



Sent via E-mail

August 28, 2018

New York State Department of Financial Services  
c/o Linda Krebs  
Property Bureau-MLMIC Demutualization  
One State Street  
New York, NY 10004

Dear Ms. Krebs,

My name is Jay P. Cahalan. I am President/CEO of Columbia Memorial Hospital (CMH) in Hudson, NY. I was in attendance at the MLMIC Hearing held August 24<sup>th</sup>, and heard the comments, concerns, and positions of those who testified. Understanding what the Department has heard as testimony thus far, I would like to provide the following written testimony for the record.

CMH is a 192-bed acute care hospital with approximately 40 outpatient locations offering primary care, specialty care, and diagnostic services. CMH employs approximately 100 physician and mid-level providers. The number of employed physicians and mid-levels has been consistent at CMH for many years, including the period from July 2013 to July 2016. During that time, CMH had approximately 84 providers who were employed and had medical liability insurance coverage paid for by CMH and provided through MLMIC. These 84 providers, and CMH, are therefore involved in the assignment and consent process as described in the Plan of Conversion (Plan) which is now being carried out as a part of the MLMIC "Conversion" plan and process.

CMH was among the first upstate community hospitals to employ physicians. Since launching its physician employment strategy in the mid 1990's, CMH has found that this is the most effective way to ensure the availability of comprehensive physician and specialty services for our largely rural communities. CMH continues to own and operate these medical practices today across our two-county service area. As CMH matured its physician practice components, it came to function much like a large multi-specialty physician group, and sought ways to administer the physician practice more efficiently. With respect to medical liability insurance for its physicians, CMH has long thought of itself as the administrator of a "group policy"; even requesting that MLMIC structure CMH's employed physician policies as a "group plan". We learned, however,

that this option was not available. In fact, the only option for CMH to administer the plan similarly to a group plan, and more efficiently, was to avail itself of the MLMIC Consent Form option, where the Policy Holder named CMH the Policy Administrator. As a result, Consents were completed in the case of all physicians employed by CMH and for whom we directly paid premiums.

Over the course of many years, CMH always ensured that Consents were signed by all employed physician Policy Holders, naming CMH as Policy Administrator. In all of these instances, CMH paid premiums, administered the policies, collected dividends, and retained returned premiums. In no circumstance (previous to the information packet concerning the MLMIC transaction) has any policy holder questioned, objected, or brought concerns to CMH about retaining dividends, or returned premiums. This is not surprising, since MLMIC's medical liability insurance was administered by CMH and paid for by CMH, and dividends and returned premiums were utilized to defray CMH's future insurance expense, which CMH was clearly responsible for financially.

Over the last few weeks we have rushed to locate formerly employed physicians, explain and interpret the MLMIC "information packet", and execute additional documents. The fact that MLMIC did not have addresses other than a generic CMH address for each physician, and sent all communications directly to CMH for distribution to Policy Holders, lends additional credence to our role and functional status as Policy Administrator. Suffice it to say, that at CMH we have gone from years of clarity around policy administration to somewhat "muddied waters". Driven by the deadlines associated with the Plan, we have unquestionably caused some commotion by asking Policy Holders to pause, rapidly understand a very complex proposed transaction, and execute important legal documents. Some physicians who have been asked to execute supplemental assignments concerning allocable dollar amounts, which are often in the three to four hundred thousand dollar range, are understandably hesitant.

I have personally had conversations with many of these physicians and some have told me that the recent consent and assignment process suggests to them that they are somehow "entitled" to the potential distribution. If they were not, they ask, "why would they have to sign additional or supplemental documents?" A reasonable question to ask, and one that requires time and often individual nuance to answer. The process of responding to these questions has been challenged, and in some cases constricted, by deadlines.

That is why I am advocating for the Department to observe the objection process as currently written in the "Plan". Specifically, I urge the Department not to put a time limit or deadline on when a Policy Holder, and a Policy Administrator with a properly executed Policy Administrator assignment, must settle a dispute; with the "default" rule being a payment made solely to the Policy Holder if no resolution could be reached before the stated deadline. To do so would simply provide a time period by which a Policy Holder could simply "wait out" the time period and reap a financial windfall to which he or she should not have been entitled. Again, most of the CMH physicians who did not execute the assignment as of the Hearing date are no longer employed by our organization and are literally scattered at locations across the country. In certain instances, we could not locate physicians who were employed by CMH during the three-year period but have moved on to other positions. Leaving the timeframe open ended, as it is now, will actually encourage dispute resolution, causing those who want to dispute the assignment to address it. Time

limitations throughout this process have been challenging. Additional deadlines should not be added.

We at CMH understand that relationships between Policy Holders and Policy Administrators around the State vary, and we thank you for allowing us to detail CMH's particular situation and perspective. The Plan as currently written allows objections to be addressed in an orderly manner, not driven by deadlines.

In summary, we implore the Department to maintain the objection process as described in the Plan. The process, as written, allows for multiple scenarios to be addressed, and seems a very flexible tool that can be adapted to the multiple situations at hand.

Sincerely,

A handwritten signature in black ink, appearing to read 'JPC', with a large, stylized initial 'J' on the left and 'PC' on the right.

Jay P. Cahalan  
President/CEO