Maryland
INSURANCE ADMINISTRATION

# 2021 Report on Non-Profit Health Service Plan Compliance with Title 14 Subtitle 1 of the Insurance Article of the Annotated Code of Maryland

## MSAR # 10390

**Kathleen A. Birrane**
**Commissioner**

**May 31, 2022**

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May 31, 2022

The Honorable Larry Hogan
Governor of Maryland
State House
100 State Circle
Annapolis, MD 21401

The Honorable Delores G. Kelley
Chair, Senate Finance Committee
3 East Miller Senate Building
11 Bladen Street
Annapolis, MD 21401

The Honorable Joseline A. Pena-Melnyk
Chair, House Health and Government Operations Committee
241 House Office Building
6 Bladen Street
Annapolis, MD 21401

Re: 2021 Report on Non-Profit Health Service Plan Compliance with Title 14 Subtitle 1 of the Insurance Article of the Annotated Code of Maryland (MSAR # 10390)

Dear Governor Hogan, Chair Kelley, and Chair Pena-Melnyk:

On behalf of the Maryland Insurance Administration (MIA), I am pleased to submit the 2021 Report on Non-Profit Health Service Plan Compliance with Title 14 Subtitle 1 of the Insurance Article of the Annotated Code of Maryland. Section 14-102(e) of the Insurance Article requires the Insurance Commissioner to report on a non-profit health service plan's compliance with Title 14, Subtitle 1, of the Insurance Article. The non-profit health service plan that meets this statutory definition is CareFirst, Inc. and certain of its subsidiaries.

The MIA has determined that CareFirst, Inc. and certain of its subsidiaries have fulfilled the statutory requirements of their non-profit missions as set forth in § 14-102(c).

Five printed copies of this report have been mailed to the DLS library for its records. Should you have any questions regarding this report, please do not hesitate to contact me or my Chief of Staff, Kory Boone, at kory.boone@maryland.gov.

Sincerely,

Kathleen A. Birrane

Kathleen A. Birrane
Insurance Commissioner

cc: Sarah T. Albert, Department of Legislative Services (5 copies)

## 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 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 2021 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 pursuant to Section 14-102(d).

According to a February 28, 2022, premium tax exemption report filed with the Maryland Insurance Administration (MIA), CareFirst contributed approximately $6.3 million to health-related community initiatives that benefit Maryland residents and governmental organizations in the State of Maryland. These contributions were in excess of the funds that CareFirst transferred to the Senior Prescription Drug Assistance Program, the Community Health Resources Commission, and the Kidney Disease Program discussed in Part 1 Section E.

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 Part 1 Section E)

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. Nonprofit Health Service Plans

Nonprofit health service plans are regulated by the statutory sections listed and referenced in Section 14-102(g) of the Insurance Article. Certain provisions of Title 15 of the Insurance Article are among those sections applicable to nonprofit health service plans. During calendar year 2021, the MIA found one instance in which CareFirst failed to comply with the provisions of Title 15. Specifically, as outlined in order MIA 2021-08-002, CFMI violated §15-1005(f)(2) and 15-10D-02(e)(1) requirements by failing to timely process a claim.

## C. 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 2021.

## D. 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.

The MIA is not aware of any instances in which CareFirst failed to comply with §14-104(b) during calendar year 2021.

## E. 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 2021 report submitted by CareFirst, CFMI's payments for public purposes totaled $10,436,935, which equaled the value of its premium tax exemption of $10,436,935. GHMSI's payments for public purposes totaled $6,829,421, which equaled the value of its premium tax exemption of $6,829,421.

On March 7, 2022, the Commissioner issued an order notifying CareFirst that its 2021 Premium Tax Exemption Report was in compliance with the requirements of §14-106. (See Exhibit A)

# 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 the 2021 calendar year.

## 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 the 2021 calendar year.

### 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 2021. 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 2021.

### D. Surplus Requirements

During calendar year 2021, 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 2021, 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

[1] Executive Officers | CareFirst BlueCross BlueShield

[2] MIA-2012-09-006

and quantitatively compared to the provisions of Title 5, Subtitle 5. The analysis of CareFirst's portfolio, as of December 31, 2021, 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 2021, CareFirst complied with §14-121, which requires that each non-profit health service plan file with the Insurance Commissioner a complete annual 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 as required by §14-121(d).

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

The MIA's review indicates that CareFirst did not hold or acquire an investment in an affiliate or subsidiary during calendar year 2021 in violation of §14-133 nor did it violate any other provision of Title 14, Subtitle 1.

## 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 2021, there were no instances in which CareFirst failed to comply with the provisions of Section 14-136.

### B. Exclusion of Coverage for Violations

The MIA identified no instances in 2021 pursuant to §14-137, 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 2021.

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

During calendar year 2021, 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 additional information is needed regarding CareFirst's compliance with its statutory mission, please do not hesitate to contact the Maryland Insurance Administration.**