



July 31, 2012

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Mr. Philip Barlow, Associate Commissioner for Insurance  
District of Columbia Department of Insurance, Securities and Banking  
810 First Street NE  
Suite 701  
Washington, D.C. 20002

Re: Surplus Review of Group Hospitalization and Medical  
Services, Inc.

Dear Mr. Barlow:

We are writing in response to GHMSI's June 1, 2012 submission concerning its surplus as of December 31, 2011 and whether that surplus complies with the requirements of MIEAA.

As with our April 13, 2012 letter to you addressing this same issue, our current response is supported by an attached analysis prepared by Mr. Mark Shaw, Senior Consulting Actuary, United Health Actuarial Services, Inc. We ask that you consider both our letters, as well as the two analyses from Mr. Shaw, as DISB reviews GHMSI's surplus and determines the elements it wishes Rector to examine in connection with that review.

In this letter, we wish to (1) list our concerns with the surplus analysis submitted to DISB from Milliman and OPTUMInsight (Optum), along with our recommendations for addressing those concerns; and (2) offer comment on the process for determining whether GHMSI's surplus complies with MIEAA.

**I. Determining Whether GHMSI's December 31, 2011 Surplus Complies with MIEAA**

As further explained in our previous letter and in the two analyses from Mr. Shaw, we have the following concerns with the surplus analysis submitted to you by GHMSI:

1. GHMSI has not offered any analysis of its surplus as of December 31, 2011. Instead, it has suggested that the analysis it submitted in June 2011 is sufficient and that no updated analysis is needed. We disagree with this. We believe it is important that a current analysis be done to determine whether the company's surplus complies with MIEAA, particularly since DISB's last analysis was of December 31, 2008, more than three years ago. We urge, therefore, that Rector be requested to do an analysis as of December 31, 2011.
2. We believe the Milliman and Optum analyses are both badly flawed in that they (a) presume an underwriting cycle that no longer exists; (b) are premised on expected revenue growth rates that are unreasonably high; and (c) use underwriting gains and losses rather than net income as the basis for their analyses.
3. Milliman and Optum also fail to correct for the errors Rector identified in its 2009 analysis concerning GHMSI's surplus as of December 31, 2008.
4. Milliman and Optum propose a substantial increase in GHMSI's surplus to account for the Affordable Care Act (ACA), but they do not explain their proposed increase; nor do they consider the substantial benefits that could accrue to GHMSI from the ACA.
5. Milliman and Optum also do not explain the confidence intervals they have assigned to the need to accumulate surplus that would avoid falling to either the 200% or 375% RBC level.

*Affiliations listed only for purposes of identification*

For reasons explained in the two analyses from Mr. Shaw, we believe that correcting for these errors would produce a significantly lower range of permissible surplus for GHMSI as of December 31, 2011. We also believe that MIEAA's requirement that GHMSI "engage in community health reinvestment to the maximum feasible extent consistent with [both] financial soundness and efficiency" should result in the company's surplus being set toward the lower end of the range of permissible surplus. We urge DISB to request Rector to address the stated deficiencies in the Milliman and Optum analyses and to select a surplus level toward the lower end of the range produced by Rector's analysis. Mr. Shaw has offered to make the needed corrections himself and submit them for DISB's review. Should DISB be willing to review his proposed corrections, he asks that he be provided the necessary data to make the needed calculations, and has offered to sign an appropriate confidentiality agreement.

## II. The Process for Reviewing GHMSI's Surplus

As we understand DISB's regulations, the Department will first engage in a "preliminary analysis" to determine whether GHMSI's surplus complies with MIEAA. D.C. Mun. Regs 26, Section 4601.5. The regulations contemplate that the Department will consider in this analysis whether the surplus exceeds the requirements established by the NAIC and the BlueCross/Blue Shield Association. Section 4601.4. The regulations also contemplate that if the preliminary analysis indicates that GHMSI's surplus is excessive under MIEAA, a public hearing will be scheduled to review the issue. Section 4601.5.

DC Applesseed and Mr. Shaw both strongly believe that both a preliminary and final analysis of GHMSI's surplus will show that it is excessive and not in compliance with MIEAA. And we both remain committed to working with DISB and Rector to ensure that the analysis of this issue is full and fair, in compliance with MIEAA, and fully protective of the public interest. Please keep us informed concerning the process DISB intends to follow and how we might participate in a way that serves both the statute and the public. Many thanks.

Sincerely,



Walter Smith, Executive Director  
DC Applesseed Center



Richard B. Herzog  
Harkins Cunningham LLP



Deborah Chollet, Ph.D.



Marialuisa S. Gallozzi  
Covington & Burling LLP

cc: The Honorable William P. White, Commissioner, D.C. Department of Insurance,  
Securities and Banking  
Thomas M. Glassic, General Counsel, D.C. Department of Insurance, Securities and  
Banking