected Premiums amount reported in the amended statutory financial statements as of December 31, 2018 and were not nonadmitted as required by *SSAP No. 6 – Uncollected Premium Balances,*

Bills Receivable for Premiums, and Amounts Due from Agents and Brokers, which requires that any uncollected premium balances which are over ninety days old shall be nonadmitted.

An examination adjustment in the amount of $141,423 has been made to this account, which also reduced surplus by the same amount. (See ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS)

(2) Premiums received in advance	$ 86,379

The total of customer accounts with credit balances, $86,379, was incorrectly reported on Line 4 - Aggregate Health Policy Reserves, p. 3, in the 2018 Annual Statement. Premiums collected for services not yet performed, i.e., customer accounts with credit balances, should be reported on Line 8 – Premiums Received in Advance, in accordance with the NAIC Annual Statement Instructions and *SSAP No. 54R - Individual and Group Accident and Health Contracts*, which defines advance premiums as those premiums that have been received prior to or on the valuation date but which are due after the valuation date. The total amount of such advance premiums is reported as a liability in the statutory financial statements and is not considered premium income until due.

An examination adjustment was made to reclassify the $86,379 balance from Line 4 – Aggregate Health Policy Reserves to Line 8 – Premiums Received in Advance. (See ANALYSIS OF CHANGES IN FINANCIAL STATEMENTS)

SUBSEQUENT EVENTS

As noted in MANAGEMENT & CONTROL INCLUDING CORPORATE GOVERNANCE, Affiliate Agreements and Transactions, as of December 31, 2018, Opticare had made certain advances to Standard totaling $385,958. This receivable was reported as a nonadmitted asset in the amended 2018 Annual Statement in accordance with *SSAP No. 25 – Affiliates and Other Related Parties* and § 31A-16-106(1)(b)(i)(A), since approval of this asset was not obtained from the Department.

In November 2019, the Organization converted the 2018 advances receivable to a non-collateralized note receivable due from Standard in the amount of $385,958. This term note is due in monthly installments of $2,000, bears interest at 0%, and matures in December 2035. Opticare did not provide notice of this transaction to the Department and did not include nor report the note receivable as a nonadmitted asset in its statutory financial statements for the year ended December 31, 2019. In effect, the 2019 note receivable was written off and the Organization's surplus was reduced by the corresponding amount.

This transaction is in violation of § 31A-16-106(1)(a) and (b), which provide standards for transactions within an insurance holding company system, and notifying the Department in writing 30 days before entering into the transaction.

Opticare made additional advances to Standard during the year ended December 31, 2019 and in the first quarter of 2020. As of March 31, 2020, the total advances receivable balance due from Standard, reported as a nonadmitted asset in the statutory financial statements filed with the Department, was $1,117,522. Opticare did not provide notice of these material transactions to the Department, which is not in compliance with the requirements of § 31A-16-106(1).

Upon review of the 2019 Annual Statement in March 2020, the commissioner determined that the Risk-Based Capital Statement as of December 31, 2019 ("RBC Report") must be adjusted for the effect of the applicable investment limitations in § 31A-18-106(1), which apply to a loan receivable from Standard. (See Affiliate Agreements and Transactions, **2017 Business Loans to Standard**.) This loan receivable had a balance of $616,057 as of December 31, 2019, of which $502,481 is nonadmitted. In accordance with § 31A-17-602(5)(a), the Department adjusted the RBC Report to account for the nonadmitted portion of the asset.

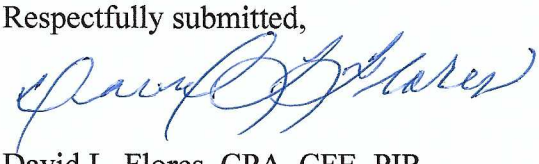
As a result of this adjustment, the Organization's total adjusted capital as of December 31, 2019 was $(77,073).

On March 30, 2020, the commissioner approved foregoing any action, for up to 90 days, in accordance with § 31A-17-606(2)(d). The Organization provided a written plan of capital contributions totaling $350,000 to be made by its owners within 90 days and agreed to cease further cash and investments transfers, payment of expenses and other advances to Standard. Capital contributions totaling $350,000 were received during the 90-day period and the RBC mandatory control level event was eliminated on August 10, 2020.

ACKNOWLEDGEMENT

Scott Garduno, FSA, MAAA, Managing Member, Taylor-Walker Consulting, LLC, performed the actuarial review of the examination. Aaron Phillips, CFE, CISA, The Thomas Consulting Group, Inc., performed the information systems review. Malis Rasmussen, MSA, CFE, SPIR, Chief Examiner, Utah Insurance Department, supervised the examination. They join the undersigned in acknowledging the assistance and cooperation extended during the course of the examination by officers and representatives of the Company.

Respectfully submitted,



David L. Flores, CPA, CFE, PIR
Examiner-in-Charge
Utah Insurance Department