

**GOVERNMENT OF DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE, SECURITIES AND BANKING**

IN THE MATTER OF)
Surplus Review and Determination)
For Group Hospitalization and Medical)
Services, Inc.)
_____)

Statement of Al Redmer, Jr.
Maryland Insurance Commissioner
July 11, 2016

In response to the invitation to the public to provide comments in the Decision and Order on Group Hospitalization and Medical Services, Inc. Plan dated June 14, 2016 (the “Decision”), I write to address certain fundamental issues that are raised by the Decision and this proceeding.

In December 2015, Congress passed, and the President signed, the Consolidated Appropriations Act of 2016, which added the following section to the Congressional Charter of Group Hospitalization and Medical Services, Inc. (“GHMSI”):

Sec. 11. The surplus of the corporation is for the benefit and protection of all of its certificate holders and shall be available for the satisfaction of all obligations of the corporation regardless of the jurisdiction in which such surplus originated or such obligations arise. The corporation shall not divide, attribute, distribute, or reduce its surplus pursuant to any statute, regulation, or order of any jurisdiction without the express agreement of the District of Columbia, Maryland, and Virginia –(1) that the entire surplus of the corporation is excessive; and (2) to any Plan for reduction or distribution of surplus.

Consolidated Appropriations Act, 2016, Pub. L. No. 114-113, § 747, 129 Stat. 2242 (2015).

This amendment to GHMSI’s charter applies “with respect to the surplus of [GHMSI] for any year after 2011.” *Id.* The Charter amendment reiterates and supports the comments of my predecessor made earlier in this proceeding that the surplus of a nonprofit health service plan such as GHMSI exists for the protection of all of the plan’s policyholders and that the concept of

apportionment or attributing some portion of GHMSI's surplus to the District of Columbia is flawed and should be reconsidered. *See* Statement of Therese M. Goldsmith, Oct. 10, 2014 at 2.

Furthermore, while this proceeding may relate to the Acting Commissioner's review of "GHMSI's 2011 excess surplus attributable to the District" (Decision at 2), the Decision and any subsequent order will necessarily impact the present surplus of GHMSI. As such, any attempt to require GHMSI to distribute or reduce its present or future surplus must comply with the requirement of the Charter Amendment and the express agreement of Maryland and Virginia must be obtained.

As the Decision implicitly recognizes, the agreement of Virginia and Maryland has not been obtained. In fact, Maryland Insurance Commissioners have engaged in numerous comprehensive reviews of the surplus ranges of GHMSI. In 2012, then Commissioner Therese M. Goldsmith initiated a review of the company's board-approved targeted surplus ranges. Commissioner Goldsmith concluded in a Consent Order dated September 14, 2012 that the analyses and conclusions of three independent consultants – two retained by GHMSI and one obtained by the Maryland Insurance Administration ("MIA") supported a finding that the targeted surplus ranges adopted by the company was appropriate to provide a level of confidence that the surpluses would not fall below levels that would result in corrective regulatory action or jeopardize the use of the Blue Cross Blue Shield trademark. *See* Consent Order, Case No. MIA-2012-09-006 (the "Consent Order"). The Consent Order concluded that a targeted surplus range for GHMSI of 1,000% to 1,300% of its authorized control level risk based capital was adequate and neither excessive nor unreasonably large and approved a range at those levels. In the Consent Order, the company also agreed to "strive to maintain an actual surplus position ...at the

midpoint of the surplus range approved by the Commissioner, and to move surplus to the midpoint in a gradual manner.” *Id.* at 8.

Subsequently, in September 2014, the MIA engaged Lewis & Ellis to provide further surplus evaluation consulting services regarding GHMSI and to evaluate the appropriateness of the company’s proposed targeted surplus ranges. In a letter to Commissioner Taylor dated October 26, 2015, I noted that I concluded that it is appropriate to maintain and continue the target surplus levels set in 2011 and as specified in the 2012 Consent Order. Thus, GHMSI remains bound by the 2012 Consent Order. Given that the proposed distribution would cause GHMSI surplus to fall below the range identified in the Consent Order, the distribution will cause a direct conflict with the Consent Order.

Further, Maryland law provides that a nonprofit health service plan such as GHMSI may not distribute or reduce its surplus in response to the December 30, 2014 DISB Order or any future order that seeks to require a reduction or distribution unless approved by the Maryland Commissioner. Md. Code Ann. Ins. § 14-124(a). No such approval has occurred in Maryland and as such GHMSI is presently prohibited from reducing or distributing its surplus.

That conflicting orders between the jurisdictions exist highlight the fact that, to date, no coordination has taken place between the District and the other jurisdictions. Accepting as evidence the testimony of the insurance commissioners is appropriate, but coordination requires more than this, and now that the federal charter amendment is in place, indeed, the agreement of the jurisdictions is required. As such, I urge you to reconsider issuing a plan as referenced in paragraph 2, page 19 of the Decision. The Maryland Insurance Administration stands ready to work together with the District of Columbia Department of Insurance, Securities and Banking

and the Virginia State Corporation Commission's Bureau of Insurance in the best interests of GHMSI and its members and policyholders in all of our respective jurisdictions.

Thank you again for the opportunity to provide this Statement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Al Redmer, Jr.", written in a cursive style.

Al Redmer, Jr.
Maryland Insurance Commissioner