Government of the District of Columbia

Department of Insurance, Securities and Banking

Testimony of

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Public Roundtable on

PR 18-502, "Medicare Supplement Insurance Minimum Standards Approval Resolution of 2009".

Committee on Public Services and Consumer Affairs
Muriel Bowser, Chairperson
Council of the District of Columbia

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Good Afternoon Chairperson Bowser, Members of the Committee on Public Services and Consumer Affairs, and Committee Staff. I am Philip Barlow, Associate Commissioner of the Department of Insurance, Securities and Banking ("Department" or "DISB"). Thank you for providing the Department with the opportunity to present testimony today at this roundtable on PR 18-502, "Medicare Supplement Insurance Minimum Standards Approval Resolution of 2009".

The Department is responsible for regulating the activities of most of the financial services companies doing business in the District of Columbia, including insurance companies, and hospital and medical service corporations that sell Medicare Supplemental Insurance to District of Columbia residents. Medicare Supplement Insurance ("MSI"), also referred to as "Medigap," provides supplemental health insurance coverage for Medicare recipients to fill the gaps to cover some health care costs that are not in the original Medicare Plan coverage. Our regulatory oversight for MSI plans includes reviewing and approving the policy forms used in the District of Columbia to ensure these insurance products comply with District regulations and CMS guidelines.

The Department's rulemaking, upon adoption, would enable the District's Medicare supplement insurance regulations to conform with the 2008 revisions of the Model Regulations to Implement the Medicare Supplement Insurance Minimum Standards ("Amended Model Regulation") adopted by the National Association of Insurance Commissioners ("NAIC"). The rulemaking will benefit consumers by standardizing coverage and simplifying the terms and benefits of MSI policies and to facilitate public understanding and comparison of the policies. Additionally, the regulation will provide

uniformity with other states that have or will adopt the Model Regulation and will make compliance easier for insurers nationally.

In 2003, the conference report of the federal Medicare, Prescription Drug, Improvement and Modernization Act of 2003 (MMA) included language encouraging the NAIC to modernize the Medigap market. This prompted a review of Medigap plans and benefits, and in 2005 the NAIC formed a Subgroup to develop a modernization proposal. In March 2007, the NAIC approved this modernization proposal, in the form of revisions to the NAIC Medigap model. However, at that time states were unable to adopt these revisions in their states until further Congressional authority was enacted. On July 15, 2008, this authority was granted by the Medicare Improvements for Patients and Providers Act of 2008 ("MIPPA"). MIPPA also requires additional changes to the Medigap model. These changes are made throughout the rulemaking.

Prior to these changes, there were 17 different standardized Medigap plans (Plans A-L, High Deductible Plan F and High Deductible Plan J). After the modernization revisions are implemented, there will be 11 plans that are available to consumers (Plans A through D, Plan F, High Deductible Plan F, Plan G, and Plans K-N). Plans H through J and High-Deductible Plan J would be eliminated since prescription drug plans and Medigap Preventive Care and At-Home Recovery Benefits were removed from MSI plans by Congress. Plan E would also be eliminated because it is duplicative of another plan. New Plans M and N would be established to give health care beneficiaries new options for higher beneficiary cost sharing with a lower premium. Although the new plans may be

marketed prior to June 1, 2010, they cannot have an effective date prior to that time. Consideration was given to changing the lettering of the plans so there were no skipped letters, but it was felt that consumers were familiar with the existing plans and changing lettering would be confusing.

In addition to streamlining MSI products, Congress enacted the Genetic Information Nondiscrimination Act of 2008 ("GINA"), which provides for changes to the Model Regulation. GINA prohibits insurers from denying or conditioning the issuance or effectiveness of an insurance policy based on an individual's genetic information or discriminating in the pricing of an insurance policy based on an individual's genetic information. The Amended Model Regulation includes these important protections for consumers.

States had until July 1, 2009 to make the GINA changes to their laws or regulations. States had until September 24, 2009, which is one year from the date the NAIC adopted the amended model, to conform their laws or regulations to the Medigap model that complies with MIPPA. If a state does not make the changes, then the state will be considered out of compliance with federal requirements, and the state will not be able to regulate Medigap plans. CMS would regulate Medigap business in place of the state. The District of Columbia complied with both deadlines by adopting emergency regulations effective July 1, 2009.

During the pubic comment period, the Department received a comment that identified a language clarification that was proposed by the NAIC and a few non-substantive changes to the proposed regulation. The Department is reviewing those comments and plans to incorporate them into the final rulemaking.

This concludes my testimony. Thank you again for the opportunity to present the Department's views and I will be happy to answer any questions.