

Colette Chichester
Vice President
Government Affairs

CareFirst BlueCross BlueShield
840 First Street NE, Suite 1200
Washington, DC 20065-0001
Tel. 202-680-5224



July 10, 2015

VIA EMAIL (jennifer.libster@dc.gov)

Jennifer Libster
Associate General Counsel
District of Columbia Health Benefit Exchange Authority
1225 Eye Street, NW
Suite 400
Washington, DC 20005

Dear Ms. Libster:

I am writing on behalf of CareFirst BlueCross BlueShield to comment on the Informal Discussion Draft of the Health Carrier Assessment Draft Emergency Rule. Similar to our comments on emergency regulations proposed last year, we propose several changes to the rule that are necessary in order to properly recognize the rights of carriers, as affected parties, to appeal actions by an administrative agency such as the Exchange.

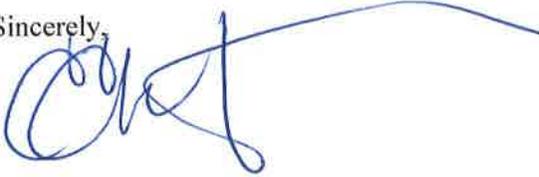
CareFirst has been consistent in asserting our belief that it is important for the Exchange to establish a transparent, fair and broad-based approach to funding the District's Exchange. Appeal rights are a fundamental and necessary part of this transparent process. We continue to believe the proposed rights are inappropriately narrow in two respects:

1. **The scope of appeal is inappropriately limited** – Under Section 120.2, health carriers would be limited to filing an appeal only if the amount in dispute is equal to or greater than 1% of the applicable assessment or \$10,000. We request that the proposed Section 120.2 be modified to provide that health plans be given a guaranteed right to appeal all assessment calculations without reference to a minimum threshold. Health plans are entitled as a matter of due process to appeal *any* error in the calculation of a tax or assessment.
2. **There is no external right to appeal specified in the regulation** – Proposed Section 120.5 provides for the Executive Director or a designee to review the request for reconsideration of the assessment and make a final and binding decision. We are in receipt of the DC HBX "Memorandum Describing Changes from the 2014 Rule" and appreciate the agency's recognition and acknowledgement of a carrier's due process rights and the general right in the District to have tax or assessment decisions appealed to the Office of Administrative Hearings or the Superior Court of the District of Columbia. *See, e.g.*, DC Code § 47-4312. CareFirst recommends that

this acknowledgement be clarified in the text of the regulation and further recommends that the Section be amended to provide that any proposed assessment be stayed pending outcome of any such appeal.

Thank you for the opportunity to comment on the draft proposal. We look forward to your consideration of our suggested changes. Please feel free to call if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Colette Chichester', with a long horizontal flourish extending to the right.

Colette Chichester