



# DC APPLESEED

Solving DC Problems

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February 20, 2015

The Honorable Alfred W. Redmer Jr., Commissioner  
Maryland Insurance Administration  
200 St. Paul Place  
Suite 2700  
Baltimore, Maryland 21202-2272  
Attention: Sharon Kraus, Hearings and Appeals Coordinator

*Re: Request for Hearing and Stay*

Dear Commissioner Redmer:

On February 10, 2015, you issued a letter determining that Group Hospitalization and Medical Services, Inc. (“GHMSI”) “is prohibited from reducing or distributing its surplus as a result of the” D.C. Department of Insurance, Securities and Banking’s December 30, 2014, order “until the MIA makes a determination on the impact to Maryland residents of” that order. Letter from Al Redmer Jr., Comm’r, Md. Ins. Admin., to Chet Burrell, President and Chief Exec. Officer, CareFirst BlueCross BlueShield 3 (Feb. 10, 2015). Your letter also determined that GHMSI “is prohibited from submitting a plan to the D.C. Commissioner for dedication of its excess of 2011 surplus attributable to D.C. until submitted, reviewed and approved by the MIA.” *Id.* DC Appleseed Center for Law and Justice, Inc. (“DC Appleseed”) is aggrieved by these prohibitions and therefore requests a hearing and a stay until the matter is adjudicated. Md. Code Ann., Ins. §§ 2-210(a)(2)(ii), (b)(1), 2-212(a)(1)(ii).

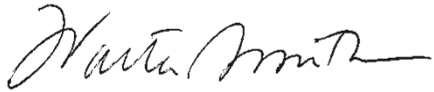
The requirement that a person be “aggrieved” by an agency determination “mirrors general common law standing principles applicable to judicial review of administrative decisions.” *Sugarloaf Citizens Ass’n v. Dep’t of Env’t*, 344 Md. 272, 288, 686 A.2d 605, 614 (1996) (quoting *Med. Waste Assocs., Inc. v. Md. Waste Coal.*, 327 Md. 596, 611 n.9, 612 A.2d 248–49 n.9 (1992)). The D.C. Court of Appeals has recognized that DC Appleseed has standing to seek judicial enforcement of the Medical Insurance Empowerment Amendment Act of 2008 (“MIEAA”), D.C. Code §§ 31-3501 to -3524, both because it is a GHMSI subscriber that would benefit from MIEAA’s application, and because the failure to enforce MIEAA would directly conflict with the organization’s mission. *D.C. Appleseed Ctr. for Law & Justice v. D.C. Dep’t of Ins., Secs., & Banking*, 54 A.3d 1188, 1204, 1210 (D.C. 2012). Pursuant to MIEAA’s requirements, the D.C. Commissioner reviewed GHMSI’s surplus as of December 31, 2011, determined that it was excessive, and ordered the company to submit a plan for reducing excess surplus attributable to the District by March 16, 2015. Your February 10 prohibitions directed to GHMSI are contrary to the D.C.

Commissioner's order enforcing MIEAA and for that reason aggrieve DC Appleeed.

The relief DC Appleeed would seek at the requested hearing is a determination that while the Maryland Commissioner has authority and discretion to determine whether and how excess GHMSI surplus attributable to Maryland should be spent down, he does not have authority to override and countermand corresponding determinations made by the D.C. Commissioner concerning excess surplus attributable to the District. GHMSI's federal charter, which provides that GHMSI "shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia," Pub. L. No. 103-127, § 138(b), 107 Stat. 1336, 1349 (1993), is fully consistent with the D.C. Commissioner's primary authority and oversight in this matter. Indeed, Congress' understanding of GHMSI's charter confirms that this provision was added "because the venue rests in the District of Columbia." 139 Cong. Rec. S8618 (July 13, 1993) (statement of Sen. Sam Nunn); *see also* S. Rep. No. 104-92, at 53 (1995) (noting that the charter amendment was based on the proposition that "the primary oversight of an insurance carrier rests with the authorities in the company's 'State of domicile'").

For the foregoing reasons, which we would further document and explain if our request is granted, we request a hearing regarding your February 10, 2015, prohibitions and a stay pending adjudication of this matter.

Sincerely,



Walter Smith, Executive Director  
DC Appleeed Center



Richard B. Herzog  
Harkins Cunningham LLP



Deborah Chollet, Ph.D.



Marialuisa S. Gallozzi  
Covington & Burling LLP

cc: The Honorable Chester A. McPherson, Acting Commissioner  
D.C. Department of Insurance, Securities and Banking