

Government of the District of Columbia
Department of Insurance Securities and Banking



Thomas E. Hampton
Commissioner

**Public Summary and DISB Action Plan for the Surplus Review of
GHMSI under the Medical Insurance Empowerment Amendment Act of 2008**

The Medical Insurance Empowerment Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-369; D.C. Official Code § 31-3501 *et seq.* (2001)), (“MIEAA”) amended the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3501 *et seq.* (2001)) (“HMSCR Act”). As amended, the HMSCR Act requires the Commissioner of the Department of Insurance, Securities and Banking (“Department” or “DISB”) to review the surplus of any DC chartered hospital and medical services corporation (“HMS Corporation”) and determine whether the portion of the surplus attributable to the District is excessive.

If the DISB Commissioner reviews an HMS Corporation’s surplus and reports that its surplus exceeds and is expected to continue to exceed the greater of the Company Action Level Risk-Based Capital and the Blue Cross and Blue Shield Association minimum capital requirements, DISB will conduct a public hearing to determine whether the portion of the HMS Corporation’s surplus attributable to the District is unreasonably large and inconsistent with the corporation’s community health reinvestment obligations as defined in the MIEAA. If the Commissioner issues a decision and order stating the HMS Corporation’s surplus meets both criteria, then such portion shall be deemed “excessive” under the MIEAA, and the HMS Corporation shall be required to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner.

The HMSCR Act requires the Department to perform this analysis on an annual basis. Currently, there is only one domestic HMS Corporation that is covered by the HMSCR Act, Group Hospital Medical Services Inc. (“GHMSI”).

The Department will complete its first review and issue a decision and order of GHMSI’s surplus in September of 2009. Subsequent reviews are anticipated to be completed annually in July. The following is the timeline that the Department will be using to make its first determination of whether GHMSI’s surplus is excessive.

July 10, 2009 DISB will promulgate an Emergency and Proposed Rulemaking (“Rulemaking”) establishing the procedures for reviewing surplus pursuant to the HMSCR Act and the procedures for conducting the

public hearing to determine whether a hospital and medical services corporation's surplus attributable to the District is excessive. The Rulemaking will be promulgated in the DC Register in July 2009.

- July 17, 2009** The Commissioner will issue a determination that the preceding year surplus balance of GHMSI exceeds and is expected to continue to exceed the greater of the Company Action Level Risk-Based Capital and the Blue Cross and Blue Shield Association minimum capital requirements, as defined in Rule 4601.4.
- July 31, 2009** GHMSI will provide DISB a Report detailing the appropriate level of surplus necessary for the company to meet its: (1) statutory and corporate surplus requirements; (2) actuarially determined risk exposures; and (3) expected and unanticipated contingencies.
- August 7, 2009** After the Department reviews the report, it will be posted on the DISB website for public review.
- August 26, 2009** The Corporation and any members of the public who so choose shall submit pre-hearing reports pursuant to Rule 4602.2. The company's report shall include, at the least, the information required by Rule 4601.5.
- September 10 and 11, 2009** Pursuant to the Regulations promulgated on July 10, 2009, the Commissioner will convene a Public Hearing. The hearing will be conducted as follows:
1. GHMSI may make an oral presentation not to exceed 90 total minutes in duration;
 2. At the discretion of the Commissioner, interested third parties may make oral presentations, no one of which may exceed 20 minutes;
 3. The Commissioner may directly, or through independent experts, question witnesses presented by the corporation or any third parties making a presentation;
 4. The Commissioner may allow members of the public to make brief statements, not to exceed 3 minutes for any one person or organization;
 5. GHMSI shall be allowed to make a final statement prior to the conclusion of the hearing. The final statement shall not exceed 15 minutes.
- By September 25, 2009** GHMSI or any interested third parties may file a rebuttal statement, not to exceed 8 pages, clarifying any issues or

responding to questions raised at the hearing. Any person may file testimony to be included in the record. The record for the Public Hearing shall close at 6:00 p.m. Eastern Time.

September 30, 2009

Following the Public Hearing and upon review of the Public Hearing record, the Commissioner shall make a final determination regarding whether the portion of GHMSI's surplus attributable to the District is "excessive" under the HMSCR Act. The Commissioner will issue the determination in writing and shall post the decision and order accompanied by findings of fact and conclusions of law.