BEFORE THE SUPERINTENDENT OF INSURANCE
FOR THE DISTRICT OF COLUMBIA

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX In the Matter of: X X ACQUISITION OF CONTROL OF GROUP X HOSPITALIZATION AND MEDICAL X SERVICES, INC. BY BCS PLAN X INVESTORS CORPORATION X X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	ORDER 93- 19

ORDER

On this day there came for consideration before the Superintendent of Insurance for the Government of the District of Columbia (the "Superintendent") the Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer, Group Hospitalization and Medical Services, Inc. ("GHMSI") by BCS Plan Investors Corporation ("BPIC") filed pursuant to the provisions of the District of Columbia Holding Company System statutes (D.C. Code Ann. §§ 35-2001, et seq.)(the "Form A Statement"). From the Form A Statement, representations of counsel and other facts, matters and things, the Superintendent finds as follows:

FINDINGS OF FACT

1. GHMSI was chartered on August 11, 1939, pursuant to an act of Congress entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.," 53 Stat. 1412 (1939), Ch. 698 (the "Charter") in order to engage in the business of arranging for the providing of hospital services on a nonprofit basis to individuals residing in the District of Columbia ("D.C." or the "District").

2. The Charter was amended on October 17, 1984, pursuant to Pub. L. No. 98-493 in order to expand GHMSI's purpose beyond arranging for hospital services to include arranging for the providing of medical services on a nonprofit basis for residents of the District.

3. GHMSI, in its current form, is the surviving corporation of the 1985 merger of Group Hospitalization, Inc. (Blue Cross) and Medical Services, Inc. (Blue Shield), and is authorized and empowered under the Charter (i) to enter into contracts with individuals or groups of individuals to provide for hospitalization and medical care of such individuals, . . . (ii) to enter into contracts with hospitals and other providers for the care and treatment of such individuals, . . . (iii) to cooperate, consolidate, or contract with individuals, groups or organizations interested in promoting and safeguarding the public health, and (iv) to engage in any lawful business that is incidental to or supportive of the business and affairs of GHMSI.

4. During the 1980s, GHMSI undertook an aggressive expansion of its business interests by acquiring and forming various domestic and international subsidiaries, and by establishing affiliate relationships with other entities. According to GHMSI's Form B Insurance Holding Company System Registration Statement submitted to the Superintendent on March 12, 1993, this diversification strategy led to GHMSI owning at that time, in whole or in part, or controlling, 29 separate corporate

entities with offices in various locations including the Republic of Ireland, Barbados, the Channel Islands, and Jamaica.

5. Since approximately 1985, GHMSI has operated in the District; Arlington, Alexandria and part of Fairfax Counties in the Commonwealth of Virginia; and Montgomery and Prince Georges Counties in the State of Maryland (the "GHMSI Service Area") through its unincorporated division - Blue Cross and Blue Shield of the National Capital Area ("BCBSNCA").

6. As a federally chartered entity, Congress did not subject GHMSI to any significant degree of regulation by the Superintendent until October 5, 1992, when Congress enacted an additional amendment to the Charter (the "Amended Charter") pursuant to Pub. L. No. 102-382 providing, inter alia, that the legal domicile of GHMSI is the District and that GHMSI shall be subject to the insurance laws and regulations of the District.

7. While the Amended Charter firmly establishes the Superintendent as GHMSI's domiciliary, and therefore primary, regulator, GHMSI is also licensed by, and must satisfy statutory surplus and certain other requirements of insurance regulatory authorities in the Commonwealth of Virginia and the State of Maryland, as well as those of the District.

8. Due primarily to losses attributable to its ventures into subsidiary and affiliated companies whose activities were not directly related to GHMSI's core business, i.e., that business conducted as BCBSNCA, GHMSI's financial condition suffered. GHMSI's deteriorating financial condition is reflected in the

decrease in its statutory surplus level from $115,604,565 as of December 31, 1990, to $101,962,080 as of December 31, 1991. The statutory surplus continued its fall to $48,002,646 as of December 31, 1992, and to $42,774,795 as of March 31, 1993, a figure which includes the proceeds from the sale of a surplus note to the Blue Cross and Blue Shield Association ("BCBSA") in the principal amount of $15 million (the "BCBSA Surplus Note") issued in order to meet regulatory surplus requirements of the Commonwealth of Virginia. ("Statutory surplus" as used herein means the excess of admitted assets over liabilities as determined on a statutory accounting principles basis under District law.)

9. Publicity surrounding GHMSI's deteriorating financial condition has had an adverse effect on GHMSI's core business and subscriber base.

10. However, the notes to GHMSI's 1992 Annual Statement reflect that it maintains a non-contributory defined-benefit pension plan (the "Pension Plan") for the benefit of all eligible employees of GHMSI, and that the Pension Plan is currently substantially overfunded.

11. In response to the decrease in GHMSI's statutory surplus, the Virginia Commissioner of Insurance has required GHMSI to operate under a Consent Order in Virginia since August 2, 1992 (the "Virginia Consent Order").

12. On February 12, 1993, in accordance with the Amended Charter, GHMSI entered into a Consent Order with the Superintendent (the "D.C. Consent Order") pursuant to which GHMSI agreed that

certain provisions of Title 35 of the D.C. Code (D.C. Code Ann. §§ 35-101, et seq.) are applicable to the operation of GHMSI as a result of the Amended Charter and will remain so until comprehensive legislation more specifically governing hospital and medical service corporations would be enacted within the District (the "New D.C. Legislation"). In addition to confirming that a broad array of the insurance laws of the District are applicable to GHMSI, the D.C. Consent Order requires regulatory approval of transactions with affiliates and the submission of a plan with respect to liquidation of GHMSI's real estate holdings along with an investment plan concerning improvement of the liquidity of its portfolio of invested assets. In connection with the D.C. Consent Order, the Superintendent issued a conditional Certificate of Authority to allow GHMSI to continue to operate in the District as long as it complied with the provisions of the D.C. Consent Order and was otherwise in compliance with applicable law and until it applied for and was granted a Certificate of Authority under the New D.C. Legislation.

13. Pursuant to the application of the D.C. Consent Order, GHMSI's minimum statutory surplus requirement in the District of not less than $1.5 million is subject to the authority of the Superintendent to require GHMSI to maintain additional statutory surplus above such level.

14. The Commonwealth of Virginia currently requires GHMSI to maintain statutory surplus of at least 45 days of claims and administrative expenses. With respect to GHMSI, the amount

required by the Commonwealth of Virginia under the foregoing standard was approximately $38,393,000 as of March 31, 1993.

15. The State of Maryland currently requires a minimum statutory surplus as to GHMSI of $75,000. However, in 1993, legislation was enacted by the State of Maryland requiring the maintenance of statutory surplus equal to a maximum of 8% of annual earned premiums received, to be phased-in over a four-year period. With respect to GHMSI, the amount required by the State of Maryland as of December 31, 1993, is approximately $9,353,711. Assuming that annual earned premiums of GHMSI remained the same over the next four years as they were in 1992, GHMSI's statutory surplus requirement in Maryland as of December 31, 1996, the end of the four year phase-in period, would be approximately $23,842,770.

16. In order to facilitate its financial condition recovery and to comply with the demands of the Superintendent and the statutory requirements of other regulatory authorities, GHMSI has recently undertaken a business plan to return the focus of its activities to its core hospital and medical service plan business in the GHMSI Service Area. Pursuant to this business plan, GHMSI has dissolved or disposed of many of its international and domestic subsidiaries. GHMSI is also currently investigating the possibility of dissolving, consolidating or selling certain of its remaining subsidiaries and affiliates including its remaining international business. The Superintendent has, and is, closely monitoring this activity by reviewing, and when required per the

D.C. Consent Order, approving, various transactions related to this business plan activity.

17. On March 24, 1993, a letter of intent was issued by BCS Financial Corporation ("BCS") to GHMSI (the "Letter of Intent") wherein BCS proposed to form a new corporation (BPIC) with a capitalization of at least $60 million through the issuance of participating preferred stock, and/or other equity or debt, to certain Blue Cross and/or Blue Shield Plans (hereinafter referred to as the "Plans" or "Plan") and/or their subsidiaries or affiliates. The Letter of Intent then proposed for BPIC to invest at least $60 million in GHMSI through the purchase from GHMSI of a surplus note in order to enable GHMSI to meet statutory surplus requirements imposed by regulatory authorities and for other agreed upon business purposes.

18. BCS and its wholly owned subsidiaries, BCS Life Insurance Company (BCSL"), BCS Insurance Company ("BCSI") and BCS Insurance Agency ("BCSA"), are principally engaged in writing group accident and health, life and professional liability business directly and indirectly through certain Plans. The consolidated balance sheet of BCS, BCSL, BCSI and BCSA pursuant to BCS's 1992 Annual Report, reflects total assets of $144,780,375; total liabilities of $46,130,004; and, total shareholder's equity of $98,650,371. BCS reported investment income of $7,963,000 with net income of $5,172,011. In addition, BCS owns 7.5% of Plans Liability Insurance Company ("PLIC") with the remaining 92.5% of PLIC owned principally by various Plans across the country.

19. Subsequent negotiations regarding the Letter of Intent resulted in the distribution on May 20, 1993, of a Confidential Private Placement Memorandum (the "Memorandum") issued by BPIC offering 100,000 shares of Series A Participating Preferred Stock of BPIC at $1,000 per share to certain accredited investors including: Plans licensed by and members of BCBSA; BCS; and, wholly owned, direct or indirect, subsidiaries of the Plans or BCS. The offering was conditioned upon the receipt by BPIC of subscriptions for such shares totalling at least $60 million or the offering would be terminated.

20. The Memorandum describes BPIC as a for profit Delaware corporation formed in May, 1993, to provide funds to Plans as required by such entities to meet their general capital needs from time to time. In making its investment decisions, the Board of Directors of BPIC are to consider certain investment criteria including, but not limited to, the need of the Plan for funds to meet statutory capital and surplus requirements and other liquidity requirements; the financial condition of the Plan; the market in which the Plan conducts its business; the availability to the Plan of other sources of funds; and, the effect on the Blue Cross and Blue Shield System and the future viability of the Plan if such funds are not provided by BPIC.

21. According to BPIC's pro forma financial statement, BCS will purchase all 100 of the authorized common voting shares of BPIC for a total of $1,000.

22. The BPIC Board of Directors is to be composed of nine directors which are to be elected within 30 days following the end of the subscription period. The Bylaws currently provide that four directors will be nominated by a nominating committee representing the holders of the issued and outstanding shares of preferred stock of BPIC and that five directors will be nominated by representatives of the holder of the issued and outstanding common stock of BPIC, one of whom will be an officer or director of BCS and four of whom will be officers or directors of the holders of the preferred stock of BPIC. Directors nominated in the foregoing manner will be elected by the holder of the common stock of BPIC.

23. The rights of the preferred shareholders of BPIC are set forth in its Certificate of Designations adopted by BPIC according to the laws of the State of Delaware and include entitlement to receive dividends out of funds legally available for such purpose and certain voting rights restricted to the ability to vote separately as a class with respect to (i) any amendment to the Certificate of Incorporation of BPIC affecting their rights, preferences or privileges; (ii) any amendment to the Certificate of Designations; or (iii) the creation of any series of preferred stock or any similar security ranking prior and superior to their rights with respect to dividends or other distributions out of BPIC's earnings.

24. The Memorandum provides that BPIC's initial investment would be pursuant to a Note Purchase Agreement (the

"NPA") whereby BPIC would purchase from GHMSI two notes, one surplus note in the amount of $55 million (the "Surplus Note") and one non-surplus note in the amount of $5 million (the "Non-Surplus Note") (the Surplus Note and the Non-Surplus Note are sometimes collectively referred to hereinafter as the "Notes").

25. On June 8, 1993, BPIC submitted to the Superintendent its Form A Statement seeking the Superintendent's approval of the acquisition of control of GHMSI. The Form A Statement provides that control of GHMSI is to be acquired by BPIC pursuant to BPIC's right to elect eight of the thirteen members of the GHMSI Board of Trustees in connection with the purchase of the Notes from GHMSI.

26. Upon filing of the Form A Statement, BPIC waived the statutory notice requirements of D.C. Code Ann. § 35-2003.

27. The Surplus Note provides for interest, computed on the basis of a 360-day year of twelve 30-day months, payable in arrears, at the rate of 6% per annum. Payments of principal and interest can only be paid out of the earnings and profits of GHMSI, only with the prior approval of the Superintendent and only if after such payment, GHMSI's statutory surplus would equal or exceed the highest level of statutory surplus required to be maintained under applicable laws in the District, the Commonwealth of Virginia and the State of Maryland.

28. Interest on the Notes is to be due and payable to BPIC on January 1, and July 1 of each year, commencing July 1, 1994. Payments of principal on the Notes are to be due and payable

in annual installments, commencing July 1, 1995, and on each July 1 thereafter with all remaining principal being due and payable on July 1, 2003. The Notes provide for optional and mandatory prepayments of principal under certain conditions and circumstances and the NPA provides that the Notes may be converted into a single new surplus note (the "New Surplus Note") upon enactment of certain provisions governing surplus notes in the New D.C. Legislation.

29. According to the NPA, GHMSI agrees to amend its Bylaws to provide that BPIC has the right to select eight of the thirteen members of the GHMSI Board of Trustees. In order to assure a community presence and commitment on the GHMSI Board of Trustees, the proposed Amended GHMSI Bylaws provide that following the purchase of the Notes by BPIC at least two of the Trustees to be selected by BPIC must be residents of the District. In addition, of the remaining five Trustees (to be selected by the existing GHMSI Board of Trustees), at least three of such Trustees must be residents of the District and the remainder of such Trustees must be either residents of, or have their principal place of business or employment in, the GHMSI Service Area. BPIC has also represented to the Superintendent its intent that the Trustees represent various constituencies of GHMSI, including, without limitation, consumers and providers. BPIC's right to select eight of the thirteen GHMSI board members continues until all principal and interest has been paid under the Notes.

30. The Form A Statement, as amended, provides a list of BPIC's intended nominees to GHMSI's Board of Trustees as follows:

Edward J. Baran and Wendell H. Berg of BPIC; John F. Croweak - Chairman and Chief Executive Officer of Blue Cross and Blue Shield of Connecticut, Inc.; Dwane R. Houser- Chairman of the Board and Chief Executive Officer of Community Mutual Insurance Company; Robert H. Naftaly - Executive Vice President-Administrative Services, Chairman of the Board and Chief Financial Officer and Treasurer of Blue Cross and Blue Shield of Michigan; S. Martin Hickman - retired Chairman of the Board and Chief Executive Officer of Blue Cross and Blue Shield of Illinois and former Chairman of the Executive Committee of the Board of Directors of BCBSA; John Thompson of Georgetown University and a resident of the District; and, Vincent Wolfington - Chairman of Carey International and a resident of the District. Biographical information on each of these individuals was filed by BPIC for review by the Superintendent.

31. The Form A Statement, as amended, provides a list of GHMSI's nominees for election to GHMSI's Board of Trustees as follows: William J. Byron, S.J., Past President of The Catholic University of America; J. Harold Chandler, President of NationsBank/District of Columbia, Maryland and Northern Virginia, subsidiaries of NationsBank Corporation; Sister Carol Keehan, R.N., M.S., President and Chief Executive Officer, Providence Hospital of Washington, D.C.; George B. Wilkes, III, Director of Special Markets Branch, U.S. Savings Bonds Division, Department of the Treasury; Floretta D. McKenzie, Ph.D., President, The McKenzie Group.

32. According to the Form A Statement, BPIC will select the management of GHMSI, including without limitation, the Chairman of the Board and Chief Executive Officer. BPIC intends to cause Mr. Peter Homick to be elected as the interim Chief Executive Officer of GHMSI, pending completion of an ongoing search for a permanent Chief Executive Officer. Mr. Homick has been an independent consultant specializing in the insurance industry since 1988 and was formerly a Senior Vice President and a Director of a privately owned holding company whose subsidiaries engaged in life, health, property and casualty insurance and real estate development.

33. The Form A Statement provides that, based upon its examination of GHMSI's business after the purchase of the Notes, management appointed by BPIC may determine to sell certain assets of GHMSI in order to focus its attention to more profitable lines of business, such as managed care, and/or to make such other material changes to the management or operations of GHMSI as may be deemed to be necessary or appropriate to allow GHMSI to focus on its core business within the GHMSI Service Area. The Form A Statement further provides that BPIC intends to cause GHMSI to conduct an advertising and public relations campaign to inform the community which GHMSI serves of the infusion of $60 million pursuant to the sale of the Notes to BPIC. The Form A Statement does not disclose that BPIC has any plans to liquidate GHMSI or merge or consolidate GHMSI with any other person.

34. On July 9, 1993 BPIC submitted its Amendment No. 1 to the Form A Statement providing additional information regarding the proposed acquisition.

35. BPIC has represented that BCS will be the "ultimate controlling person" in GHMSI's holding company system following effectuation of the NPA for purposes of holding company registration statements to be filed with the District.

36. A pro forma presentation of GHMSI's statutory surplus position as of March 31, 1993, assuming the sale of the Surplus Note and the repayment of the BCBSA Surplus Note as set forth in the Memorandum, reflects that GHMSI's statutory surplus will increase by $40 million, i.e., from approximately $42.7 million to approximately $82.7 million.

37. In accordance with a June 17, 1993, resolution of BCBSA's Board of Directors relating to the extension of the repayment of the $15 million BCBSA Surplus Note, BPIC requested, and has represented that it has satisfied all the conditions for, BCBSA's approval of the contemplated change of control of GHMSI, thus preserving GHMSI's right to the continued use of BCBSA service marks and trade names.

38. In response to the Memorandum offering, BPIC received subscriptions for its Series A Participating Preferred Stock totalling $60 million. The investors included 37 Plans and BCS.

39. GHMSI has been notified by letter dated June 18, 1993 from the Virginia Commissioner of Insurance that he has no

objection to the consummation of the transactions contemplated under the NPA, and that upon the closing of the transactions contemplated by the NPA, (i) an Order vacating the Virginia Consent Order will be issued by the Virginia State Corporation Commission; (ii) the Surplus Note and the New Surplus Note, if issued, will be recognized as a surplus item, and not a liability in the statutory balance sheet of GHMSI; (iii) GHMSI may repay the $15 million BCBSA Surplus Note; and (iv) GHMSI may terminate its November 20, 1992, Reinsurance Agreement with BCS.

40. The acquisition of control of GHMSI by BPIC will have no effect on the D.C. Consent Order which shall remain in effect as to GHMSI under its terms.

41. On July 20, 1993, BPIC submitted its Amendment No. 2 to the Form A Statement, providing additional information concerning the proposed acquisition of control.

42. After the investment in GHMSI by BPIC and thus the acquisition of control of GHMSI by BPIC, GHMSI will continue to satisfy all regulatory requirements of the District to engage in the business of hospital and medical service plans for which it is presently licensed.

43. The effect of the acquisition of control of GHMSI by BPIC will not be to lessen competition in insurance or in the business of hospital and medical service plans in the District nor tend to create a monopoly therein.

44. The financial condition of BPIC and its affiliates is not such as might jeopardize the financial stability of GHMSI or prejudice the interests of its subscribers.

45. BPIC has no plans or proposals to make any material change in GHMSI's business, corporate structure or management which are unfair or unreasonable to the subscribers of GHMSI or not in the public interest. Further, the Amended Bylaws of GHMSI require a super majority approval of at least 66 2/3% of the GHMSI Board of Trustees then in office in order to approve any decision to merge or consolidate GHMSI with or into any corporation or other entity or to sell or otherwise dispose of substantially all of the assets of GHMSI.

46. The competence, experience, and integrity of the new management of GHMSI and its proposed Board of Trustees are not such that it would not be in the best interest of GHMSI's subscribers or of the public to permit the acquisition of control.

CONCLUSIONS OF LAW

Based upon the aforementioned findings of fact, the Superintendent reaches the following conclusions of law:

1. The Superintendent has jurisdiction over the subject matters and the parties involved herein.

2. The proposed Surplus Note satisfies the statutory requirements of D.C. Code Ann. § 35-633 and should be approved; accordingly, interest and principal thereunder shall not form a part of the legal liabilities of GHMSI until approved for payment by the Superintendent.

3. None of the preclusions listed in D.C. Code Ann. § 35-2003(d) to the Superintendent's approval of the acquisition of control of GHMSI are found to exist and approval should therefore be granted.

IT IS THEREFORE ORDERED by the Superintendent, based on the hereinabove Findings of Fact and Conclusions of Law, that:

(1) the Surplus Note is hereby approved pursuant to D.C. Code Ann. § 35-633; and

(2) the acquisition of control of GHMSI by BPIC as described in the Form A Statement, as amended, is hereby approved pursuant to D.C. Code Ann. § 35-2003(d), subject to the following conditions:

(a) For so long as BPIC and BCS retain control of GHMSI:

(i) GHMSI may not enter into any management agreement or administrative services agreement with another party without the prior written approval of the Superintendent; and

(ii) The assets of the Pension Plan shall not be transferred to or merged into any other pension plan, the liabilities of any other pension plan shall not be transferred to the Pension Plan, the Pension Plan shall not be terminated, nor shall any of the assets of the Pension Plan be reverted to GHMSI without the prior approval of the Superintendent; and

(b) Until such time as the Superintendent in writing releases GHMSI from these conditions:

(i) Within 90 days of the election of the new Board of Trustees, GHMSI shall provide the Superintendent with a written five year business plan to include a detailed strategy specifically addressing repayment of the Notes and the reduction of GHMSI's

expense levels to industry standards or to a level considered appropriate by the Superintendent for GHMSI to maintain adequate statutory surplus;

(ii) On at least a quarterly basis GHMSI's Board of Trustees shall meet with the Superintendent to review progress as to GHMSI's business plan and its compliance with regulatory requirements; and

(iii) GHMSI shall submit monthly reports to the Superintendent in order to allow monitoring of the implementation and progress of GHMSI's business plan, in addition to submitting its quarterly financial statements on a timely basis.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of this Administration at the City of Washington, D.C., this 21st day of July, 1993.

Robert M. Willis

Robert M. Willis
Superintendent of Insurance