October 9, 2015

The Honorable Stephen C. Taylor, Acting Commissioner
D.C. Department of Insurance, Securities and Banking
810 First Street NE
Suite 701
Washington, D.C. 20002

Dear Commissioner Taylor,

The undersigned organizations urge you to complete your review of the Group Hospitalization and Medical Services, Inc. (GHMSI) surplus and issue a final order in the proceeding. Community benefit investments have been an obligation of nonprofit hospitals as a condition of their federal tax-exempt status for decades. Under legislation adopted by the D.C. Council (MIEAA), GHMSI has a comparable community reinvestment obligation. On December 30, 2014, the Commissioner of the D.C. Department of Insurance, Securities and Banking (DISB) determined that the 2011 surplus of CareFirst BlueCross BlueShield's District-based affiliate, GHMSI, was excessive by $268 million dollars and that $56 million dollars of that excess was attributable to the company's earnings in the District of Columbia. The Commissioner therefore ordered the company to file a plan for reinvesting that $56 million in the District.

Without a definitive action on this matter, the District of Columbia will continue to be devoid of a benefit that could be used to advance the health and well-being of its residents. As a group of funders and nonprofit organizations in the region, we witness firsthand the needs in this community that could be addressed if these resources were made available. The previous Commissioner ordered GHMSI to file a plan for reinvesting that excess by March 16, 2015, which it did not do. As a part of your ruling, we encourage you to require that a community process be undertaken to determine the best use of these resources for community benefit.

Many pressing issues affect the health and well-being of the District’s residents. We are in the midst of an affordable housing crisis, which has led to high rates of homelessness. We are seeing wages fall for workers, leading to rising income inequality. Although the minimum wage has increased in D.C., it is not sufficient to meet the needs of low-income families. These issues, along with uneven access to food, community-based preventive health programs, and health care, mean poor health outcomes for many residents of the District. There are real solutions that we can employ to address these issues. The sum of money in question—$56 million dollars—could make a significant impact on providing greater access to affordable housing, living wages, healthy food and preventive health services for low-income residents of the District. Everyone benefits when all communities have equal opportunity for good health and well-being.
The law requiring the reinvestment of GHMSI's excess surplus was passed more than six years ago. The Court of Appeals interpreted the law and remanded this issue to the DISB for prompt implementation nearly three years ago. The previous Commissioner ordered GHMSI to file a reinvestment plan, yet GHMSI has not done so. We are aware that you only recently assumed the position of Commissioner. However, due to the many delays on this matter and the urgency of the needs that could be addressed through this community benefit, we ask that you issue a final order in the proceeding as soon as possible and require a community process for determining the best use of these resources.

We thank you for your consideration and would welcome an opportunity to discuss this further. If you have any questions, please feel free to contact Dr. Yanique Redwood, President/CEO of the Consumer Health Foundation, or Ria Pugeda, Senior Program Officer, at (202)939-3390.

Sincerely,

Consumer Health Foundation
DC Employment Justice Center
DC Fair Budget Coalition
DC Fiscal Policy Institute
Meyer Foundation
Institute for Public Health Innovation
Jews United for Justice
Organizing Neighborhood Equity-DC

cc:    Mayor Muriel Bowser
       Councilmember Vincent Orange
October 19, 2015

Stephen C. Taylor
Commissioner
D.C. Department of Insurance, Securities and Banking
810 First Street NE
Suite 701
Washington, D.C. 20002

Dear Commissioner Taylor,

As organizations dedicated to improving the health and wellbeing of all DC residents, we strongly believe that Group Hospitalization and Medial Services, Inc. (GHMSI) must honor its statutory obligation to provide fair rates and not hold unreasonable excessive surpluses. We also believe that GHMSI is not complying with that obligation. We therefore urge you to (1) issue a final order as soon as possible requiring GHMSI to reinvest in the community the excessive surplus allocable to the District as determined by the DISB last December; and (2) preclude GHMSI from instituting further rate increases, in light of the company’s failure to file a community reinvestment plan as ordered by DISB.

Many of our organizations have worked for years to ensure that consumers have adequate access to health care in the District. Consistent with its mission, GHMSI should play a prominent role in offering affordable coverage and then should reinvest any excess surplus to further make care accessible to the community. Under legislation adopted by the D.C. Council (the Medical Insurance Empowerment Act of 2008, MIEAA), GHMSI has a community reinvestment obligation (http://dcode.org/simple/sections/31-3506.html). On December 30, 2014, the Commissioner of the D.C. Department of Insurance, Securities and Banking (DISB) determined that the 2011 surplus of CareFirst BlueCross BlueShield’s District-based affiliate, GHMSI, was excessive by $268 million dollars and that $56 million dollars of that excess was attributable to the company’s earnings in the District of Columbia. The Commissioner therefore ordered the company to file a plan for reinvesting that $56 million in the District.

The law requiring the reinvestment of GHMSI’s excess surplus was passed more than six years ago. The Court of Appeals interpreted the law and remanded this issue to the DISB for prompt implementation nearly three years ago. The previous Commissioner ordered GHMSI to file a reinvestment plan by March 16, yet GHMSI has not done so. We are aware that you only recently assumed the position of Commissioner. However, due to the many delays on this matter and the urgency of the needs that could be addressed through this community benefit, we ask that you issue a final order in the proceeding as soon as possible and require a community process for determining the best use of these resources. As we understand the requirements of MIEAA given GHMSI’s failure to file a timely community reinvestment plan, the company should not be entitled to any premium increases for 12 months; yet it has increased premium rates effective for the upcoming benefit period.

GHMSI could make a significant contribution to the health of District residents. Needs that quickly come to mind include the following:
- The Health Care Alliance, the District's coverage program for people who fall through the gaps in eligibility federal coverage programs for low-income populations, has required eligibility recertifications every 6 months in recent years, and long lines for recertification present a barrier to continued coverage. Eliminating this barrier would cost an estimated $13 million.

- GHMSI could mitigate the most burdensome rate increases for people in older age bands, in much the same way that it mitigated rate increases for its prior guaranteed issue pool before ACA.

- GHMSI could assist with substance abuse and prevention services to help combat current problems with synthetic drugs, an issue that has ramifications for the entire city.

- GHMSI could help bring specialized services, such as cancer treatment, into Southeast.

- GHMSI could help ensure that health care services are part of the support provided to newly housed families as DC works to provide housing for the homeless.

- GHMSI could help fund services to the low-income elderly and disabled population, who now lose services such as dental care when they transition from the Medicaid program available to younger populations into the Medicare and QMB programs for the elderly.

These are just some of the many unmet health needs in the District. We urge you and GHMSI to develop a community process to determine how best to use its excess surplus for community benefit.

We thank you for your consideration and would welcome an opportunity to discuss this further.

Sincerely,

Bread for the City
Children's Law Center
DC Coalition on Long Term Care
DC Fiscal Policy Institute
Fair Budget Coalition
Families USA
Family Voices of the District of Columbia Inc
George Washington University Health Insurance Counseling Project
Health Care Now
Healthy Families/Thriving Communities Collaborative Council
Hemophilia Association of the Capitol Area
Home Care Partners
La Clinica Del Pueblo
Legal Aid Society of the District of Columbia
Miriam's Kitchen

cc: Mayor Muriel Bowser

Councilmember Vincent Orange
November 16, 2015

Stephen Taylor, Commissioner  
Department of Insurance, Securities, and Banking  
810 First Street, NE, Suite 701  
Washington, DC 20002

Dear Commissioner Taylor,

At the Committee on Business, Consumer, and Regulatory Affairs hearing on October 28, there was discussion about whether DISB has the authority to develop a plan for the use of $66 million in excess surplus held by Group Hospitalization and Medical Services, Inc. ("GHMSI") if DISB finds that the plan submitted by GHMSI is deficient. As you consider further action regarding this matter, I wanted to provide my perspective. As author of the Medical Insurance Empowerment Amendment Act of 2008 ("MIEAA"), which governs your authority on this matter, it was my intent to grant DISB broad authority to remedy deficiencies in a plan submitted by GHMSI (or the failure to submit a plan as ordered), including authority to create a new plan.

As you know, under MIEAA, if the Commissioner of DISB determines that GHMSI's surplus is excessive, the Commissioner must order GHMSI "to submit a plan for dedication of the excess to community health reinvestment in a fair in equitable manner."1 The law then contemplates two possible scenarios under which DISB has authority to order a remedy: either GHMSI fails to submit a plan as ordered within a reasonable period, or GHMSI fails to execute an already submitted plan within a reasonable period.2 In either case, the available remedies are the same—the Commissioner must deny for twelve months all premium rate increases for subscriber policies written in the District sought by GHMSI, and "may issue such orders as are necessary to enforce the purposes of this chapter."3 This broad authority reflects the understanding that different circumstances may require different action. Rather than enumerate a specific remedy for each possible deficiency, the Council, as is common in legislation, instead provided wide latitude to the Commissioner to order corrective action as necessary.

1 D.C. Official Code § 31-3506(g).
2 D.C. Official Code § 31-3506(i).
3 Id.
It would defy common sense if, for example, upon a finding that the proposed plan was deficient, that DISB were only authorized to order GHMSI to submit a different plan. If this were true, GHMSI could circumvent its legal obligations by submitting one faulty plan after another, knowing that DISB’s only option would be to ask GHMSI to try again. Thus, inherent within DISB’s broad authority to “issue orders as are necessary” must be the authority for DISB to create a new plan that satisfies the requirements of the law. I would hope that any consideration of a DISB-created plan would be conducted with full transparency, including an opportunity for public input.

I appreciate all of the Department’s work and am happy to discuss this matter with you further.

Regards,

Mary M. Cheh
January 13, 2016

The Honorable Stephen C. Taylor, Commissioner
D.C. Department of Insurance, Securities and Banking
810 First Street NE
Suite 701
Washington, D.C. 20002

Re: Surplus Review of Group Hospitalization and Medical Services, Inc. Under the Medical Insurance Empowerment Amendment Act

Dear Commissioner Taylor:

We are writing concerning two recent, significant developments affecting your review of the surplus of Group Hospitalization and Medical Services, Inc. ("GHMSI"). The first is the action by Congress on December 18 amending GHMSI’s charter. Under that amendment, for surplus reviews for any year after 2011, GHMSI may not reduce its excess surplus pursuant to MIEAA without the express agreement of Maryland and Virginia. The second development is that on December 25, the DISB announced that it intends to conduct a hearing to determine whether GHMSI had excessive surplus as of the end of 2014.

Given these two developments, we want to offer suggestions to you concerning the DISB’s next steps. As briefly explained below, we have two main suggestions.

The first is that, taking into account the lengthy delay that has already occurred and in the wake of the recent congressional charter amendment, we think it is more important than ever that the DISB issue a final order concerning GHMSI’s excess surplus as of 2011.

Our second suggestion is that the DISB should not proceed with a surplus review for 2014 unless and until it has issued a final order for 2011 and should consider postponing a further review until the D.C. Court of Appeals has reviewed the 2011 determination. That review will either confirm the DISB’s 2011 methodology or offer different guidance for future DISB reviews.


As you know, we have several times urged the DISB to issue a final order in the 2011 proceeding, not only because the continuing delay undermines the intent of the Council and Mayor as expressed in the
governing statute (MIEAA), but also because the delay undermines the DISB's own authority, denies the public the benefit of the significant community reinvestment the statute contemplated, and can only reduce public confidence in the efficacy of the DISB's regulatory oversight at a time of widespread concerns about the costs of health insurance.

It is now more than seven years since the Council adopted MIEAA, and more than three years since the D.C. Court of Appeals reversed the initial upholding of GHMSI's surplus. It is more than a year since the DISB's December 2014 determination that the company's surplus was excessive by $268 million and that $56 million of that excess should be reinvested in the District, and nearly a year since GHMSI failed to file a plan to reinvest that excess as the DISB ordered.

We acknowledge that you were not confirmed until November 3, and that the DISB has many responsibilities. Nevertheless, given the prior delay, and the significant public interest, we believe the need for issuance of a final order is now urgent.

The congressional amendment to GHMSI's charter has made the need for action even more urgent. Through MIEAA, the Council intended for the Commissioner—as GHMSI's primary regulator under the congressional charter—to hold the company accountable to its nonprofit, charitable and benevolent mission by determining whether its surplus is excessive under the MIEAA standard and, if so, ordering the company to reinvest the portion of the excess attributable to the District. The congressional amendment has now precluded GHMSI from reinvesting excess surplus in future reviews without the agreement of Maryland and Virginia. As a practical matter, this may mean that the 2011 review is the best opportunity for the Commissioner to order a spend down of excess surplus as the Council contemplated in MIEAA, further compelling the need for prompt, final action.

2. The Commissioner Should Consider Postponing a 2014 Review.

While the need for final action on 2011 is urgent, moving forward with a 2014 review at this time does not advance MIEAA or the public interest for three reasons.

First, as noted above, the congressional amendment underscores that issuing a final order for 2011 should be the first priority. A new surplus review will inevitably take time and resources, from both the DISB and other invested organizations. In addition, in light of the recent congressional action, the procedural complexities of creating the agreement required by that action will have to be addressed. We believe it is not prudent to embark on this course until the pending, long-delayed 2011 review has been completed and the D.C. Court of Appeals has reviewed it.

Second, there is no need to begin a new proceeding prior to finalizing the 2011 review. Under the Court of Appeals' decision, the DISB has until three years from December 30, 2014—the date of the 2011 determination—to complete the next three-year review. D.C. App. Cit. for Law & Justice at D.C. Dept of Ins., Secs, & Banking, 54 A.3d 1188, 1220 (D.C. 2012). While we do not suggest waiting that long, our point is that the next review need not commence now. Finalizing the 2011 determination and allowing time for the Court of Appeals to review that proceeding—a review that is almost certain to be expedited—would give the DISB valuable guidance to complete the next review in accordance with the law.
Finally, as a practical matter, there is nothing to be gained under MIEAA by proceeding now with a 2014 review. A new review cannot affect the validity of the 2011 proceeding or delay the implementation of that proceeding. In fact, if that were allowed to happen, the result would be that MIEAA could never be implemented because there will always be another review, and that review could always be used to question or delay the implementation of a prior review.

* * *

For these reasons, given the latest developments, we respectfully urge the Commissioner to promptly issue a final order regarding GHMSI’s 2011 excess surplus and consider postponing review of the 2014 surplus.

Sincerely,

Walter Smith, Executive Director
DC Appleseed Center

Richard B. Herzog
Harkins Cunningham LLP

Deborah Chollet, Ph.D.

Marialuisa S. Gallozzi
Covington & Burling LLP

cc: Mr. Philip Barlow, Associate Commissioner for Insurance
D.C. Department of Insurance, Securities and Banking

Mr. Adam Levi, Assistant General Counsel
D.C. Department of Insurance, Securities and Banking
January 20, 2016

Stephen Taylor
Commissioner, Department of Insurance, Securities, and Banking
810 First Street NE, Suite 107
Washington, DC 20002

Dear Commissioner Taylor:

As a member of the Committee on Business, Consumer, and Regulatory Affairs, I am writing to follow up on your commitment to provide a final order in the Group Hospitalization and Medical Services, Inc. (GHMSI) 2011 excessive surplus matter. It is now more than a month past when you intended to issue a final order.

I understand that this has become a multi-jurisdictional issue, which adds a layer of complexity, but the question of 2014 excessive surplus is now upon us, which will be difficult to address without your final order on the 2011 issue.

I urge you to consider the need for action as you work to issue a final order – even if some of the jurisdictional issues are not yet completely resolved.

I concur with my colleague, Councilmember Mary Cheh, the experts at DC Appleseed, and others who understand the Medical Insurance Empowerment Act of 2008 (MIEAA) to “grant DISB authority to remedy deficiencies in a plan submitted by GHMSI or the failure to submit a plan as ordered), including the authority to create a new plan.”

I urge you to act quickly. I believe an order that reflects your authority to issue a plan for GHMSI to implement in regard to the District of Columbia’s share of its 2011 excessive surplus is well within your power. The needs in the community are great, we can’t ask our residents to wait any longer for GHMSI to meet its responsibilities. With $56m we could begin to address some of that need, whether it be through a rebate to customers or public health needs such as funding unmet needs of the DC Alliance, gang violence prevention, in person assisters for the Health Benefits Exchange, health insurance literacy programs or school based mental health clinicians.

We also shouldn’t allow GHMSI to pursue premium rate increases when many – myself included – believe that it did not meet its obligation to provide a plan for excessive surplus and the law provides that the consequences for that include denial of increases for twelve months. We can’t let them continue to generate an excessive surplus at the expense of residents.

I appreciate your work at the Department and would be happy to discuss this and any other timely issues with you further.

Sincerely,

Brianne K. Nadeau
Councilmember, Ward 1
Health Care Now
55 – 46th Street, NE
Washington, D.C. 20019
(202) 344-0108
February 1, 2016

Mayor Muriel E. Bowser
Executive Office of the Mayor
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Commissioner Stephen C. Taylor
DC Department Insurance Securities and Banking (DISB)
810 First Street, NE, Suite 701,
Washington, DC 20002

Members of D.C. Council
1350 Pennsylvania Avenue, N.W.
Washington, DC. 20004

Dear Mayor Bowser, Commissioner Taylor, Members of D.C. Council:

We urge you to assure that CareFirst Blue Cross Blue Shield (CareFirst) complies with the statutes of the District of Columbia that require the company to distribute $56 million of its excessive reserves as investments in community health in the District. This matter is urgent because CareFirst’s deliberately obstructionist campaign - to rid itself of its community health obligations under its congressional charter and District law - has achieved major gains.

To be clear, Health Care Now will not receive funds from CareFirst’s excessive reserves. We are writing as advocates for quality, affordable health care for all, without regard to ability to pay, and are alarmed that you have permitted CareFirst to discard its obligations to community health, leaving District residents without the protection of the laws of the District.

How We Got Here

CareFirst was ordered by former Commissioner Chester A. McPherson of the Department of Insurance Securities and Banking (DISB) on December 30, 2014 to submit a plan for the distribution of its excessive reserves to be invested in community health in the District. CareFirst refused. Commissioner McPherson then set March 16, 2015 as the deadline for receipt of CareFirst’s distribution plan. CareFirst again refused and instead intensified its campaign to rid itself of its obligations under its congressional charter, the District’s Medical
Insurance Empowerment Amendment Act of 2008 (MIEAA), and the regulatory oversight exercised by DISB.

Instead of submitting a plan by DISB’s deadline of March 16, 2015 (Order No. 14-MIE-014), CareFirst declared it would not comply and without substantiation insisted it had made expenditures or suffered losses in the District that exceeded the $56 million in surplus reserves due to the District (GHMSI Plan March 16, 2015). These claims have not withstood scrutiny nor has CareFirst verified them.

CareFirst, a large, non-profit, private enterprise has substituted its corporate strategy for the legislative mandate of DISB, a public regulatory agency established to protect District consumers from the abuses and self-aggrandizing pursuits of regulated and unregulated health care insurers like Carefirst. CareFirst is essentially no longer regulated by DISB. It has arrogated unto itself sole authority over its excess reserves and has subverted DISB’s exclusive regulatory authority as bestowed by Congress in 1939.

The District’s Medical Insurance Empowerment Amendment Act of 2008 (MIEAA), which Mayor Bowser voted to enact when she was the Councilmember from Ward 4, grants powers to DISB consistent with the 1939 congressional charter’s assignment of exclusive regulatory authority to the District over the operations of Group Hospitalization and Medical Services, Inc. (GHMSI), CareFirst’s District affiliate (53 Stat. 1412). MIEAA elaborates upon the charter’s designation of GHMSI as a “benevolent and charitable” institution in a manner consistent with the intentions of the Council of the District of Columbia.

MIEAA requires the District’s Insurance Commissioner to review the surplus of any D.C. chartered hospital and medical services corporation and determine whether the portion of the surplus attributable to the District is excessive. The determination is to be conducted at least once in three years.

In compliance with MIEAA, former Insurance Commissioner McPherson determined that at the end of 2011, CareFirst/GHMSI had total reserves of $963.5 million of which $286 million were excessive, including $56 million which were attributable to the District of Columbia. (DISB Order No.: 14-MIE-012 Dec. 30, 2014), MIEAA authorizes the Commissioner to order CareFirst to submit a plan to DISB specifying how it will allocate the excessive reserves as investments in community health in the District.
The District Needs Executive and Legislative Action Now

1. CareFirst has shorn DISB of its institutional authority, standing, and credibility, as a consequence of its state and congressional campaign to rebuff the agency's order to submit a plan for the distribution of the excessive reserves found in CareFirst's 2011 accounts as investments in community health in the District and to otherwise prevent DISB's exercise of the powers conferred by MIEAA.

Recommendation:
Commissioner Taylor should issue a final Order to CareFirst requiring the submission of a distribution plan or, in the event of CareFirst's non-compliance, to implement a plan devised by DISB to distribute the $56 million attributable to the District. MIEAA permits this initiative. Community health needs that could be met were CareFirst to comply include:
-The Health Care Alliance, the District's program for people who fall through the gaps in federal health insurance programs for low-income populations, has required eligibility recertifications every 6 months in recent years, and long lines for recertification present a barrier to continued coverage. Eliminating this barrier would cost an estimated $13 million.
-CareFirst could mitigate the most burdensome rate increases for people in older age bands, in much the same way that it mitigated rate increases for its subscriber pool before passage of the Affordable Care Act (ACA).
-CareFirst could assist with substance abuse and prevention services to help combat current problems with synthetic drugs, an issue that has ramifications for the entire city.
-CareFirst could help bring specialized services, such as cancer treatment, to communities east of the Anacostia River.

2. In the wake of CareFirst's non-compliance, the Mayor's and Council's intentions in MIEAA have been frustrated. Yet no advisories or explicit directives have been issued or communicated to DISB to embolden its performance in exercising the authorities conferred by the law and to enforce MIEAA. Instead, almost a year has passed since the March 16, 2015 deadline for CareFirst to submit a distribution plan for the excessive reserves and over a year has expired since the December 30, 2014 Order to submit the distribution plan was issued without enforcement. In addition, former Insurance Commissioner, Chester A. McPherson, was inexplicably dismissed by the Mayor in June 2015 and replaced with Stephen C. Taylor who stated in his council confirmation hearing on October 17, 2015 that he intended to issue a final Order within 60 days, but has not acted since his November 3, 2015 confirmation.
Recommendation:
The Mayor and DC Council should issue appropriate instructions to DISB expressing the urgency in DISB’s completion of the process advanced by DISB’s Order of December, 2014 and to order CareFirst to comply with the statute. Important community health programs languish with the delay and the integrity of the regulatory process is at risk.

3. CareFirst’s intransigence has diverted attention from the source of the excessive reserves although in DISB’s Surplus Review Hearing of June 25, 2015, CareFirst executives indicated that if there were excessive reserves, the excess should be returned to CareFirst subscribers (Hearing transcript 90,103). While Health Care Now supports DISB’s interpretation of MIEAA as framed in the December 2014 Order that would permit distribution of excess reserves to subscribers and/or as investments in community health, CareFirst has not been required to address the matter of overcharges for its policies. “Excessive reserves” by definition refer to unresolved cost inefficiencies (overcharges) particularly when coupled with DISB- approved annual rate increases.

Recommendation:
D.C. Council should investigate the impact of CareFirst’s excessive reserves on the costs of individual policy-holders’ and small groups’ premiums for coverage.

4. CareFirst has defied DISB’s Order, yet the company will benefit from approved rate increases throughout 2016. However, MIEAA permits the Commissioner to rescind the increases when non-compliance with its orders is encountered. It may be said that CareFirst has by-passed DISB and has secured its excessive reserves to its own corporate discretion and has also persuaded DISB to approve additional revenues as rate increases which include a percentage dedicated to reserves.

Recommendation:
D.C. Council should rescind its approval of CareFirst’s rate increases pending the company’s compliance with DISB’s Orders. The company should not profit from its lawlessness.

5. Congress’ Consolidated Appropriations Act of 2016 effectively prohibits action on CareFirst’s excessive reserves found after those identified as of the end of CareFirst’s fiscal year 2011. Yet the legislation does not repeal MIEAA, which authorizes an order for the distribution of 2011 reserves.
Recommendation: Commissioner Taylor should conduct a public hearing seeking recommendations on the distribution process and recipients of the excessive reserves that CareFirst or DISB will distribute as investments in community health.

CareFirst Failed to Become a For-Profit Corporation

In 2001, CareFirst petitioned to convert from its non-profit charitable trust status to that of a for-profit health insurer. Following the conversion, CareFirst was to have been purchased by WellPoint Health Networks of California. Health Care Now was a charter member of CareFirst Watch, an advocacy coalition organized under the leadership of the DC Appleseed Center for Law and Justice. CareFirst Watch sought to assure that the conversion, if granted, would transfer the complete corpus of CareFirst’s trust to a community foundation that would in turn distribute the monies to various community health programs and activities.

Health Care Now studied other conversion/acquisition plans throughout the nation. As a result of this research, we concluded that CareFirst’s conversion and acquisition would have adverse impacts on policy-holders and the area’s community health sector. Health Care Now, therefore, resolved to pursue an unqualified opposition to the conversion/acquisition itself and organized the Cross-Border Coalition to Keep CareFirst Non-Profit. In collaboration with families, CareFirst policy-holders, and patients, the coalition and other advocates, appealed successfully to the Maryland Commissioner of Insurance to deny CareFirst’s petition to convert and abandon its community health obligations.

In spite of its failed application for conversion in 2001 CareFirst has since maintained two (2) key components in its corporate strategy:

1. Continuous, unexplained accumulation of surplus reserves significantly exceeding even the standards set by the National Association of Insurance Commissioners (NAIC) and the Blue Cross Blue Shield Association (BCBSA); (see “Plumping the Pigeon” http://www.healthcarenowdc.com/curb-carefirst.html); and

2. Circumvention of the regulatory authority lawfully exercised by the District’s Department of Insurance Securities and Banking (DISB) as directed by MIEAA and the congressional charter.
Letter to Mayor Bowser, Commissioner Taylor, Members of D.C. Council
February 1, 2016
Page Six

Not only has CareFirst successfully lobbied Maryland and Virginia regulators and legislators to prohibit its compliance with DISB’s orders, but Congress has also been recruited by CareFirst to its “too big to regulate” scheme. Congress’ Consolidated Appropriations Act of 2016 provides that “the corporation shall not divide, attribute, distribute, or reduce its surplus pursuant to any statute, regulation, or order of any jurisdiction without the express agreement of the District of Columbia, Maryland, and Virginia.”, a provision which terminates the District’s exclusive regulatory authority granted by the 1939 charter.

In spite of having a former Chair of D.C. Council as the current Chair of its Board of Directors, CareFirst has betrayed the District’s aspirations for legislative, budgetary, and regulatory autonomy, and has unashamedly availed itself of D.C. tax-payer largesse including the District’s tax-free construction materials policy favoring non-profits in the construction of its 810 First Street, NE revenue-generating office tower.

Without your immediate enforcement of MIEAA, CareFirst will have succeeded in becoming too big to regulate.

Sincerely,

Samuel Jordan, Executive Director
Health Care Now

cc: Alexandra Dickson, League of Women Voters D.C.
George Jones, Bread for the City
Ed Lazere, DC Fiscal Policy Institute
Cheryl Fish Parcham, Families USA
Rob Robinson, Consumer Utility Board
Bridgette Rouson, Diverse City Fund
Walter Smith, Kevin Hilgers, DC Appleseed Center for Law and Justice