

# Memorandum



**Date:** September 9, 2013

**To:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez   
Mayor

**Subject:** Information on the Requirements for Self-Funded Health Plan

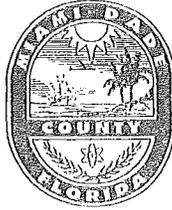
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At the request of Chairwoman Rebeca Sosa at the Board of County Commissioners meeting of August 29, 2013, the Administration submitted a request for clarification of the 60-day surplus requirement from the Florida Office of Insurance Regulation (see attached).

Our office received a response today from Commissioner Kevin M. McCarty, Insurance Commissioner, Office of Insurance Regulation, which is also attached for your information.

If you have any questions or concerns, please feel free to contact Deputy Mayor Edward Marquez at 305-375-1451, or me directly.

c: Robert A. Cuevas, Jr., County Attorney  
Office of the Mayor Senior Staff  
Charles Anderson, Commission Auditor



CARLOS A. GIMENEZ

MAYOR

MIAMI-DADE COUNTY

September 3, 2013

Mr. Jack McDermott  
Director, Life and Health Product Review  
Office of Insurance Regulation  
200 East Gaines St.  
Larson Building, Suite 312  
Tallahassee, FL 32399-0328

Re: Surplus Requirements for Self-Funded Health Plans

Dear Mr. McDermott:

Miami-Dade County provides health insurance to its employees and retirees through a self-funded health plan and as required under F.S. 112.08, the County submits an annual filing disclosing the plan's operating results and surplus. The Board of County Commissioners recently discussed the level of surplus in the County's health fund. I am requesting written guidance from the Office of Insurance Regulation (OIR) regarding the required level of surplus in our self-funded health plan.

The County has historically budgeted health plan funding with the goal of maintaining a surplus of at least 60 days of anticipated claims, in accordance with our understanding of the OIR's safe harbor threshold as described to us by our benefits consultants. Our consultants have advised us that they are unaware of any statutory requirement for the 60-day threshold.

In order to help us understand this issue, we would appreciate a written response to the following questions:

1. Is there a statutory basis for the 60-day surplus requirement? If so, please provide a reference to the appropriate Statute or Administrative Code.
2. Will the OIR approve an annual filing for a self-funded health plan if the plan does not satisfy the 60-day surplus requirement and the County does not issue a letter regarding the availability and potential use of other surplus assets equal to the difference between the actual surplus and the 60-day threshold?
3. What is the consequence if an annual filing is not approved by OIR?

The County is currently working to finalize our FY 2013-2014 budget and the answers to these questions may affect the decisions of the Board regarding that budget. Thank you for your attention to this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez", is written over a horizontal line.

Carlos A. Gimenez  
Mayor

c: Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners  
Robert A. Cuevas, Jr., County Attorney  
Office of the Mayor Senior Staff  
Kevin M. McCarty, Insurance Commissioner, Office of Insurance Regulation



## OFFICE OF INSURANCE REGULATION

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KEVIN M. McCARTY  
COMMISSIONER

September 9, 2013

The Honorable Carlos A. Gimenez  
Mayor, Miami-Dade County  
Stephen P. Clark Center  
111 N.W. First Street, 29<sup>th</sup> Floor  
Miami, Florida 33128-1930

RE: Surplus Requirements for Self-Funded Health Plans

Dear Mayor Gimenez:

Thank you for your letter of September 3, 2013, regarding surplus requirements for self-funded health benefit plans. I appreciate the opportunity to explain the Florida Office of Insurance Regulation's (Office) procedures for reviewing and approving self-funded health benefit plans such as the one filed by Miami-Dade County Government.

Florida Statutes requires a local government, self insurance fund to file its plan and a certification of actuarial soundness. The Office determines whether the plan is acceptable and uses industry practices to determine if the proposal has sufficient premiums to pay current and future liabilities. Once approved, the local government or the plan's administrator is required to submit an annual report to the Office that includes evidence that the level of funding is adequate to enable payment of prospective liabilities. The Office uses the same review guidance and process it used to approve the original self-funded health plan to ensure that it is sufficiently reserved to pay claims.

Pursuant to Section 112.08, Florida Statutes, the Financial Services Commission adopted Rule 690-149.053 Florida Administrative Code, which adopts several forms to be used for the annual report by local governments and their administrators for self-funded health benefit plans. Form OIR-B2-574, titled "General Information and Surplus Statements for Self-Funded Health Benefit Plans" indicates that if the plan's surplus is less than sixty days of anticipated claims, other questions may be asked of the plan for the purpose of determining actuarial soundness.

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KEVIN M. McCARTY • COMMISSIONER  
200 EAST GAINES STREET • TALLAHASSEE, FLORIDA 32399-0305 • (850) 413-5914 • FAX (850) 488-3334  
WEBSITE: WWW.FLOIR.COM • EMAIL: KEVIN.MCCARTY@FLOIR.COM

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Your letter asked that the Office respond in writing to the following three questions. The answer to each question appears in italics.

1. Is there a statutory basis for the 60-day surplus requirement? If so, please provide a reference to the appropriate Statute or Administrative Code.

*As discussed above, Rule 69O-140.053, Florida Administrative Code, establishes a minimum surplus standard of 60 days of anticipated claims.*

2. Will the OIR approve an annual filing for a self-funded health plan if the plan does not satisfy the 60-day surplus requirement and the County does not issue a letter regarding the availability and potential use of other surplus assets equal to the difference between the actual surplus and the 60-day threshold?

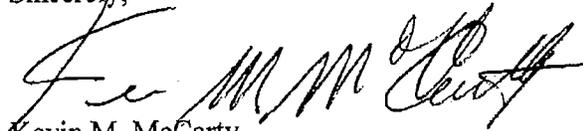
*If a self-funded health plan made an annual filing which does not satisfy the 60-day requirement, the Office would need to make a determination of whether the plan was actuarially sound. The failure to hold at least 60 days of claim reserves would call into question whether claims reserves were adequate and whether the plan was sufficiently funded to respond to adverse loss development.*

3. What is the consequence if an annual filing is not approved by OIR?

*Should a self-funded health plan not meet the 60-day surplus requirement and the Office determine that reserves are not in accordance with sound actuarial principles, the plan could be determined to be deficient at which point the Office may withdraw approval. Without approval, a self-funded health plan may not operate in Florida.*

I hope this information answers your questions. Please do not hesitate to contact me or my staff if you need further information or assistance on this issue.

Sincerely,



Kevin M. McCarty  
Commissioner