

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

IN THE MATTER OF)	
)	
)	
Surplus Review and Determination)	Order No.: 14-MIE-013
for Group Hospitalization and Medical)	
Services, Inc.)	
)	
)	

**ORDER ON APPLESEED’S MOTION FOR RECONSIDERATION AND
GHMSI REQUEST FOR BRIEFING SCHEDULE ON RECONSIDERATION**

By motion submitted on January 9, 2015, the D.C. Appleseed Center for Law and Justice, Inc. (“Appleseed”) requested that the Commissioner of the Department of Insurance, Securities and Banking (the “Commissioner”) reconsider his Decision and Order issued on December 30, 2014 (the “Decision”). Specifically, Appleseed argues that the Commissioner clearly erred as a matter of law in (1) adopting Rector’s probability distribution for the equity portfolio factor and (2) allocating GHMSI’s surplus between the District, Maryland and Virginia. On January 12, 2015, GHMSI requested a briefing schedule for reconsideration of the Decision, stating that it “plans to file its own motion for reconsideration and intends to respond to Appleseed.” GHMSI further requested that the date for it to file any remedial plan should be set for 45 days after the Commissioner’s ruling on the pending and anticipated reconsideration motions. In turn, on January 13, 2015, Appleseed responded that it did not object to GHMSI’s request for a briefing schedule, but asked that any schedule allow it to file a response to GHMSI’s anticipated filings.

“The power to reconsider is inherent in the power to decide.” *Albertson v. FCC*, 182 F.2d 397, 399 (D.C. Cir. 1950). “[L]ike any court, [an administrative agency] has the power to reconsider any decision it makes, unless there is some statute or regulation that affirmatively

forbids such action.” *Panutat, LLC v. District of Columbia Alcoholic Beverage Control Bd.*, 75 A.3d 269, 274 (D.C. 2013) (internal quotation mark and citation omitted). No statute or regulation forbids reconsideration here. Conversely, no statute or regulation requires it. The statutes and regulations governing the surplus review are silent on the topic of reconsideration.

However, after a multi-year process culminating in the 66-page Decision, the Commissioner sees no reason to resume briefing on facts and arguments that already have been extensively briefed and decided. Indeed, Appleseed’s motion simply repackages and extrapolates previously presented facts and arguments. Nothing in Appleseed’s motion demonstrates that the Decision contains clear errors of law or otherwise merits reconsideration.

Accordingly, the Commissioner ORDERS:

1. Appleseed’s motion for reconsideration is denied.
2. GHMSI’s request for a briefing schedule on Appleseed’s motion for reconsideration is denied as moot.
3. GHMSI’s request to extend the deadline for the submission of a plan for dedication of the excess surplus attributable to the District to community health reinvestment is denied.
4. GHMSI’s request for a briefing schedule on its anticipated motion for reconsideration is denied. If GHMSI files such a motion, the Commissioner will issue a briefing schedule if he determines that the motion warrants further briefing.
5. The December 30, 2014 Decision and Order remains in full force and effect.

Dated: January 15, 2015



Chester A. McPherson, Acting Commissioner

SEAL