

**GHMSI EXCESSIVE SURPLUS HEARING
OPENING STATEMENT OF
ACTING COMMISSIONER GENNET PURCELL
September 10, 2009**

I. Introduction

Good Morning. I am Gennet Purcell, Acting Commissioner for the District of Columbia Department of Insurance, Securities and Banking (DISB). I would like to welcome everyone to this public hearing. This hearing is held pursuant to D.C. Official Code section 31-3506 (e) and (f) of the Hospital and Medical Services Corporation Regulatory Act of 1996, or the “HMSCR Act,” as amended, by the Medical Insurance Empowerment Amendment Act of 2008 or the “MIEA Act.” The Department convenes this hearing to assist in making its determination as to whether the portion of surplus attributable to the District of Columbia, of Group Hospitalization and Medical Services, Inc., or “GHMSI,” a subsidiary of Carefirst, Inc. is excessive under the MIEA Act.

With me today, also representing the Department are Mr. Philip Barlow, Associate Commissioner for the Insurance Department, Ms. Leslie Johnson, Department Hearing Examiner, Mr. Stephen Taylor, General Counsel for the Department and Ms. Michelle Mathis, Department Paralegal. Serving as experts on behalf of the Department are Mr. Jim Toole, Mr. Neil Rector and Ms. Sarah Schraeder of Rector & Associates, Inc., and Mr. Robert Myers and Ms. Lindy Chang of Morris, Manning and Martin, LLP.

II. Background

The purpose of today’s hearing is to assist the Department in gathering information about the appropriate levels of surplus necessary for the Corporation to meet its: (1) statutory and corporate surplus requirements; (2) actuarially determined risk exposures; and (3) expected and unanticipated contingencies. Additionally, the Department hopes

to gather information regarding the most appropriate way to determine the portion of the Corporation's excess surplus, if any, which is attributable to the District of Columbia. GHMSI is unique among all BlueCross/BlueShield plans in the United States in that it was created by an Act of Congress which establishes its purpose in a Congressional Charter. This Charter empowers GHMSI to enter into contracts with individuals or groups of individuals for the provision of health insurance coverage as a non-profit company *for the benefit of its* subscribers. GHMSI is a hospital and medical services corporation chartered by the Department and subject to the surplus review required by the HMSCR Act. The MIEAA's implementing regulations, DCMR Chapter 46, Title 26, provide the regulatory standards governing these proceedings and define "greater than the appropriate risk – based capital requirements" to mean greater than the minimum risk-based capital requirements of the National Association of Insurance Commissioners ("NAIC") and the Blue Cross/Blue Shield Association. On July 17, 2009, the former Commissioner of DISB, Mr. Thomas Hampton, issued the "2009 Group Hospitalization and Medical Services, Inc. Adequate Surplus Determination." He determined that the surplus as of December 31, 2008, was "greater than the appropriate risk-based capital requirements," as that phrase is defined in MIEAA's implementing regulations.

III. Purpose of Hearing

Pursuant to the terms of the MIEA Act, the Department is required to conduct a public hearing to determine whether GHMSI's surplus attributable to the District of Columbia is excessive. The surplus attributable to the District shall be deemed excessive only if the further finding is reached, that the portion of the surplus is unreasonably large and

inconsistent with GHMSI's community health reinvestment obligation set forth in Section 6a of the HMSCR Act. The purpose of this hearing today is to try to shed light on this very important issue. In order to make a final determination as to whether GHMSI's surplus which is attributable to the District is excessive and unreasonably large I will take into consideration the entire record, which will include all submissions and testimony. I will listen and consider the views of interested parties and members of the public.

IV. Hearing Record

The information received here today will be made part of the official record of this hearing. Notice of this public hearing was published in the District of Columbia Register on July 24, 2009, at 56 D.C.R. 005967, and a revised Notice was published in the District of Columbia Register on July 31, 2009, at 56 D.C.R. 006000. Notice was delivered to Carefirst on July 24, 2009, and July 31, 2009. The revised Notice of Public Hearing was also posted to the Department's website. On July 31, 2009, as required by the Department, GHMSI issued the GHMSI Report, incorporating the December 4, 2008, Milliman Report titled, "Need for Statutory Surplus and Development of Optimal Surplus Target Range." Pursuant to the Regulations governing these proceedings, on August 31, 2009, GHMSI issued the GHMSI Pre-Hearing Report, incorporating as Exhibit A, the August 28, 2009 Milliman Report titled, "Evaluation of GHMSI Surplus Attributable to D.C." and several attachments. Also on August 31, 2009, a Pre-Hearing Report was issued by the District of Columbia, Appleseed Center for Law and Justice, also incorporating Exhibits A through C, a Covington and Burling LLP Legal Analysis report, an Actuarial Risk Management Report titled, "Excess Surplus Assessment

Report of GHMSI Surplus Position,” and a Mathematica Policy, Inc., Senior Fellow Research Statement. Additional written materials have also been submitted to the Department. These parties have been listed on the Witness List and will testify as public witnesses here today.

IV. Hearing Procedures

Next, I will explain the general procedure for today’s hearing. We will commence each witness or witness panel with a swearing in of each witness. This will be conducted by our Hearing Officer or by me. After each panel’s presentation, the Department staff may pose questions to the witnesses. After all testimony has been heard and all of the Department’s questions have been answered, we will proceed to the next panel or witness as listed on the Witness List or to other members of the public who have signed up at the hearing today to testify. There are witness cards for witnesses to complete at the rear of the room, to my left. Please list your name, affiliation if any, and address and deliver the card to our transcriber at the front of the room, to my right. We will first hear from GHMSI and panel. The GHMSI panel members will have ninety (90) minutes for the presentation of their testimony. We will then hear from the District of Columbia, Appleseed Center for Law and Justice which will have twenty (20) minutes for the presentation of its testimony. Next, we will hear from other interested parties who will also have total of twenty (20) minutes for the presentation of their testimony, and all other public witnesses who will have a total of three (3) minutes for the presentation of their testimony. I will call for a 20-minute break approximately half way through today’s proceedings. We will end at 5 p.m. today and will continue the hearing tomorrow morning beginning 10 a.m. to hear any remaining witnesses and rebuttal testimony.

Once all of the parties and public witnesses have been heard and all of the Department's questions have been answered, GHMSI will be permitted thirty (30) minutes to deliver their final rebuttal statement, after which time these hearing proceedings will adjourn.

Please note that the Department will be producing a stenographic record of these proceedings, which will be a part of the official record of this hearing. As such, again, witnesses not listed on the Witness List are required to provide the court reporter with a witness card prior to presenting testimony. Witnesses, please speak into the microphone, and begin your testimony by giving your full name, affiliation and title. All testimony should be addressed to this hearing body, should be relevant to the issues just outlined, and should not be of a personal nature. In the interest of time, please be mindful of the time limits allotted for testimony. The official record in this matter will remain open until close-of-business on September 25, 2009. Anyone wishing to submit written testimony or rebuttal statements may submit those in writing to the attention of Ms. Leslie Johnson, DISB Hearing Examiner, and Ms. Carmelita Snowden, DISB Executive Assistant, 810 First Street, NE, Suite 701, Washington, DC 20002, or, by email to leslie.johnson@dc.gov and carmelita.snowden@dc.gov. Following the hearing, after a final review of all of the relevant submissions, consideration of the entire record and application of relevant laws and regulations, I will make a final determination as to whether GHMSI's surplus which is attributable to the District is excessive and unreasonably large. The final determination will be issued in writing no later than September 30, 2009. If I determine that the surplus is excessive and unreasonably large,

I will order GHMSI to submit a plan for my approval, for dedication of the excess to community health reinvestment pursuant to the statute.