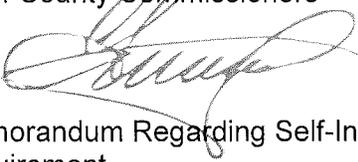


Memorandum



Date: September 16, 2013

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

From: Carlos A. Gimenez
Mayor 

Subject: County Attorney's Memorandum Regarding Self-Insured Health Insurance Plan
60-Day Reserves Requirement

County Attorney Robert A. Cuevas issued a memorandum today in response to an inquiry by Commissioner Dennis A. Moss stating that there does not exist a definitive statutory requirement that governmental self-insured health plans maintain a 60-day surplus (see attached).

My Administration understands this and has previously reported to the Board of County Commissioners (Board) that there is no statutory requirement that a 60-day surplus be maintained, as we have been guided by the County Attorney's memorandum dated January 20, 2012 affirming this.

However, I would like to point out that per the letter received on September 9, 2013 from Kevin McCarty, Commissioner of Florida's Office of Insurance Regulation (see attached):

- (1) Florida Administrative Code establishes a minimum surplus standard of 60 days of anticipated claims;
- (2) Should a self-funded plan not meet the 60-day surplus requirement and the Office of Insurance Regulation determines that reserves are not in accordance with sound actuarial principles, the plan may have its approval withdrawn by the Office; and
- (3) Without approval from the Office of Insurance Regulation, a self-funded health plan may not operate in Florida.

It is our belief that although 60-day reserve may not be statutorily required, it is an amount that is expected by the Office of Insurance Regulation. In fact, our insurance consultant, Gallagher Benefit Services, Inc. (Gallagher) has reported that this past Spring, their client, the Palm Beach County School District, was required to re-file its annual actuarial report as it did not have a 60-day surplus reserve on hand, notwithstanding the fact that Gallagher stated that their plan was actuarially sound with less than a 60-day surplus. As part of the re-submittal, the School District's Chief Financial Officer was required to certify that the School District had other adequate reserves on hand to make up the difference.

Should the current 60-day reserve in our Self-Insured Health Plan be reduced and used for other purposes, it must be noted that this would be a one-time non-recurring source of funding, which will make our budgetary challenges even more difficult for next year and into the future. I want to reiterate that neither the County's Chief Financial Officer, Deputy Mayor/Finance Director Edward Marquez, nor I, are willing to certify that ample reserves elsewhere exist in the County to make up any shortfalls in the Self-Insured Health Plan. On the contrary, as I have stated, we need to continue to build up our emergency contingency and other reserves within the General Fund.

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
Page 2

If you have any questions, please contact Deputy Mayor Edward Marquez at (305) 375-1451 or me directly.

attachments

c: Honorable Harvey Ruvín, Clerk of Courts
 R.A. Cuevas Jr., County Attorney
 Lester Sola, Internal Services
 Jennifer Moon, OMB
 Arleene Cuellar, Internal Services
 Office of the Mayor Senior Staff
 Charles Anderson, Commission Auditor
 Christopher Agrippa, Clerk of the Board Division

Memorandum



Date: September 16, 2013

To: Commissioner Dennis C. Moss
District 9

From: R. A. Cuevas, Jr.
County Attorney 

Subject: Self-insured Health Insurance plan-60 day reserves requirement

At the budget hearing of September 10, 2013, you asked if there is a definitive statutory requirement that governmental self-insured health plans maintain a 60 day surplus. The short answer is no. As I indicated in my memorandum dated January 20, 2012 (see attached), the statute only requires that the self-insured health plan be actuarially sound as certified by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries. Fla. Stat. § 112.08 (2)(b).¹ The Office of Insurance Regulation (OIR) has set a presumption of actuarial soundness if a plan has reserves to cover 60 days worth of paid claims. If a self-insured health plan does not have a 60 day surplus, OIR may ask additional questions of the plan to determine its actuarial soundness. In fiscal years ending 2004, 2008, and 2010, our self-insured health plan did not meet the 60 day surplus threshold. Additional questions were asked of the plan but ultimately OIR approved our plans for those years.

In his Actuarial Memorandum for fiscal year ending 2012, our actuary indicated that we had exceeded the 60 day surplus threshold and that based on a plan of our size and stability, actuarial soundness can be reasonably attained at a lower than 60 day surplus level (see attached).

c: Hon. Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
Hon. Carlos A. Gimenez, Mayor
Charles Anderson, Commissioner Auditor
Harvey Ruvlin, Clerk of the Board

¹ State law authorizes the County to self-insure a health plan for its employees “subject to approval based on the actuarial soundness by the Office of Insurance Regulation.” Fla. Stat. § 112.08 (2)(a). In order to obtain approval from the Office of Insurance Regulation, each self-insured plan is required to “submit its plan together with a certification as to actuarial soundness of the plan by an actuary....” Fla. Stat. § 112.08 (2)(b). The statute further provides that the State Office “shall not approve the plan unless it determines that the plan is designed to provide sufficient revenues to pay current and future liabilities, as determined by generally accepted actuarial principles.” *Ibid.*

Memorandum



Date: January 20, 2012

To: Commissioner Dennis C. Moss
District 9

From: R. A. Cuevas, Jr.
County Attorney 

Subject: Legal Requirements for Health Insurance Trust Fund Reserves

Miami-Dade County is self-insured for its health plan and maintains a health insurance trust fund to cover current and future claims made against the plan. You have asked us to identify what minimum amount, if any, the County is legally required to maintain as reserves in the health insurance trust fund.

Governmental self-insured plans and their attendant financial requirements are governed by §112.08, Florida Statutes, and are regulated by the State's Office of Insurance Regulation ("OIR"). The statute only requires that the health plan be actuarially sound as certified by an actuary who is a member of the Society of Actuaries or the American Academy of Actuaries. Fla. Stat. § 112.08 (2)(b). This requirement pertains to the County's self-insurance plan as a whole. The amount on deposit as reserves in the trust fund is one among other factors considered by the actuary when certifying the plan as actuarially sound. Neither the statute nor any administrative rule defines "actuarial soundness" or establishes a minimum dollar amount that must be held as reserves in the health insurance trust fund.¹

The County has contracted with Gallagher Benefit Services, Inc. ("Gallagher") to provide actuarial certification of the County's plan. The County's actuary issued a memorandum dated December 22, 2011 (Attachment A) which, together with the required forms, was filed with OIR as the County's certification of actuarial soundness of the County's plan for the fiscal year ending 2011. On January 19, 2012, OIR found that filing in compliance with the statute. The memorandum indicates that the health insurance trust fund had a \$66.5 million dollar surplus at the end of fiscal year 2010-11.

In addition, the actuary has provided the County with a letter dated November 23, 2011 (Attachment B) recommending the minimum and maximum dollar amounts of funds which should be on deposit as reserves in the trust fund as of September 30, 2012. The minimum amount recommended is \$36,717,000 (5% of paid claims) and the maximum amount recommended is \$100,247,000 (60-days of

¹ OIR has established a presumption to automatically accept a plan as actuarially sound if a plan has reserves to cover 60 days worth of paid claims. This 60-day safe harbor provision is only a departmental guideline set by OIR. As our actuary notes in his November 23, 2011 letter, "the department [OIR] guidance does not have the same force of law as the Statute of Regulations and the Statute's language requires that an actuary certify the actuarial soundness of the plan based on actuarial techniques and standards of practice...."

Commissioner Dennis C. Moss
District 9
Page 2

paid claims). Any amount at or above the minimum amount would, in Gallagher's opinion, be actuarially sound. Specifically, the December 22, 2011 memorandum filed with OIR states that "a 60-day surplus is somewhat excessive and actuarial soundness can reasonably be attained at a lower surplus level" based on the County plan's size and stability.

We have reviewed the last ten years of the actuarial filings made by the County for its self-insured health insurance plan with OIR. In all ten years our actuary certified to OIR that the County's plan was actuarially sound based on industry standards and state requirements and OIR accepted the County's plan as being in compliance with the state statute.²

atts (2)

cc: Hon. Chairman Joe A. Martinez
and Members, Board of County Commissioners
Hon. Carlos A. Gimenez, Mayor
Charles Anderson, Commission Auditor
Christopher Agrippa, Division Chief, Clerk of the Board

² In three of those ten years, specifically fiscal years 2004, 2008 and 2010, the filings indicated that the plan's surplus was less than the 60-day safe harbor guideline.

Actuarial Memorandum
Miami-Dade County Health Plan for Fiscal Year Ending September 30, 2012

Scope

The Miami-Dade County Government ("the County") provides health insurance to its employees through a self-funded health plan administered by AvMed. Florida Statute 112.08 requires self-funded plans sponsored by local governments to submit an annual filing to the Florida Office of Insurance Regulation ("OIR") documenting plan experience and financial position. The filing must include an actuarial memorandum signed by a certified actuary that opines on the actuarial soundness of the plan. This memorandum is intended to comply with that requirement.

I have performed the calculations for the County's self-funded health plan and supervised and reviewed the preparation of the attached reports. In my calculations, I have relied on information provided by the County's Benefits department and on data provided by the plan's administrator. I have not audited this data but I have performed tests to assess the data's consistency with prior years and overall reasonableness, and I believe the data is sufficient for the purposes of this analysis.

Background

AvMed has acted as the County's plan administrator since January 1, 2008. The County offers two HMO benefit options and one POS option for active and pre-Medicare retirees. Medicare retirees can select from a high option plan with or without pharmacy coverage, and a low option plan.

Historically, the employees of Jackson Memorial Hospital Public Health Trust (JMH employees) were also covered under the County's self-funded plan. Effective January 1, 2011, those employees were moved to a fully insured plan, however effective January 1, 2012 they were once again covered under the County's self-funded plan. Projections for future years reflect the addition of these lives beginning in 2012.

Credibility

The County's self-funded plan currently covers approximately 62,000 employees, retirees, and dependents. While there are many ways to measure credibility, any reasonable approach will reach 100% credibility at a much lower membership threshold than the County's 62,000 members. Sections of the Florida Administrative Code dealing with credibility issues for rate filings, for example, generally assign 100% credibility at a level of 2,000 subscribers or individual policyholders, which would typically correspond to no more than 5,000 members. Given the size and stability of the County's population, I believe that the County's experience is 100% credible.

Development of Claim Reserves

Incurred medical claims for fiscal year 2012 were developed by adding paid claims to the change in the claim reserve. The closing claim reserve was estimated using the Development method. Because the completion factor for September 2012 claims is so low, incurred claims for that month were estimated using the Completion method.

For pharmacy claims, the lag data suggested that pharmacy claim payment was virtually immediate. Based on our experience, employers plan are typically charged for pharmacy claims every other week, suggesting that the paid date on the lag reports is really the adjudicated date rather than the date the employer plan funds the claims. Consequently, we recommend that in cases where the lag data shows almost no reserve, the employer should hold an equivalent of 2 weeks of claims. We have taken this approach for the County.

Finally, we added a 5% margin to both the medical and pharmacy reserves as a margin against adverse deviation.

Development of Premium Equivalents

The County renews the plan on a calendar-year basis, so the filing reflects fiscal year premiums that are a blend of two calendar years. Premium equivalent rates for calendar year 2012 were developed by the prior consultant, although we reviewed the rate development and are satisfied that it was reasonable. We developed premium equivalent rates for calendar 2013 using the plan's experience and reflecting plan changes effective January 1, 2013 as well as the negotiated administrative fee renewal for 2013.



Actuarial Memorandum
Miami-Dade County Health Plan for Fiscal Year Ending September 30, 2012

The recommended increase for 2013 was relatively small due to the combined impact of plan changes in 2013 and a significant surplus in 2012.

Other Income and Expenses

As noted in prior filings, assets from all accounts associated with medical and dental plans (not just accounts specifically identified as self-insured) continue to be available to meet the obligations of the self-insured plan. The net of the activity in these accounts was a net loss to the plan of \$4.1 million in fiscal year 2012. This was down from a \$7.1 million loss in fiscal year 2011. The County has taken steps to reduce the impact of these accounts on the fund balance and it is expected that over time, the losses will get smaller.

We assumed that the investment income allocated to the fund will remain flat, despite the increase in accumulated assets of the plan. Actual investment income has been very consistent over the most recent two years.

Medical Trend

For the three year forecast, we assumed an annual combined medical and pharmacy trend of 8.0%. These trends are based on our experience with other clients in this area, the County's own history, and published survey results. We have also considered the impact of healthcare reform, which may result in higher trends in the short term due to benefit mandates. The County's actual medical and pharmacy trends have averaged below 8% over the 2 years ending September 30, 2012.

Surplus

The fiscal year 2012 results were positive, as expected. The plan had an incurred gain of \$36.5 million for the year, increasing the accumulated surplus to \$90.1 million. This is equal to 219% of the plan's liabilities. We project a loss of \$18 million for fiscal year 2013 based on the budgeted funding and projected expenses.

The plan's incurred claims for fiscal year 2012 totaled \$383.8 million. At that annual pace, two months of claims is \$64.0 million, so the County continues to exceed the 60-day safe harbor threshold. While that is a positive situation, we believe that for a plan of this size and stability actuarial soundness can reasonably be attained at a lower surplus level. For a group of this size, the main risk of higher than expected claims is related to an unexpected increase in medical trend. We developed the probability of claims exceeding expected levels due to randomness, and found it to be extremely unlikely that claims will be higher than expected by more than 1% to 2%. There are also practical limits on how large the error related to fluctuations in medical trend will be. The likelihood of seeing actual trend exceed expected by as much as 5% is very low. By comparison, the 60-day safe harbor threshold equals 16.7% of annual claims. I would suggest that even 30 days of claims is more than adequate for these circumstances, and that actuarial soundness could fairly be considered attained at something less than that. So while the County satisfies the 60-day safe harbor threshold, we believe that standard is conservative and that the plan can certainly be actuarially sound at a lower threshold.

Based on the accumulated surplus as of September 30, 2012 and the funding rates in place for calendar year 2013, I believe the County has adequate assets and sources of funds to meet the plan's benefit obligations under any foreseeable circumstances, and it is my opinion that the County's self-funded health plan is actuarially sound.

Reliance

I relied upon financial reporting, enrollment, and premium information provided by Miami-Dade County and on claim lag information provided by AvMed in preparing this analysis. In my opinion, the data provided was adequate for the purposes of this analysis.

I believe that the procedures and methods used in the exhibits to report past results and project future results are reasonable and have been calculated using sound actuarial principles. The projections are based on assumptions that I believe are reasonable in aggregate, but future experience is likely to vary from these assumptions, and the differences may be material.

Actuarial Memorandum
Miami-Dade County Health Plan for Fiscal Year Ending September 30, 2012

Qualifications

I, Glen R. Volk, am a Member of the American Academy of Actuaries. I meet the Academy qualification standards for rendering this statement of actuarial opinion. I am not aware of any relationship between myself or other members of my firm and the County that could create a conflict of interest that would impair, or appear to impair, my objectivity.



Glen R. Volk, FSA, MAAA
Area Vice President & Consulting Actuary

December 28, 2012
Date



OFFICE OF INSURANCE REGULATION

KEVIN M. MCCARTY
COMMISSIONER

**FINANCIAL SERVICES
COMMISSION**

RICK SCOTT
GOVERNOR

JEFF ATWATER
CHIEF FINANCIAL OFFICER

PAM BONDI
ATTORNEY GENERAL

ADAM PUTNAM
COMMISSIONER OF
AGRICULTURE

September 9, 2013

The Honorable Carlos A. Gimenez
Mayor, Miami-Dade County
Stephen P. Clark Center
111 N.W. First Street, 29th 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.

• • •
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

Affirmative Action / Equal Opportunity Employer

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