



COUNCIL OF THE DISTRICT OF COLUMBIA
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July 14, 2016

Commissioner Stephen C. Taylor
Department of Insurance, Securities, & Banking
810 First Street NE, Suite 701
Washington, DC 20002

Dear Commissioner Taylor,

I am writing concerning your Decision and Order in the GHMSI Surplus proceeding. I was pleased to see the decision and want to offer a few suggestions as you develop a plan for the reinvestment of \$56 million of GHMSI surplus.

First, I understand that a number of well-established foundations in the city are offering to administer the \$56 million pursuant to guidelines and procedures that you approve. I support this approach to the reinvestment of the funds, if adequate controls and oversight systems are established in advance. This structure would be similar to the approach the Council and the Mayor recently used when allowing the Community Foundation to administer the \$15 million One City Fund.

I believe this approach is particularly appropriate in that our primary goal is to make wise choices about the fairest and most equitable ways to reinvest \$56 million in city healthcare needs. The foundations have considerable experience and credibility in doing this; they furthermore have well-established procedures that will allow you and the public to ensure accountability and transparency for the wise and effective reinvestment of the funds. Again, I stress however, that adequate controls and oversight of the administration would be critical to selecting this approach.

Second, I understand from your June 14 decision that you have decided the statute allows GHMSI to avoid the 12-month rate freeze the statute required in the event the company failed to file a reinvestment plan as ordered by DISB. Your decision states that even though the statute directs you to “deny for 12 months all premium rate increase for subscriber policies written in the District” if the company fails to file a reinvestment plan, you need not implement this requirement once you approve a reinvestment plan.¹ I urge you to reconsider this determination.

¹ *In the Matter of Surplus Review and Determination for Group Hospitalization and Medical Services, Inc.*, Decision and Order on Group Hospitalization and Medical Services, Inc. Plan, Order No. 14-MIE-016 19 (June 14, 2016).

I believe the statute makes the denial of rate increases mandatory—and for good reason. As the Council said in passing MIEAA: “there is deep uncertainty surrounding CareFirst's degree of dedication to its charitable public health mission. The best way to dispel that uncertainty is to enact legislation establishing a framework to ensure that CareFirst meets its public health obligation to the community.”² Because of uncertainty about CareFirst’s willingness to comply with its mission, the framework included a mandatory requirement designed to ensure compliance—a rate freeze for lack of compliance.

Now that CareFirst has failed to comply, the rate freeze must be implemented; otherwise CareFirst will have failed to comply and done so with complete impunity. Under your interpretation of the statute, CareFirst will be subject to no sanction at all and subscribers will receive no recompense for the delay that CareFirst’s noncompliance has caused. CareFirst will also be led to believe it can continue its record of noncompliance as this lengthy, long-delayed procedure goes forward. I therefore urge you to implement the statute’s clear requirement and to recognize that timely implementation of the requirement would have required rate freezes during 2016.

Finally, while I recognize that the statute quite rightly gives you considerable discretion in deciding how best to reinvest the \$56 million, I urge you to focus on the most pressing health needs in the city and to reinvest the dollars in ways most likely to improve public health. As you know, both the Urban Institute and the District’s Department of Health have recently issued reports on this issue. In addition, as you also know, the Council made clear in passing the statute that its concern was “that District residents are fighting an uphill battle in elevating the quality and expectancy of their lives.”³ While \$56 million cannot address and solve all our problems, it presents a real opportunity to address the issues, and at the same time it carries a responsibility to use the dollars as prudently as possible.

I appreciate your efforts in carrying out this responsibility and look forward to working with you further.

Best Wishes,

A handwritten signature in black ink, appearing to read 'Elissa Silverman', with a stylized flourish at the end.

Elissa Silverman
Councilmember, At-Large

² D.C. Council, Report on Bill 17-934, the “Medical Insurance Empowerment Amendment Act of 2008” 9 (Oct. 17, 2008).

³ *Id.*