

Government of the District of Columbia
Department of Insurance Securities and Banking



Thomas E. Hampton
Commissioner

**2009 Group Hospitalization and Medical
Services Inc. Adequate Surplus Determination**

The Medical Insurance Empowerment Amendment Act of 2008 ("MIEA Act"), effective March 25, 2009 (D.C. Law 17-369; D.C. Official Code § 31-3501 *et seq.*), amended the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 ("HMSCR Act"), effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3501 *et seq.*). As amended, the HMSCR Act requires the Commissioner of the Department of Insurance, Securities and Banking ("DISB") to review the portion of a hospital and medical services corporation's surplus attributable to the District of Columbia and issue a determination whether such surplus is excessive.

Group Hospitalization and Medical Services, Inc. ("GHMSI") is a hospital and medical services corporation chartered by DISB and subject to the surplus review required by the HMSCR Act. Accordingly, DISB hereby reviews the surplus of CareFirst to determine whether it meets the preliminary criterion under the MIEA Act- namely, whether the total surplus is "greater than the appropriate risk-based capital requirements as determined by the Commissioner for the preceding calendar year." D.C. Code § 31-3506(e) (1)

Appropriate Risk-Based Capital Requirements

The MIEA Act's implementing regulations define "greater than the appropriate risk-based capital requirements" to mean greater than the minimum risk-based capital requirements of the National Association of Insurance Commissioners ("NAIC") and the Blue Cross/Blue Shield Association ("BCBSA"). See Emergency Rule 4601.4.

The NAIC Risk Based Capital ("RBC") law was enacted the District of Columbia. See D.C. Official Code § 31-2001 *et seq.* This statute requires a health insurance company to maintain a RBC ratio of at least 200% of its RBC level. D.C. Official Code § 31-3503(a) (3) requires hospital and medical services corporations to comply with the risk based capital requirements in the same manner as a health insurance company. Under the RBC law, the Commissioner is required to take regulatory action against a hospital and medical services corporation if its RBC ratio falls below 200%.

In addition, the BCBSA – a trade association which includes GHMSI- requires its member plans to maintain an RBC ratio of at least 375% to be in compliance with the capital provisions of the franchise agreement.

Current and Historical Surplus of GHMSI

Table 1 illustrates GHMSI's historical surplus, including the company's RBC ratio.

Table 1

| | 2008 | 2007 | 2006 | 2005 | 2004 |
|-----------------------------|-------------|-------------|-------------|-------------|-------------|
| Surplus (\$000's) | 686,780 | 753,559 | 663,006 | 560,967 | 501,014 |
| RBC | 845.2% | 915.6% | 954.7% | 893.4% | 951.3% |

Table 2 illustrates the NAIC minimum required RBC, as compared to GHMSI's actual RBC in 2008.

Table 2

| 2008 | NAIC |
|-----------------------------|---------------|
| Minimum Required RBC | 200.0% |
| Actual RBC | 845.2% |
| TAC (\$000's) | 686,779 |
| CAL (\$000's) | 162,507 |
| ACL (\$000's) | 81,253 |

Table 3 illustrates the BCBSA minimum RBC-Based thresholds. The two key thresholds involving surplus are: Early Warning Monitoring Level – 375.0%, and Loss of Trademark Level – 200.0%.

Table 3

| 2008 | BCBSA | BCBSA |
|-----------------------------|---------------|---------------|
| Minimum Required RBC | 375.0% | 200.0% |
| Actual RBC | 845.2% | 845.2% |
| TAC (\$000's) | 686,779 | 686,779 |
| EWML (\$000's) | 304,702 | 162,507 |
| ACL (\$000's) | 81,253 | 81,253 |

Determination of Surplus being greater than Appropriate RBC Requirements

Based upon this review of GHMSI's surplus, the Commissioner has determined that the surplus as of December 31, 2008, is "greater than appropriate risk-based capital requirements," as that phrase is defined in Emergency Rule 4601.4. It should be noted that use of the term "appropriate" in this and the preceding section is not meant to suggest that the statutory and BCBSA minimum RBC levels cited above should be deemed advisable for GHMSI or that they are adequate or sufficient to meet GHMSI's insurance and other needs.

Pursuant to D.C. Official Code § 31-3503(e), DISB will conduct a public hearing to determine whether GHMSI's surplus attributable to the District of Columbia is excessive. Under the terms of the MIEA Act, the surplus attributable to the District shall be deemed excessive only if the Commissioner makes the further findings that that portion of the surplus is unreasonably large and inconsistent with GHMSI's community health reinvestment obligation. D.C. Code § 31-3506(e) (1)

Public notice of the MIEA Act hearing will be published in the D.C. Register.

In preparation for the hearing, CareFirst, the holding company of GHMSI, shall be required to provide a report on the amount and calculation used to determine the reasonable surplus it needs to maintain in order to conduct its business. The report will detail the appropriate level of surplus necessary for the GHMSI to meet its: (1) statutory and corporate surplus requirements; (2) actuarially determined risk exposures; and (3) expected and unanticipated contingencies. The report shall also include the community health reinvestment expenditures, premium taxes paid and the company's contribution to the open enrollment program. This report will be the basis for discussion at the hearing to determine whether the company surplus as of December 31, 2008, attributable to the District of Columbia is excessive.