MARYLAND

INSURANCE
ADMINISTRATION

# Calendar Year 2015 Report on Non-Profit Health Service Plan Compliance with Title 14 Subtitle 1 of the Insurance Article of the Annotated Code of Maryland

May 31, 2016

MSAR# 2224

## Introduction

CareFirst, Inc., which holds a certificate of authority from the State of Maryland as a non-profit health service plan, is the holding company of, among other entities, CareFirst of Maryland, Inc. (CFMI), a Maryland-domiciled company, and Group Hospitalization and Medical Services, Inc. (GHMSI), a federally chartered company domiciled in the District of Columbia. Both companies are non-profit health service plans and hold certificates of authority from the State. This report addresses the activities of CareFirst, Inc., CFMI and GHMSI which, unless otherwise indicated, will be referred to collectively as "CareFirst."

Section 14-102(a) states that the purpose of Title 14, Subtitle 1 is:

(1) to regulate the formation and operation of non-profit health service plans in the State; and
(2) to promote the formation and existence of non-profit health service plans in the State that:
  - (i) are committed to a non-profit corporate structure;
  - (ii) seek to provide individuals, businesses, and other groups with affordable and accessible health insurance; and
  - (iii) recognize a responsibility to contribute to the improvement of the overall health status of the residents of the jurisdictions in which the non-profit health service plans operate.

The review of CareFirst's compliance with Title 14, Subtitle 1 of the Insurance Article for calendar year 2015 is divided into the six subparts, which are as follows.

| | |
|---|---|
| Part I | Definition; General Provisions; |
| Part II | Certificates of Authority; |
| Part III | Management, Finances, and Solvency; |
| Part IV | Regulatory Authority of Commissioner; |
| Part V | Conversion; Acquisitions and Investments; and |
| Part VI | Prohibited Acts; Penalties. |

This report addresses all Parts with the exception of Part IV as it does not involve actions that must be taken by CareFirst.

## Part I – Definitions; General Provisions (§§14-101 to 14-107)

### A. Non-profit Mission

Section 14-102(c) provides that the mission of a non-profit health service plan is to:

(1) provide affordable and accessible health insurance to the plan's insureds and

those persons insured or issued health benefit plans by affiliates or subsidiaries of the plan;

(2) assist and support public and private health care initiatives for individuals without health insurance; and

(3) promote the integration of a health care system that meets the health care needs of all the residents of the jurisdictions in which the non-profit health service plan operates.

A non-profit health service plan must have goals, objectives, and strategies for carrying out its non-profit mission. Section 14-102(d).

According to an April 15, 2016 update to the Maryland Insurance Administration (MIA), CareFirst contributed approximately $40 million to health-related community initiatives in 2015 and of that amount, $13.8 million was spent in the State of Maryland on a variety of local initiatives and organizations including: Baltimore City's Department of Health's B'more for Healthy Babies, Roberta's House, Prince George's County Community Clinic, Inc., and Total Health Care. Additionally, CareFirst donated to numerous organizations that provide services throughout the State such as the American Cancer Society, the American Heart Association, the Kennedy Krieger Foundation, the National Kidney Foundation of Maryland, and the United Way.

Additional confirmation that CareFirst was in compliance with its non-profit mission was its compliance with §§14-106 through 14-106.2, which required CareFirst to spend funds for a public purpose equal to its premium tax exemption amount, and to annually transfer additional funds to the Senior Prescription Drug Assistance Program. (See Section 1.D.)

These efforts show a continued commitment to assisting and supporting public and private health care initiatives that fulfills CareFirst's obligations under §§14-102 and 14-106.

## B. Disclosure of Not-For-Profit Status

Section 14-103 requires CareFirst to "disclose on each document, statement, announcement, and advertisement and in any representation it places before the public that [it] is a private not-for-profit corporation." The MIA is not aware of any instances in which CareFirst failed to comply with these provisions during calendar year 2015.

## C. Statement of Principal Claims Practices

Section 14-104 (b) requires CareFirst to provide a statement of principal claims practices in its certificate form or booklet, which "shall include practices for payment for: (1) surgical procedures performed by two or more surgeons; (2) services provided in-area by nonparticipating providers; and (3) services provided out-of-area by affiliated plans and affiliated providers." Each individual policy and group certificate is also required by regulation to make clear how to file a claim and provide proof of loss. COMAR 31.10.25.04.

CareFirst has complied with §14-104(b) during calendar year 2015.

## D. Premium Tax Exemption and Transfer to Senior Prescription Drug Assistance Program

Section 14-106 provides that a non-profit health service plan is exempt from the State's premium tax "so that funds that would otherwise be collected by the State and spent for a public purpose shall be used in a like manner and amount by the non-profit health service plan." CareFirst is required by March 1 of each year to file with the MIA a Premium Tax Exemption Report, which demonstrates that it has used funds equal to the value of its premium tax exemption in a manner that serves the public interest in accordance with §14-106. According to the 2015 report submitted by CareFirst, CFMI's payments for public purposes totaled $13,937,772, exceeding the value of its premium tax exemption (i.e., $11,811,622) by $2,126,150. GHMSI's payments for public purposes totaled $12,283,844, exceeding the value of its premium tax exemption (i.e. $10,409,993) by $1,873,851. On May 10, 2016, the Commissioner issued an order notifying CareFirst that its 2015 Premium Tax Exemption Report was in compliance with the requirements of §14-106. (Attachment A.)

In addition, §14-106.2 requires CareFirst to transfer annually $4 million to the Senior Prescription Drug Assistance Program for the "donut hole subsidy" if CareFirst's surplus exceeds a specified risk based capital threshold. CareFirst's 2015 Premium Tax Exemption Report disclosed that it had made the required transfer.

# PART II – CERTIFICATES OF AUTHORITY (§§14-108 TO 14-112)

CareFirst maintained the appropriate State certificate of authority required by §§14-108 through 14-111. There were no delinquency proceedings instituted against CareFirst during calendar year 2015.

# PART III – MANAGEMENT, FINANCES, AND SOLVENCY (§§14-115 TO 14-121)

## A. Management of Business by a Board of Directors

CareFirst and each of its affiliates operated under the management of a board of directors as required by the provisions of §14-115.[1]

## B. Duties of Officers; Sanctions

The MIA is not aware of any instances in which CareFirst's officers acted in a manner inconsistent with the mission of CareFirst as required by §14-115.1 during calendar year 2015.

## C. Unsound or Unsafe Business Practices

The MIA is not aware of any instances in which CareFirst's officers or directors engaged in unsound or unsafe business practices as defined by §14-116 during calendar year 2015.

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[1] A listing of the members of each board of directors for CareFirst, Inc. and its affiliates can be found online at: https://member.carefirst.com/members/about-us/leadership-bios.page?#tab=carefirst-inc-board&accordion=carefirst-inc-board-board-of-directors

Furthermore, Maryland's Attorney General did not notify the MIA that he had reason to believe that any of CareFirst's officers or directors have engaged in unsound or unsafe business practices pursuant to §14-116(f) in calendar year 2015.

### D. Surplus Requirements

During calendar year 2015, CareFirst's surplus funds (i.e., the amount by which assets exceed liabilities) exceeded the minimum amounts required by §14-117.

Section 14-117(e) defines when the Insurance Commissioner may consider the surplus of a non-profit health service plan to be excessive and the procedure by which the excess surplus may be distributed. On September 14, 2012, the Insurance Commissioner executed a consent order with CareFirst stating that the targeted surplus ranges proposed by CareFirst and reviewed by the MIA were neither excessive nor unreasonably large.[2] During calendar year 2015, the Insurance Commissioner did not determine that CareFirst's surplus was excessive. CareFirst did not have an impaired surplus (§14-118) and it did not issue a notification of impairment (§14-119).

### E. Investments

Section 14-120(b) provides that a non-profit health service plan, "may invest its funds only in assets allowed for the investment of the funds of life insurers under §§5-101 and 5-102 and Title 5, Subtitle 5 of this article." Each year, the MIA's investment specialist performs a detailed portfolio analysis of CareFirst. As a part of that analysis, the portfolio is qualitatively and quantitatively compared to the provisions of Title 5, Subtitle 5. The analysis of CareFirst's portfolio as of December 31, 2015 disclosed that CareFirst was in compliance with the provisions of Title 5, Subtitle 5.

### F. Annual and Interim Statements, Audited Financial Reports

During calendar year 2015, CareFirst complied with §14-121, which requires that each non-profit health service plan file with the Insurance Commissioner an annual, complete statement of its financial condition, transactions, and affairs for the immediately preceding calendar year, interim financial statements, and annual audited financial statements. CareFirst filed with the MIA an annual statement of financial condition, an interim financial statement and a consolidated audited financial statement required by §14-121(d).

## PART V – CONVERSION, ACQUISITIONS AND INVESTMENTS (§§14-130 TO 14-133)

The MIA's review indicates that CareFirst did not hold or acquire an investment in an affiliate or subsidiary during calendar year 2015 in violation of §14-133 nor did it violate any other provision of Title 14, Subtitle 1, Part V.

[2] MIA-2012-09-006.

## Part VI – Prohibited Acts and Penalties (§§14-136 to 14-140)

### A. Unfair and Discriminatory Trade Practices; Other Prohibited Acts

Section 14-136 prohibits unfair and discriminatory trade practices and other prohibited acts. Specifically, §14-136(a) provides that non-profit health service plans are subject to the unfair and discriminatory trade practices provision of Title 27 of the Insurance Article. During calendar year 2015, the MIA found 2 instances in which CareFirst failed to comply with the provisions of Title 27. A summary of the orders is contained in Attachment B.

### B. Exclusion of Coverage for Violations

Pursuant to §14-137, the MIA identified no instances in 2015 in which CareFirst did not issue, renew, or deliver an insurance contract excluding coverage for hospital or medical expenses based on a violation of a provision of Title 21 of the Transportation Article or a provision of the Natural Resources Article.

### C. Disclosure of Medical Information

The MIA is not aware of any instances in which CareFirst disclosed medical information in violation of §14-138 during calendar year 2015.

### D. Prohibited Acts of Officers, Directors and Employees

During calendar year 2015, the MIA found no instances in which any of CareFirst's officers, directors or employees performed any of the acts prohibited by §§14-139 or 14-140 or in which CareFirst provided compensation to any of its officers, executives and directors in excess of the amounts in CareFirst's compensation guidelines.

In conclusion, the MIA has determined that CareFirst has fulfilled the statutory requirements of its non-profit mission as set forth in §14-102(c). If you require additional information regarding CareFirst's compliance with its statutory mission, please do not hesitate to contact me.

**Attachment A**

LARRY HOGAN
Governor

BOYD K. RUTHERFORD
Lt. Governor

MARYLAND
INSURANCE
ADMINISTRATION

AL REDMER, JR.
Commissioner

NANCY GRODIN
Deputy Commissioner

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2018 Fax: 410-468-2020
Email:melanie.gross@maryland.gov
1-800-492-6116 TTY: 1-800-735-2258
www.insurance.maryland.gov

May 10, 2016

CERTIFIED MAIL
RETURN RECEIPT REQUESTED
REGULAR MAIL

CareFirst of Maryland, Inc.
10455 Mill Run Circle
Owings Mills, Maryland 21117
Attention: Chet Burrell

Group Hospitalization and Medical Services, Inc.
840 First Street NE
Washington, DC 20065
Attention: Chet Burrell

Re: *IN THE MATTER OF: CareFirst of Maryland Inc. and Group Hospitalization Services Inc.*
Case No.: MIA-2016-05-011

Dear Mr. Burrell:

The Maryland Insurance Commissioner has entered an Order in the above-mentioned case. A copy of the Order is attached and is self-explanatory.

If you have any questions regarding this Order, you may contact the Associate Commissioner of Examination and Auditing at 410-468-2122.

Sincerely,

Melanie Gross
Melanie Gross
Executive Assistant

Attachment
cc: Al Redmer, Jr., Commissioner
J. Van Lear Dorsey, Principal Counsel
Phoebe Pappas, Assistant Attorney General
Vincent O'Grady, Associate Commissioner
Lynn Beckner, Chief Financial Analyst
Sherry Durandetto, Director, Company Licensing
Tracy Imm, Director of Public Affairs

STATE OF MARYLAND
MARYLAND INSURANCE ADMINISTRATION

| | | |
|---|---|---|
| IN THE MATTER OF | * | |
| THE 2015 PREMIUM TAX | * | |
| EXEMPTION REPORTS OF | * | |
| | * | |
| CAREFIRST OF MARYLAND, INC. | * | |
| NAIC #47058 | * | |
| 10455 MILL RUN CIRCLE | * | |
| OWINGS MILLS, MARYLAND 21117 | * | |
| | * | |
| AND | * | |
| | * | |
| GROUP HOSPITALIZATION AND | * | |
| MEDICAL SERVICES, INC. | * | |
| NAIC #53007 | * | |
| 840 FIRST STREET NE | * | |
| WASHINGTON, DC 20065 | * | CASE NO: MIA: 2016-05-011 |
| | * | |

* * * * * * * * * *

## ORDER

This Order addresses the premium tax exemption report filed with the Maryland Insurance Administration (the "MIA") by CareFirst of Maryland, Inc. ("CFMI") and Group Hospitalization and Medical Services, Inc. ("GHMSI") for calendar year 2015. A copy of the report is included as Exhibit A.

Under Maryland law, a nonprofit health service plan is exempt from the State's premium tax "so that funds that would otherwise be collected by the State and spent for a public purpose shall be used in a like manner and amount by the nonprofit health service plan." Md. Code Ann., Ins. §14-106(a).

A nonprofit health service plan is required by March 1 of each year to file with the MIA a report that demonstrates that the plan has used funds equal to the value of its premium tax exemption in a manner that serves the public interest in accordance with §14-106. Md. Code Ann., Ins. §14-106(b). By November 1 of each year the Commissioner is required to issue an order notifying the plan whether it has satisfied these requirements. If the Commissioner determines that the plan has not satisfied the requirements, the Commissioner is required to issue an order requiring the plan to pay the premium tax to the extent it had not contributed to the public purpose in ways permissible under the statute. Md. Code Ann., Ins. §14-107(a) and (b).

During calendar year 2015, nonprofit health service plans were required to subsidize the Senior Prescription Drug Assistance Program. A nonprofit health service plan that spent an amount equal to or greater than the value of its premium tax exemption for the Senior Prescription Drug Assistance Program during 2015 qualified for the premium tax exemption.

If its premium tax exemption value exceeded the amount required to be paid to the Senior Prescription Drug Assistance Program, a nonprofit health service plan may demonstrate that it contributed to the public purpose in other ways permissible under the statute to qualify for the premium tax exemption. Specifically, a nonprofit health service plan may satisfy the public service requirement by: (1) increasing access to or the affordability of health care products and services; (2) providing financial or in-kind support for public health programs; (3) employing underwriting standards that increase the availability of one or more health care services or products; (4) employing pricing policies that enhance the affordability of health care services or products and result in a higher medical loss ratio than that established by a comparable for-profit health insurer; or (5) serving the public interest by any method or practice approved by the Commissioner. Md. Code Ann., Ins. §14-106(c).

Regarding financial or in-kind support for public health programs, during calendar year 2015 a nonprofit health service plan was required to subsidize the Kidney Disease Program, support the costs of the Community Health Resources Commission and subsidize the provision of mental health services to the uninsured. Md. Code Ann., Ins. §14-106(d).

Findings:

(1) Both CFMI and GHMSI hold Certificates of Authority from the State of Maryland to act as nonprofit health service plans.

(2) CFMI and GHMSI timely filed their 2015 premium tax exemption reports (the "2015 Reports" or "2015 Report") on March 2, 2016.

(3) For 2015, the value of CFMI's premium tax exemption amount was $11,811,623.

(4) In calendar year 2015, CFMI's 2015 Report shows payments made to the Senior Prescription Drug Assistance Program totaling $7,438,472. Because CFMI's premium tax exemption value exceeded the amount paid to the Senior Prescription Drug Assistance Program, it was required to demonstrate that it had contributed to the public purpose in other ways permissible under the statute.

(5) CFMI's 2015 Report demonstrated that CFMI contributed to the public purpose in other ways permissible under the statute by making payments totaling $4,373,150 to the Department of Health and Mental Hygiene to support the costs of the Community Health Resources Commission and the Kidney Disease Program. Additionally, CFMI made payments totaling $2,126,150 to the Senior Prescription Drug Assistance Program for the "donut hole subsidy."

(6) According to the 2015 Report, CFMI's payments for public purposes described in paragraphs (4) and (5) totaled $13,937,772, exceeding the value of its premium tax exemption (*i.e.*, $11,811,622) by $2,126,150.

(7) For 2015, the value of GHMSI's premium tax exemption amount was $10,409,994.

(8) In calendar year 2015, GHMSI's 2015 Report shows payments made to the Senior Prescription Drug Assistance Program totaling $6,561,528. Because GHMSI's premium tax exemption value exceeded the amount paid to the Senior Prescription Drug Assistance Program, it was required to demonstrate that it had contributed to the public purpose in other ways permissible under the statute.

(9) GHMSI's 2015 Report demonstrated that GHMSI contributed to the public purpose in other ways permissible under the statute by making payments to the Department of Health and Mental Hygiene to support the costs of the Community Health Resources Commission and the Kidney Disease Program totaling $3,848,466. Additionally, GHMSI made payments totaling $1,873,850 to the Senior Prescription Drug Assistance Program for the "donut hole subsidy."

(10) According to the 2015 Report, GHMSI's payments for public purposes described in paragraph (8) and (9) totaled $12,283,844, exceeding the value of its premium tax exemption (*i.e.* $10,409,993) by $1,873,851.

(11) On the basis of all the payments described in paragraphs (4), (5), (8) and (9), both CFMI and GHMSI qualify for the premium tax exemption for calendar year 2015. The premium tax exemption reports filed by CFMI and GHMSI demonstrate that each plan has used funds equal to the value of its premium tax exemption in a manner that serves the public interest in accordance with §14-106.

CAREFIRST OF MARYLAND, INC.
AND
GROUP HOSPITALIZATION AND MEDICAL SERVICES, INC.

ACCORDINGLY, the Commissioner hereby determines this 10th day of May, 2016, that CFMI's and GHMSI's 2015 Premium Tax Exemption reports are in compliance with the requirements of § 14-106 of the Insurance Article, Annotated Code of Maryland.

ALFRED W. REDMER, JR.
INSURANCE COMMISSIONER

By: Vincent P. O'Grady
Vincent P. O'Grady
Associate Commissioner
Examination and Auditing

## RIGHT TO REQUEST A HEARING

Pursuant to § 2-210 of the Insurance Article and COMAR 31.02.01.03, a person aggrieved by this order may request a hearing on this Order. This request must be in writing and be received by the Commissioner within thirty (30) days of the date of the letter accompanying this Order.

Pursuant to §2-212 of the Insurance Article, the Order shall be stayed pending a hearing only if a demand for hearing is received by the Commissioner within ten (10) days after the Order is issued.

The request for hearing must be made in writing. This request must be addressed to the Maryland Insurance Administration, 200 St. Paul Place, Suite 2700, Baltimore, MD 21202, ATTN: Hearing and Appeals Coordinator. Failure to request a hearing timely or to appear at a scheduled hearing will result in a waiver of your rights to contest this Order and the Order shall be made final on its effective date.

Attachment A

## Actual Legislative Spending During Calendar Year 2015

| State Program FY | Total FY Obligation | Basis of Obligation | Qterly Pymt | CFMI | GHMSI | Total | |
|---|---|---|---|---|---|---|---|
| FY 2015 | $ 21,868,581 | 2013 Schedule T Filed 3/14 for State Programs 7/14 - 6/15 | Jan-15 | 2,829,754.50 | 2,637,390.75 | 5,467,145.25 | |
| | | | Apr-15 | 2,829,754.50 | 2,637,390.75 | 5,467,145.25 | |
| FY 2016 | $ 22,574,651 | 2014 Schedule T Filed 3/15 for State Programs 7/15 - 6/16 | Jul-15 | 3,076,056.75 | 2,567,606.00 | 5,643,662.75 | |
| | | | Oct-15 | 3,076,056.75 | 2,567,606.00 | 5,643,662.75 | |
| Total | | | | 11,811,622.50 | 10,409,993.50 | 22,221,616.00 | see (a) below |
| SPDAP Donut Hole Subsidy | $ 4,000,000.00 | Annual Assessment | Jan-15 | 531,538 | 468,463 | 1,000,000 | |
| | | Entity split based on the avg of Schedule T's Filed For FY 15 & 16 to equal CareFirst Calendar Yr 2015. See Alloc 2 | Apr-15 | 531,538 | 468,463 | 1,000,000 | |
| | | | Jul-15 | 531,538 | 468,463 | 1,000,000 | |
| | | | Oct-15 | 531,538 | 468,463 | 1,000,000 | |
| | | | | 2,126,150 | 1,873,850 | 4,000,000 | |
| Total Legislative Spending and SPDAP Commitment | | | | 13,937,773 | 12,283,844 | 26,221,616 | |
| | | | | transfer to a-1 | transfer to b-1 | | |

### (a) Program Funding Based on Above Payments (see allocation methodolgy below)

| Payee | Program | | Total Due | 01/01/15 | 04/01/15 | 07/01/15 | 10/01/15 |
|---|---|---|---|---|---|---|---|
| MHIP | Sr Rx Assistance Program | | $ 14,000,000 | 3,500,000 | 3,500,000 | 3,500,000 | 3,500,000 |
| | | *CFMI* | $ *7,438,472* | *1,811,574* | *1,811,574* | *1,907,662* | *1,907,662* |
| | | *GHMSI* | *6,561,528* | *1,688,426* | *1,688,426* | *1,592,338* | *1,592,338* |
| DHMH* | Comm Hlth Res Comm - Operating Budget & Kidney Disease Program | | $ 8,221,616 | 1,967,145 | 1,967,145 | 2,143,663 | 2,143,663 |
| | | *CFMI* | $ *4,373,150* | *1,018,180* | *1,018,180* | *1,168,395* | *1,168,395* |
| | | *GHMSI* | *3,848,466* | *948,965* | *948,965* | *975,268* | *975,268* |
| | | | $ 22,221,616 | 5,467,145 | 5,467,145 | 5,643,663 | 5,643,663 |
| | | *CFMI* | *11,811,623* | *2,829,755* | *2,829,755* | *3,076,057* | *3,076,057* |
| | | *GHMSI* | *10,409,994* | *2,637,391* | *2,637,391* | *2,567,606* | *2,567,606* |

| 2nd Half of FY 2015 Funding based on 2013 Premium Exemption amount $21,868,581 | 1st Half of FY 2016 Funding based on 2014 Premium Exemption amount $22,574,651 |
|---|---|

Allocation Methodolgy:

| | | Legislative Funding Requirement (alloc 1) Sch T | | | SPDAP Donut Hole Subsidy (alloc. 2) Sch T | |
|---|---|---|---|---|---|---|
| FY 2015 | CFMI | 11,319,018 | 51.8% | CFMI (sum of FY15 & 16) | 23,623,245 | 53.15% |
| | GHMSI | 10,549,563 | 48.2% | GHMSI (sum of FY15 & 16) | 20,819,987 | 46.85% |
| | | 21,868,581 | | | 44,443,232 | |
| FY 2016 | CFMI | 12,304,227 | 54.5% | | | |
| | GHMSI | 10,270,424 | 45.5% | | | |
| | | 22,574,651 | | | | |

* funds submitted to DHMH are used to to support the CHRC Operating Budget and Kidney Disease Program (DHMH determines split).

Attachment B

| MIA Case No. | Company | Date of Order | Section | Findings |
|---|---|---|---|---|
| 2015-07-018 | CFMI | Consent order dated 9/3/15 | 27-303(1) | Misrepresentation of facts related to a claim. |
| 2015-07-026 | GHMSI | 8/20/15 | 27-303(6) | Failed to respond to a request for an explanation of the basis of the denial of the claim. |