

Chet Burrell
President and Chief Executive Officer

CareFirst BlueCross BlueShield
1501 S. Clinton Street, 17th Floor
Baltimore, MD 21224-5744
Tel: 410-605-2558
Fax: 410-781-7606
chet.burrell@carefirst.com



January 22, 2015

The Hon. Jacqueline K. Cunningham
Commissioner of Insurance
Commonwealth of Virginia
Tyler Building
1300 E. Main Street
Richmond, VA 23219

Re: *Request for Action– Group Hospitalization and Medical Services, Inc.
Surplus Level*

Dear Commissioner Cunningham:

I am writing to request action by the Virginia Bureau of Insurance related to a December 30, 2014 Decision and Order (District Order or Order) issued by the District of Columbia Insurance Commissioner (District Commissioner) regarding the 2011 surplus of Group Hospitalization and Medical Services, Inc. (GHMSI). GHMSI is a non-profit health services plan that operates in Maryland, the District of Columbia (District) and Virginia.

The Order determines, among other things, that GHMSI's 2011 surplus of 998% RBC-ACL was excessive; that the appropriate level of GHMSI's surplus should be 721%; that 21% of GHMSI's surplus is attributable to the District; and that GHMSI must submit a plan by mid-February to dedicate to the District the portion of its excess 2011 surplus attributable to the District. The District Commissioner determined this amount to be \$56 million.

The action requested is that you, in conjunction with the District and Maryland Insurance Commissioners, conduct a consolidated proceeding and collaborate on a review of GHMSI's surplus level to determine whether it is excessive and the impact the Order has on GHMSI and its policyholders in Maryland and Virginia. In the interim, we request that you issue an order instructing GHMSI not to distribute or reduce its surplus pursuant to the Order until you have the opportunity to conduct and conclude your own review.¹ A similar request has been made to the Maryland Commissioner.² In the event there is objection to a consolidated proceeding among the three jurisdictions, GHMSI seeks a meeting with you.

Today, GHMSI filed a Motion seeking reconsideration of the District Order with the District Commissioner. A copy of GHMSI's Motion seeking reconsideration is enclosed. It asserts that the District Commissioner should reconsider his Order because he did not:

¹ Yesterday, we received notice that the Virginia State Corporation Commission ordered the initiation of a proceeding to examine the impact of the Order on GHMSI's surplus, premium rates for Virginia residents who are policyholders issued or delivered in Virginia and solvency. A report is due on or before February 27, 2015.

² The Maryland Insurance Administration recently commenced a review of current surplus and we are working directly with them on such review.

1. Coordinate with Maryland and Virginia as required by District law³ which leaves GHMSI with irreconcilable conflicts between the jurisdictions regarding the level of appropriate surplus GHMSI should hold;
2. Complete the analysis as prescribed by MIEAA – which requires a determination of whether “*the portion of the surplus attributable to the District is excessive*.” The District Commissioner determined that GHMSI’s overall surplus was excessive and did not do the analysis required in the law;
3. Properly calculate the accumulation of surplus over time. The District Commissioner examined only one year of premium revenue;
4. Establish a basis for the use of a 95% confidence level – one of the most important factors in determining the appropriate level of surplus; and
5. Establish a target range –instead of a single point that cannot be safely operationalized, since it would require GHMSI to maintain surplus below this point placing GHMSI in an unsound financial position.

In a 2012 consent order, Maryland Insurance Commissioner Therese Goldsmith determined that GHMSI should maintain a surplus in the range of 1,000-1,300% RBC-ACL. *See* Order No. MIA-2012-09-006. The District Commissioner’s Order directly conflicts with this pre-existing and still effective Maryland order.

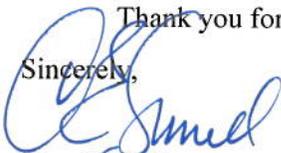
These conflicting orders place GHMSI in an untenable position. GHMSI cannot possibly comply with both the District’s Order to reduce its surplus to 721% and the Maryland consent order to seek surplus at the higher level. To comply with the District’s Order puts GHMSI in violation of Commissioner Goldsmith’s order. The District Commissioner acknowledged this conflict, *see* Decision and Order at 65, without providing any guidance on fundamental questions including how the conflict should be resolved, which of the two orders should control, and why one order should prevail over the other given, for example, GHMSI’s operations in both jurisdictions and the indivisibility of surplus.

The District’s determination that GHMSI’s surplus is excessive and that a portion of the determined excess is attributable exclusively to a single jurisdiction, is a decision with broad ramifications and affects directly – and potentially adversely – all three jurisdictions in which GHMSI operates. GHMSI has only one surplus, and the District’s Order will have extra-territorial effect on Maryland and Virginia subscribers.

We welcome the opportunity to provide other background information that would prove helpful.

Thank you for your consideration.

Sincerely,



Chet Burrell
President & CEO

Cc: The Hon. Alfred W. Redmer, Jr.
Maryland Commissioner of Insurance

The Hon. Chester McPherson
Acting Commissioner of Insurance
District of Columbia

³ The District’s Medical Insurance Empowerment Amendment Act (MIEAA) requires that the District Commissioner’s review must “be undertaken in coordination with the other jurisdictions in which the corporation conducts business.” DC Code §31-3506(e).