Maryland

INSURANCE ADMINISTRATION

2022 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, 2023

For further information concerning this document contact:
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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)[1] 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 2022 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.

[1] All citations herein are to the Insurance Article, Annotated Code of Maryland.

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, 2023, premium tax exemption report filed with the Maryland Insurance Administration (MIA), CareFirst contributed approximately $4.6 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 14-106.1, which required CareFirst to spend funds for a public purpose equal to its premium tax exemption amount. (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 the Insurance Article that expressly refer to nonprofit health service plans, including Title 12 and Title 15, are among those sections applicable to nonprofit health service plans. During calendar year 2022, the MIA found one instance in which CFMI and GHMSI failed to comply with Code of Maryland Regulations 31.10.37.03 by failing to deliver contracts to its passively enrolled insureds within 60 days of the effective date of the contracts (order MIA 2022-07-034).

In addition, the MIA found three instances in which CareFirst failed to comply with the provisions of Title 15. The MIA orders are listed below:

1. MIA 2022-03-043 – CFMI violated §15-10D-02(b) of the Insurance Article by failing to issue a notice of appeal decision within 60 working days after receiving the appeal from the complainant.
2. MIA 2022-09-009 – CFMI violated §15-10B-06(a)(1)(i) of the Insurance Article by failing to make an initial determination on whether to authorize or certify a nonemergency course of treatment for a patient within 2 working days after receipt of the information necessary to make the determination; and violated §15-10D-02(e)(2)(i) by failing to send a coverage decision notice to the member that stated in clear, understandable language, the specific factual bases for the carrier's decision.
3. MIA 2022-09-011 – GHMSI violated §15-10B-06(a)(1)(i) of the Insurance Article by failing to make an initial determination on whether to authorize or certify a nonemergency course of treatment for a patient within 2 working days after receipt of the information necessary to make the determination; violated §15-10A-02(f)(1) by failing to provide oral communication of the adverse decision to the member, member's representative, or the health care provider acting on behalf of the member; and violated §15-10A-02(f)(2)(v) by failing to send an adverse decision notice to the member and the provider which includes the required disclosure language.

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 2022.

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 2022.

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 2022 report submitted by CareFirst, CFMI's payments for public purposes totaled $10,075,576, which equaled the value of its premium tax exemption of $10,075,576. GHMSI's payments for public purposes totaled $6,754,721, which equaled the value of its premium tax exemption of $6,754,721.

The MIA verified the accuracy of the premium tax exemption amount and confirmed the payments to public programs. On March 27, 2023, the Commissioner issued an order, MIA 2023-04-020, notifying CareFirst that its 2022 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 2022 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.[2]

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 2022 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 2022. 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 2022.

D. Surplus Requirements

During calendar year 2022, 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.[3] During calendar year 2022, 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

[2] Executive Officers | CareFirst BlueCross BlueShield

[3] MIA-2012-09-006

portfolio, as of December 31, 2022, 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 2022, 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 2022 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 2022, there was one instance in which CareFirst failed to comply with the provisions of Section 14-136. Specifically, as outlined in order MIA 2022-11-016, CFMI and GHMSI violated §14-136(b) of the Insurance Article by requiring a member making a claim for payment of services from a non-preferred provider to accept less than the amount due under §14-205 of the Insurance Article.

B. Exclusion of Coverage for Violations

The MIA identified no instances in 2022 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 2022.

D. Prohibited Acts of Officers, Directors and Employees

During calendar year 2022, CareFirst provided the compensation guidelines approved by its board of directors and the compensation paid to each officer, executive, and director pursuant to the requirements in § 14-139. The MIA reviewed the approved guidelines and the compensation paid by CareFirst. The MIA found no instances in which CareFirst provided compensation to any of its officers, executives, or directors in excess of the approved guidelines in violation of § 14-139. In addition, the MIA found no instances in which any of CareFirst's officers, directors or employees performed any of the acts prohibited by § 14-140.

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.

EXHIBIT A

WES MOORE
Governor

ARUNA MILLER
Lt. Governor

Maryland
INSURANCE ADMINISTRATION

KATHLEEN A. BIRRANE
Commissioner

TAMMY R. J. LONGAN
Acting Deputy Commissioner

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April 27, 2023

CERTIFIED MAIL/ RETURN RECEIPT REQUESTED
REGULAR MAIL/ ELECTRONIC MAIL

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Brian D. Pieninck
President and Chief Executive Officer
CareFirst of Maryland, Inc.
10455 Mill Run Circle
Owings Mills, Maryland 21117

Brian D. Pieninck
President and Chief Executive Officer
Group Hospitalization and Medical Services, Inc.
840 First Street NE
Washington, DC 20065

Re: In the Matter of: *CareFirst of Maryland, Inc. & Group Hospitalization and Medical Services, Inc.*
Case No.: MIA-2023-04-020

Dear Mr. Pieninck:

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 Financial Regulation at 410-468-2126.

Sincerely,
/s/
Angelique Jones
Hearings & Appeals Coordinator

Attachment
cc: Tammy R. J. Longan, Acting Deputy Commissioner
Lynn Beckner, Associate Commissioner, Financial Regulation
J. Van Lear Dorsey, Principal Counsel
Betty Diener, Assistant Attorney General
Craig Ey, Chief, Communications & Public Engagement
Pamela Giles, Exam & Audit Process Manager, Financial Regulation
Vondalear Mack, Junior Analyst, Financial Regulation

STATE OF MARYLAND
MARYLAND INSURANCE ADMINISTRATION

IN THE MATTER OF THE 2022 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: 2023- 04-020

* * * * * * * * * *

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 2022. An excerpt of the report is included as Attachment 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 2022, 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 2022 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 2022 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 2022 premium tax exemption reports (the "2022 Reports" or "2022 Report") on February 28, 2023.

(3) The MIA verified the accuracy of the premium tax exemption amount. We confirmed that the amount of public program funding equaled or exceeded the premium tax exemption amount. We evaluated the funding amounts and found compliance on a fiscal year basis consistent with §14-106 funding requirements. Lastly, we verified that the payments were made.

(4) For 2022, the value of CFMI's premium tax exemption amount was $10,075,576.

(5) In calendar year 2022, CFMI's 2022 Report shows payments made to the Senior Prescription Drug Assistance Program totaling $8,381,600. Because CFMI's premium tax exemption value exceeded the amount paid to the Senior Prescription

Drug Assistance Program, CFMI was required to demonstrate that it had contributed to the public purpose in other ways permissible under the statute.

(6) CFMI's 2022 Report demonstrated that CFMI contributed to the public purpose in other ways permissible under the statute by making payments totaling $1,693,975 to the Maryland Department of Health to support the costs of the Community Health Resources Commission and the Kidney Disease Program.

(7) According to the 2022 Report, CFMI's payments for public purposes described in paragraphs (5) and (6) totaled $10,075,576, equaling the value of its premium tax exemption (i.e., $10,075,576).

(8) For 2022, the value of GHMSI's premium tax exemption amount was $6,754,721.

(9) In calendar year 2022, GHMSI's 2022 Report shows payments made to the Senior Prescription Drug Assistance Program totaling $5,618,400. Because GHMSI's premium tax exemption value exceeded the amount paid to the Senior Prescription Drug Assistance Program, GHMSI was required to demonstrate that it had contributed to the public purpose in other ways permissible under the statute.

(10) GHMSI's 2022 Report demonstrated that GHMSI contributed to the public purpose in other ways permissible under the statute by making payments to the Maryland Department of Health to support the costs of the Community Health Resources Commission and the Kidney Disease Program totaling $1,136,321.

(11) According to the 2022 Report, GHMSI's payments for public purposes described in paragraphs (9) and (10) totaled $6,754,721, equaling the value of its premium tax exemption (i.e., $6,754,721).

(12) On the basis of our review and the payments described in paragraphs (5), (6), (9), and (10), both CFMI and GHMSI qualify for the premium tax exemption for calendar year 2022. The premium tax exemption reports filed by CFMI and GHMSI demonstrate that each plan has used funds at least 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 27th day of April 2023 that CFMI's and GHMSI's 2022 Premium Tax Exemption reports are in compliance with the requirements of §14-106 of the Insurance Article, Annotated Code of Maryland.

KATHLEEN A. BIRRANE
INSURANCE COMMISSIONER

By: Lynn Beckner
Lynn Beckner
Associate Commissioner
Financial Regulation

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: Angelique Jones. 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 2022

State Program FY	Total FY Obligation	Basis of Obligation	Qterly Pymt	CFMI	GHMSI	Total	
FY 2022	$ 17,096,430	2020 Schedule T Filed 3/21 for State Programs 7/21 - 6/22	Jan-22	2,551,095.50	1,723,012.00	4,274,107.50	
			Apr-22	2,551,095.50	1,723,012.00	4,274,107.50	
FY 2023	$ 16,564,162	2021 Schedule T Filed 3/22 for State Programs 7/22 - 6/23	Jul-22	2,486,692.25	1,654,348.25	4,141,040.50	
			Oct-22	2,486,692.25	1,654,348.25	4,141,040.50	
Total				10,075,575.50	6,754,720.50	16,830,296.00	see (a) below
SPDAP Donut Hole Subsidy		Annual Assessment	Jan-22	-	-	-	
		Entity split based on the avg of Schedule T's Filed For FY 22 & 23 to equal CareFirst Calendar Yr 2022. See Alloc 2	Apr-22	-	-	-	
			Jul-22	-	-	-	
			Oct-22	-	-	-	
				-	-	-	
Total Legislative Spending and SPDAP Commitment				10,075,576	6,754,721	16,830,296	
				transfer to a-1	transfer to b-1		

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

Payee	Program		Total Due	01/01/22	04/01/22	07/01/22	10/01/22
DHMH	Sr Rx Assistance Program		$ 14,000,000	3,500,000	3,500,000	3,500,000	3,500,000
		CFMI	*$ 8,381,600*	*2,089,052*	*2,089,052*	*2,101,748*	*2,101,748*
		GHMSI	*5,618,400*	*1,410,948*	*1,410,948*	*1,398,252*	*1,398,252*
DHMH*	Comm Hlth Res Comm - Operating Budget & Kidney Disease Program		$ 2,830,296	774,108	774,108	641,041	641,041
		CFMI	*$ 1,693,975*	*462,043*	*462,043*	*384,944*	*384,944*
		GHMSI	*1,136,321*	*312,064*	*312,064*	*256,096*	*256,096*
			$ 16,830,296	4,274,108	4,274,108	4,141,041	4,141,041
		CFMI	*10,075,576*	*2,551,096*	*2,551,096*	*2,486,692*	*2,486,692*
		GHMSI	*6,754,721*	*1,723,012*	*1,723,012*	*1,654,348*	*1,654,348*
			-				
				2nd Half of FY 2022 Funding based on 2020 Premium Exemption amount $17,096,430		1st Half of FY 2023 Funding based on 2021 Premium Exemption amount $16,564,162	

Allocation Methodolgy:

		Legislative Funding Requirement (alloc 1) Sch T			SPDAP Donut Hole Subsidy (alloc. 2) Sch T	
FY 2022	CFMI	10,204,382	59.7%	CFMI (sum of FY22 & 23)	20,151,151	59.87%
	GHMSI	6,892,048	40.3%	GHMSI (sum of FY22 & 23)	13,509,441	40.13%
		17,096,430			33,660,592	
FY 2023	CFMI	9,946,769	60.0%			
	GHMSI	6,617,393	40.0%			
		16,564,162 .				

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

33,660,592 16,830,296