

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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*Codification  
District of  
Columbia  
Official Code*

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To amend, on a temporary basis, the Hospital and Medical Services Corporation Regulatory Act of 1996 to define a public-private partnership, to authorize hospital and medical services corporations to enter into a public-private partnership, to extend the timeline allowed for the Commissioner to determine the surplus of a hospital and medical services corporation, to authorize the Commissioner to certify an ongoing public-private partnership, to allow a public-private partnership to substitute for the requirements of the open enrollment program; to amend the Healthy DC Act of 2008 to change eligibility requirements and premium limitations for the Healthy DC Program; to amend the Life Insurance Act, the Health Maintenance Organization Act of 1996, and section 47-2608 of the District of Columbia Official Code to make conforming amendments; and to repeal section 3 of the Medical Insurance Empowerment Surplus Review Temporary Amendment Act of 2009.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Hospital and Medical Services Corporation Regulatory Temporary Amendment Act of 2010”.

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:

(1) Designate paragraph (7A) as paragraph (7B).

(2) A new paragraph (7A) is added to read as follows:

“(7A) Public-private partnership” means a mutually acceptable written agreement between the Mayor and a hospital and medical services corporation that is certified by the Commissioner upon the execution and delivery of the agreement by the parties and which agreement:

“(A) Shall include the following provisions:

“(i) A \$5 million annual payment to the Healthy DC Fund (or

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appropriate successor fund) by the hospital and medical services corporation to be used for subsidies that expand health insurance coverage for low-income District residents;

“(ii) A targeted city-wide health care initiative aimed at improving nutrition and increasing physical fitness among the District’s senior citizens, or another comparable health promotion program;

“(iii) A term not to exceed 5 years, subject to extension upon the mutual written agreement of the parties;

“(iv)(I)(aa) The maintenance and support of the existing District open enrollment program as it operated prior to the enactment of the Medical Insurance Empowerment Amendment Act of 2008, effective March 25, 2009 (D.C. Law 17-369; 56 DCR 1346)(“open enrollment program”), which program has an estimated average premium of \$357 per member per month, and the enhancement of the open enrollment program by offering a new health maintenance organization product that includes comprehensive benefits with an average initial premium currently estimated at about \$300 per member per month, which average may vary based upon age and family status, and subject to other reasonable adjustments, but with no adjustments for gender or pre-existing conditions.

“(bb) The annual premium rate of the existing open enrollment program shall not exceed 125% of the comparable medically underwritten product and shall be determined once every 12 months. The benefit package of the health maintenance organization product shall include, at a minimum, primary care services, specialist services, temporomandibular joint problems chiropractic services, mental health and addiction treatment, organ transplantation, treatment for morbid obesity, open heart surgery, and pharmaceutical benefits.

“(cc) The medical loss ratio of the health maintenance organization product to be utilized in rate filings and determinations shall not exceed 150%;

“(II) Under the open enrollment program pursuant to sub-sub-subparagraph (I) of this sub-subparagraph:

“(aa) Current members shall be permitted to maintain the option to continue their current open enrollment program coverage or opt for the new health maintenance organization product;

“(bb) New open enrollment members shall only be offered the new health maintenance organization product; and

“(cc) Total enrollment under subparagraph A)(iv)(I) of this paragraph shall be capped at 2,500;

“(v) Participation in the open enrollment program (including the health maintenance organization product) may be limited to District residents, which shall be subject to periodic confirmation; and

“(vi)(I) A corporation shall prominently advertise the availability of the new open enrollment health maintenance organization product continuously on the

Internet and at least quarterly in a newspaper of general circulation throughout the District.

“(II) 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;

“(B) May include the following provisions:

“(i) Authority for the Commissioner to grant a hospital and medical services corporation reasonable relief from the requirements of the agreement, such as if federal or state health care reforms make the requirements unnecessary or redundant or if the corporation does not meet a financial performance or similar test as specified in the agreement; provided, that any relief granted shall not affect the certification of the agreement by the Commissioner or the status of the agreement as a public-private partnership for all purposes under this act; and

“(ii) Reasonable expiration and termination provisions; and

“(C) Shall be effective upon the certification of the Commissioner.”.

(b) Section 6(e) (D.C. Official Code § 31-3505(e)) is amended to read as follows:

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§ 31-3505

“(e) The applicant has:

“(1) Made provision for compliance with the open enrollment requirements of section 15, including the providing of other public services in the District; or

“(2) Has entered into a public-private partnership.”.

(c) Section 7 (D.C. Official Code § 31-3506) is amended as follows:

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§ 31-3506

(1) Subsection (e) is amended by striking the first sentence and inserting the phrase “The Commissioner may, on an annual basis, and shall, on a basis no less frequently than every 3 years, review the portion of the surplus of the corporation that is attributable to the District and may issue a determination as to whether the surplus is excessive. Any such review shall be undertaken in coordination with the other jurisdictions in which the corporation conducts business.” in its place.

(2) Subsection (f) is amended by striking the phrase “section 15” and inserting the phrase “section 15 and payments and expenditures pursuant to a public-private partnership” in its place.

(3) A new subsection (j) is added to read as follows:

“(j) The existence of a public-private partnership shall not preclude the Commissioner’s surplus evaluation of the corporation or diminish the Commissioner’s authority to issue directives to the corporation pursuant to the evaluation.”.

(d) Section 7a(a) (D.C. Official Code § 31-3506.01(a)) is amended as follows:

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§ 31-3506.01

(1) Strike the phrase “dedicate excess surplus” and insert the phrase “dedicate excess surplus or to verify that the corporation is participating in a public-private partnership.” in its place.

(2) Strike the phrase “or the corporation’s compliance with its plan,” and insert the phrase “or the corporation’s compliance with its plan, or when verifying the corporation’s participation in a public-private partnership” in its place.

(e) Section 15 (D.C. Official Code § 31-3514) is amended by adding new subsections (p), (q), and (r) to read as follows:

Note,  
§ 31-3514

“(p) In lieu of the requirements of subsection (m) through (o) of this section, the corporation may enter into a public-private partnership.

“(q) The corporation shall submit an annual report to the Mayor regarding the open enrollment program. The Mayor shall determine the format and content of the report; provided, that the report shall include:

“(1) Membership distribution by:

“(A) Age

“(B) Gender;

“(C) Ward;

“(D) Zip code;

“(E) Race/ethnicity;

“(F) Income; and

“(F) The amount of time in the program;

“(2) The number of members by contract type;

“(3) Program expenditures for:

“(A) Inpatient services;

“(B) Outpatient services;

“(C) Behavioral health services; and

“(D) Prescription drugs;

“(4) Average premium;

“(5) Premium levels by age; and

“(6) The number of members that have reached the:

“(A) Out-of-pocket maximum expenditure; and

“(B) Annual prescription drug benefit maximum.

“(r) The public-private partnership shall be certified by January 31, 2010.”.

Sec. 3. The Healthy DC Act of 2008, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 4-631 *et seq.*), is amended as follows:

(a) Section 5043(a) (D.C. Official Code § 4-633(a)) is amended as follows:

Note,  
§ 4-633

(1) Paragraph (2) is amended by striking the phrase “between 200% and” and inserting the phrase “not exceeding” in its place.

(2) Paragraph (4)(C) is amended as follows:

(A) Strike the phrase “employer based”.

(B) Strike the word “premium”.

(b) Section 5044(b) (D.C. Official Code § 4-634(b)) is amended to read as follows:

Note,  
§ 4-634

“(b) The Program shall limit annual premium costs for program participants as follows:

“(1) For a program participant with a gross household income of 300% of the

federal poverty guidelines or less, the annual premium shall not exceed 3% of the participant's gross household income; and

“(2) For a program participant with a gross household income that exceeds 300% of the federal poverty guidelines, the annual premium shall not exceed 5% of the participant's gross household income.”.

(c) Section 5045(a) (D.C. Official Code § 4-635(a)) is amended by striking the phrase “July 1, 2009” and inserting the phrase “January 1, 2010” in its place.

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§ 4-635

#### Sec. 4. Conforming amendments

(a) Section 650(c) of the Insurance Act, approved March 3, 1901 (31 Stat. 1291; D.C. Official Code § 31-205(c)), is amended by striking the phrase “payment to the rate stabilization fund under section 15 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3514),” and inserting the phrase “payment to the rate stabilization fund under section 15 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law 11-245; D.C. Official Code § 31-3514), and payments and expenditures pursuant to a public-private partnership entered into in accordance with 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.*),” in its place.

Note,  
§ 31-205

(b) Section 4a of the Health Maintenance Organization Act of 1996, effective August 16, 2008 (D.C. Law 17-219; D.C. Official Code § 31-3403.01), is amended by striking the phrase “District Medicaid program,” and inserting the phrase “District Medicaid program, the Healthy DC Program,” in its place.

Note,  
§ 31-3403.01

(c) Section 47-2608(a-1) of the District of Columbia Official Code is amended by striking the phrase “payment to the rate stabilization fund under § 31-3514” and inserting the phrase “payment to the rate stabilization fund under § 31-3514 and payments and expenditures pursuant to a public-private partnership entered into in accordance with the provisions of Chapter 5 of Title 31” in its place.

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§ 47-2608

(d) Section 3 of the Medical Insurance Empowerment Surplus Review Temporary Amendment Act of 2009, signed by the Mayor on October 9, 2009 (D.C. Act 18-204; 56 DCR 8148), is repealed.

#### Sec. 5. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Hospital and Medical Services Corporation Regulatory Amendment Act of 2009, signed by the Mayor on November 30, 2009 (D.C. Act 18-239; 56 DCR 9182), 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. 6. Effective date.

(a) 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.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia