

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

_____))
IN THE MATTER OF)
)
Surplus Review and Determination)
For Group Hospitalization and Medical)
Services, Inc.)
_____))

Statement of Therese M. Goldsmith
Maryland Insurance Commissioner
June 25, 2014

Thank you for the opportunity to submit this written Statement regarding the review of the surplus of Group Hospitalization and Medical Services, Inc. (“GHMSI”) being conducted by the Commissioner of the Department of Insurance, Securities, and Banking (“the Commissioner”).

Maryland and the District of Columbia share a common interest in ensuring that GHMSI’s surplus is neither excessive nor inadequate for the protection of its policyholders. Many of those policyholders are Maryland residents. Indeed, according to GHMSI’s most recent annual financial statement filed with the Maryland Insurance Administration (“MIA”), more GHMSI members reside in Maryland than in any other jurisdiction. Specifically, as of the end of 2013, of GHMSI’s 728,464 members, 284,164 were Marylanders; 234,631 were Virginians; and 209,669 were residents of the District of Columbia. In terms of earned premiums, of approximately \$3.3 billion earned in 2013, approximately \$1.4 billion was attributable to Maryland, approximately \$1 billion was attributable to Virginia, and approximately \$850 million

was attributable to the District of Columbia.¹ Like the District, Maryland has a responsibility to ensure that GHMSI satisfies its mission as a non-profit health service plan, while at the same time maintaining a surplus sufficient to satisfy its current and future obligations to policyholders and creditors.

In fulfillment of that responsibility, the MIA regularly conducts an analysis and issues a report regarding the compliance of GHMSI, its affiliate, CareFirst of Maryland, Inc., and its parent company, CareFirst, Inc., with the companies' nonprofit missions as set forth in Maryland law. *See, e.g., 2013 Report on Non-Profit Health Plan Statutory Compliance, available at <http://www.mdinsurance.state.md.us/sa/docs/documents/home/reports/2013-report-on-nonprofit-health-service-plan-compliance.pdf>.* Additionally, pursuant to the terms and conditions of a Consent Order issued on September 14, 2012 ("Consent Order"), I approved for GHMSI a targeted surplus range of 1000% to 1,300% of its authorized control level risk-based capital (ACL-RBC),² provided that, among other things, the company submit to me, by July 1 of each year from 2013 through 2015, a report assessing the continued appropriateness of that range or any subsequently approved range then in effect.³ *See In re Targeted Surplus Ranges for CareFirst of Maryland, Inc. and Group Hospitalization and Medical Services, Inc., Case No. MIA-2012-09-006, available at <http://www.mdinsurance.state.md.us/sa/documents/MIA-2012-09-006-CareFirst.pdf>.* GHMSI's next report to me is due less than one week from the date of this hearing. The Consent Order also requires GHMSI to provide with each premium rate filing its most recently calculated actual surplus level and its projected surplus over the next 12

¹ Membership and premium figures quoted above include comprehensive medical plans (individual and group), Medicare supplemental plans, vision only plans, dental only plans, federal employee plans, and "other."

² These ranges, expressed as a percentage of authorized control level RBC, are not properly compared with figures expressed as a percentage of company action level RBC.

³ As of December 31, 2013, GHMSI's surplus as a percentage of ACL-RBC was 932.3%, below the bottom of the MIA-approved range.

months, to be considered by the MIA as one factor in determining whether to approve, disapprove, or modify proposed premium rates.

These findings and determinations, while, of course, not binding on the Commissioner, speak to Maryland's strong interest in the outcome of this proceeding. The District of Columbia's law recognizes the potential interest of other jurisdictions in the Commissioner's review of a non-profit hospital service or medical service plan's surplus. It requires that any such review, including the review that is the subject of today's proceeding, "shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business." D.C. Code § 31-3506(e).

The District's law further limits the review to only "that portion of the surplus of the corporation that is attributable to the District," and authorizes the Commissioner to issue a determination as to whether *only that portion* of the surplus attributable to the District is excessive. *Id.*, see also D.C. Code § 31-3506(f) and (h). Maryland respectfully suggests that as a threshold matter, before the Commissioner can determine whether GHMSI's surplus is excessive, it is necessary to establish a fair and appropriate methodology to identify "that portion of the surplus of the corporation that is attributable to the District," as required by statute.

Once that has been accomplished, and in the event that the Commissioner determines that the portion of GHMSI's surplus attributable to the District is excessive, the District's law requires that the Commissioner order GHMSI "to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner." D.C. Code § 31-3506(g)(1). The law permits such a plan to "consist entirely of expenditures for the benefit of current subscribers of the corporation." D.C. Code § 31-3506(g)(2). This provision is consistent with

Maryland law, which *requires* that the distribution of any excess surplus be made to GHMSI policyholders. *See* Maryland Code Ann., Ins. § 14-117(e)(3) (distribution of any excess surplus “may be made only to subscribers who are covered by the corporation’s nonprofit health service plan at the time the distribution is made”). It is the MIA’s position that distribution of any excess surplus to GHMSI policyholders, including, for example, in the form of a premium subsidy or other premium rate relief, is the *only* “fair and equitable manner” of distribution. Any excess surplus the Commissioner may find to exist would represent premiums paid by, or on behalf of, GHMSI policyholders. Diversion of any such funds for other “community health reinvestment” purposes would fail to recognize that fundamental fact, and would be neither fair nor equitable.

The issues involved in this proceeding are nuanced and complex, and the outcome could impact hundreds of thousands of GHMSI members in the District, Maryland, and Virginia. The Maryland Insurance Administration and I stand ready to provide any further information the Commissioner might find helpful in informing his decisions in this matter, and to coordinate our efforts in the best interests of GHMSI and its members and policyholders.

Thank you again for the opportunity to provide this Statement.

Respectfully submitted,



Therese M. Goldsmith
Maryland Insurance Commissioner