



## Council of the District of Columbia

John A. Wilson Building  
1350 Pennsylvania Avenue, NW  
Washington, DC 20004

Brianne K. Nadeau  
Councilmember, Ward 1

**Chairperson**  
Human Services Committee

**Committee Member**  
Housing and Neighborhood Revitalization  
Government Operations  
Health

May 9, 2017

The Honorable Stephen C. Taylor, Commissioner  
D.C. Department of Insurance, Securities and Banking  
810 First Street NE  
Suite 701  
Washington, D.C. 20002

*Re: In the Matter of Surplus Review and Determination for Group Hospitalization and Medical Services, Inc., Order No. 14-MIE-22*

Dear Commissioner Taylor:

I want to congratulate your staff and Office of the Attorney General's (OAG) staff for their serious efforts to settle the longstanding surplus review of Group Hospitalization and Medical Services, Inc. (GHMSI) under the Medical Services Empowerment Amendment Act (MIEAA). I am pleased that GHMSI for the first time has recognized that it should engage in a substantial amount of community health reinvestment, and that this reinvestment should be in the form of charitable giving to address the District's pressing healthcare needs.

That being said, I have several serious concerns about the Consent Order that GHMSI has proposed. I say this for three reasons.

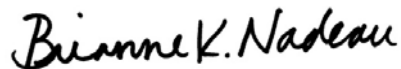
First, it is not clear to me that the Consent Order is either in the public interest or in compliance with MIEAA. GHMSI proposes to spend \$75 million over 10 years, the present value of which is approximately \$60 million. Yet DC Appleaseed argued during the proceeding—and is likely to argue on appeal—that the excess surplus required to be reinvested under the statute is much, much larger. Moreover, the Commissioner's own August 30, 2016, order proposed for GHMSI to spend \$51 million immediately. It does not appear to be in the public interest to forgo the opportunity for a vastly larger public investment, or for any investment to be drawn out over a decade. This is particularly difficult to justify when investing \$75 million immediately would not reduce the surplus to anywhere near the 721% RBC the Commissioner has determined is the maximum permissible level under the statute.

Second, the Consent Order does not propose a reinvestment of excess surplus, as required by MIEAA. There is no indication that the proposal involves anything beyond the annual giving that GHSMI already engages in—and is required to engage in under MIEAA—on an ongoing basis. It seems especially likely that this is the case because GHMSI has repeatedly stated that if it ever has excess surplus, it means that it has overcharged subscribers and therefore owes them a refund. Yet GHMSI's Consent Order would rescind the \$51 million in rebates that the DISB's August 30, 2016, order required.

Finally, the D.C. Court of Appeals has made clear that DC Appleseed has a role to play in this proceeding to protect the public interest, and that it is entitled to participate meaningfully. DC Appleseed has been instrumental in assisting the Commissioner in applying MIEAA. It is the only participant to challenge the conclusions of DISB's consultant and GHMSI that the company's surplus should be upheld. DC Appleseed is also prepared to challenge any final order in the Court, which it has previously done successfully. Without DC Appleseed's meaningful input, it is doubtful that a proposed Consent Order could fully protect the public interest or bring this costly litigation to a conclusion, as everyone desires.

I am thankful that the DISB and OAG are seeking to settle this proceeding. I urge you to consider these issues as you consider the proposed Consent Order.

Sincerely,

A handwritten signature in black ink that reads "Brianne K. Nadeau". The signature is written in a cursive, slightly slanted style.

Brianne K. Nadeau  
Councilmember, Ward 1