AN ACT

D.C. ACT 17-704

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 23, 2009

Codification District of Columbia Official Code

2001 Edition

2009 Summer Supp.

West Group Publisher

To amend the Hospital and Medical Services Corporation Regulatory Act of 1996 to require the Commissioner of the Department of Insurance, Securities, and Banking to determine whether the portion of a hospital and medical services corporation's surplus that is attributable to the District is excessive, to require hospital and medical services corporations to submit a plan for the dedication of excess surplus, to require hospital and medical services corporations to continue to offer the open enrollment program to subscribers as long as the subscribers renew their coverage under the program, to set affordability and adequacy standards for the open enrollment program, to require hospital and medical services corporations to advertise the availability of the open enrollment program, and to prohibit hospital and medical services corporations from converting to for-profit entities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Medical Insurance Empowerment Amendment Act of 2008".

Sec. 2. The Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3501 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-3501) is amended as follows:

Amend § 31-3501

(1) Designate paragraph (1) as paragraph (1B).

(2) New paragraphs (1) and (1A) are added to read as follows:

"(1) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

"(1A) "Community health reinvestment" means expenditures that promote and safeguard the public health or that benefit current or future subscribers, including premium rate reductions.".

(b) Section 4(a) (D.C. Official Code § 31-3503(a)) is amended as follows:

Amend § 31-3503

(1) Paragraph (25) is amended by striking the phrase "; and" and inserting a

semicolon in its place.

(2) Paragraph (26) is amended by striking the period and inserting the phrase "; and" in its place.

(3) A new paragraph (27) is added to read as follows:

"(27) The Risk-Based Capital Act of 1996, effective April 9, 1997 (D.C. Law 11-233; D.C. Official Code § 31-2001 *et seq.*), requiring insurers to file with the Mayor annual risk-based capital reports.".

(c) A new section 6a is added to read as follows:

"Sec. 6a. Community health reinvestment.

"A corporation shall engage in community health reinvestment to the maximum feasible extent consistent with financial soundness and efficiency.".

(d) Section 7 (D.C. Official Code § 31-3506) is amended by adding new subsections (e), (f), (g), (h), and (i) to read as follows:

Amend § 31-3506

"(e) Within 120 days after the effective date of the Medical Insurance Empowerment Amendment Act of 2008, passed on 2nd reading on December 16, 2008 (Enrolled version of Bill 17-934), and annually thereafter, the Commissioner shall review the portion of the surplus of the corporation that is attributable to the District and shall issue a determination as to whether the surplus is excessive. The surplus may be considered excessive only if:

"(1) The surplus is greater than the appropriate risk-based capital requirements as determined by the Commissioner for the immediately preceding calendar year; and

"(2) After a hearing, the Commissioner determines that the surplus is unreasonably large and inconsistent with the corporation's obligation under section 6(a).

"(f) In determining whether the surplus of the corporation that is attributable to the District is excessive, the Commissioner shall take into account all of the corporation's financial obligations arising in connection with the conduct of the corporation's insurance business, including premium tax paid and the corporation's contribution to the open enrollment program required by section 15.

"(g)(1) If the Commissioner determines that the surplus of the corporation is excessive, the Commissioner shall order the corporation to submit a plan for dedication of the excess to community health reinvestment in a fair and equitable manner.

"(2) A plan submitted pursuant to paragraph (1) of this subsection may consist entirely of expenditures for the benefit of current subscribers of the corporation.

"(h) When determining what surplus is attributable to the District and whether the surplus is excessive, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

"(i) If the Commissioner determines that the corporation failed to submit a plan as ordered under subsection (g) of this section within a reasonable period or failed to execute within a reasonable period a plan already submitted under subsection (g) of this section, the Commissioner shall deny for 12 months all premium rate increases for subscriber policies

written in the District sought by the corporation pursuant to section 9 and may issue such orders as are necessary to enforce the purposes of this act.".

(e) A new section 7a is added to read as follows:

"Sec. 7a. Compliance and implementation of community health reinvestment obligations.

"(a) A corporation shall make available to the Commissioner such information as may be required to permit the Commissioner to verify the corporation's community health reinvestment and, if appropriate, its compliance with its plan to dedicate excess surplus. When verifying the community health reinvestment or the corporation's compliance with its plan, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals, the cost of which shall be borne by the corporation.

"(b) In implementing the provisions of the Medical Insurance Empowerment Amendment Act of 2008, passed on 2nd reading on December 16, 2008 (Enrolled version of Bill 17-934), the Commissioner shall consider the interests and needs of the jurisdictions in the corporation's service area.".

(f) Section 15 (D.C. Official Code § 31-3514) is amended as follows: **Amend § 31-3514**

(1) Subsection (j)(2) is amended by striking the phrase "may order an independent" and inserting the phrase "shall order annually an independent" in its place.

(2) Subsection (k) is amended to read as follows:

"(k) A corporation shall continue to offer the program to each subscriber as long as the subscriber renews his or her coverage under the program.".

(3) New subsections (m), (n), and (o) are added to read as follows:

"(m) The open enrollment program shall maintain the following affordability and adequacy criteria for individual participants:

"(1) Annual premium costs shall not exceed 125% of standard individual market rates and shall be determined once every 12 months.

"(2) Cost sharing, deductibles, and co-insurance shall not exceed those in the corporation's most popular policy available to small employers in the District.

"(3) Subscriber contracts shall not contain service limitations or lifetime or annual benefit maximums.

"(4) Subscriber contracts and contract forms shall be subject to section 9.

"(5) Subscriber contracts and contract forms shall not contain exclusions or riders for pre-existing conditions.

"(n) A corporation shall prominently advertise the availability of its open enrollment subscriber contracts continuously on the Internet and at least quarterly in a newspaper of general circulation throughout the District. The content and format of the advertising shall be filed with the Commissioner no less than 30 days before its appearance in a newspaper or on the Internet.

"(o) The corporation shall make the open enrollment program available for a minimum of 2500 subscribers. The corporation shall submit a report annually on October 1 to the

Commissioner on the number of subscribers enrolled.".

(g) Section 16 (D.C. Official Code § 31-3515) is amended to read as follows:

"Sec. 16. Conversion to a for-profit entity.

"A corporation issued a certificate of authority under this act shall not be converted into a stock corporation, partnership, limited liability company, or other business entity organized for profit.".

(h) Section 17 (D.C. Official Code § 31-3516) is amended to read as follows: **Amend § 31-3516**

"Sec. 17. Conversion to a mutual company.

"A corporation issued a certificate of authority under this act shall not be converted into a mutual insurance company.".

(i) A new section 24a is added to read as follows:

"Sec. 24a. Regulatory authority.

"Nothing in this act shall be construed to diminish the authority of the Council to regulate the affairs of Group Hospitalization and Medical Services, Inc.".

(j) Section 25 (D.C. Official Code § 31-3524) is amended by striking the word "may" and inserting the word "shall" in its place. **Amend § 31-3524**

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Vincent C. Gray

Chairman
Council of the District of Columbia

UNSIGNED

Mayor
District of Columbia
January 22, 2009