January 29, 2014

Chester A. McPherson, Commissioner  
District of Columbia 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.

Dear Commissioner McPherson:

Thank you for the Department’s continued efforts to move forward with the surplus review proceedings required to implement the Medical Insurance Empowerment Amendment Act (MIEAA). We are writing to request data that will allow DC Appleseed to analyze GHMSI’s surplus and meaningfully participate in the upcoming surplus review hearing on March 12, 2014.

The Department has released publicly the independent analysis of GHMSI’s surplus that the Department commissioned from Rector & Associates. Report to the D.C. Department of Insurance, Securities, and Banking, Group Hospitalization and Medical Services, Inc., December 9, 2013 (“Rector Report.”). That report contained the following:

1. An analysis of the standards to be used when reviewing GHMSI’s surplus position in accordance with D.C. statutes and regulations and the decision of the D.C. Court of Appeals in D.C. Appleseed Center for Law & Justice, Inc. v. DISB, 54 A.3d 1188, (D.C. 2012);  
2. A review of the actuarial model used to analyze GHMSI’s surplus position;  
3. A determination of the appropriate standards to be used for analyzing GHMSI’s surplus position;  
4. A determination of the amount of surplus GHMSI should maintain to satisfy the appropriate standards; and  

DC Appleseed has several questions about the assumptions and methods used by Rector to calculate and analyze GHMSI’s surplus, including those used by Milliman Inc., GHMSI’s actuarial consultant, on which Rector relied. Id. at 10-11. Many of these assumptions and methods are not fully stated and explained in the Rector report. For
example, the Rector report explains that “[t]he Milliman stochastic model employs 12 different factors, and for each of these factors, Milliman selects the probability of the occurrence and the severity of certain events related to these factors.” Rector report, at 27. “For nine of the 12 factors, we agreed with Milliman's conclusions.” Id. However, the Rector report does not provide sufficient data to explain why, for these nine factors, Rector agreed with Milliman on the probability of the occurrence and the outcome of certain events. Thus, on its own, the report does not contain enough information to allow any independent review and validation of its analysis.

Accordingly, DC Appleseed requests the data underlying Rector's analysis as specifically described in Attachment A.

Without that data, DC Appleseed's ability to participate fully in the surplus proceedings will be undermined, a result that would contravene the guidance provided by the D.C. Court of Appeals.

The D.C. Court of Appeals recognized Appleseed's vital role in these proceedings to “establish and enforce the legal structure created by the MIEAA so as to enhance the availability of affordable health care and promote public health in the District of Columbia.” D.C. Appleseed Ctr. for Law & Justice v. D.C. Dep't of Ins., Secs. & Banking, 54 A.3d 1188, 1208 (D.C. 2012). The Court explained that the Department must ensure that participants in the surplus review process, including DC Appleseed, have access to necessary data to conduct analyses that contribute to the Commissioner's determination. Id. at 1219 n.41. We are hopeful that the Department will now allow DC Appleseed access, well before the March 12 hearing, to the data to which we are entitled under the Court's opinion.

To the extent that sharing such data raises any concerns about confidentiality, we are prepared to enter into a confidentiality agreement, as we have previously offered to do and as suggested by the Court's opinion. We have attached a confidentiality and use agreement for your consideration.

Thank you for your prompt attention to this request. Given the February 25 deadline for submission of written reports before the hearing, see 26A DCMR § 4602.2, we ask to receive this information by a week from today, Wednesday, February 5. And to the extent possible, we ask that you prioritize the nine requests in Attachment A in the order they are presented in the Attachment. We appreciate the opportunity to work collaboratively with the Department in this important process.

Sincerely,

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DC Appleseed Center

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