

TAB 3



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Maria T. Vullo
Superintendent

**Maria T. Vullo, Superintendent
New York State Department of Financial Services
Testimony Delivered to the Legislative Fiscal Committees on the
State Budget - Health
Hearing Room B, LOB
February 16, 2017, 11:00 AM**

Good afternoon Chairpersons Young and Farrell, Vice Chair Savino, Chairpersons Hannon, Gottfried, Seward and Cahill, Ranking Members, and all distinguished Members of the State Senate and Assembly.

Thank you for inviting me to be here today. This is my first appearance before the Legislature in budget hearings, and I am happy to provide my perspective and answer your questions. I have now been the Superintendent (or Acting) of the Department of Financial Services (DFS) for almost a year. It has been a very busy year, and I am privileged to work for Governor Cuomo and serve all New Yorkers in this important role.

charged by DFS in a proceeding – as well as the ability of the individual to seek redress in court if DFS determines that he or she should be disqualified.

New York sits at the financial center of the world. Giving DFS this ability protects our markets from recidivist bad actors and, equally importantly, communicates the message that we have zero tolerance for those who seek to defraud consumers and undermine the fundamental ethics and fairness of our system.

Health Republic

Finally, I would like to update you on the Health Republic liquidation. On May 11, 2016, pursuant to an Order of the Supreme Court, New York County, I was appointed Liquidator of Health Republic, which as you know was a nonprofit corporation formed pursuant to the Federal Co-op Program. As Liquidator of Health Republic, my first priority has been to build a process for resolving policy-related claims in a fair and expeditious manner.

Prior to its liquidation, Health Republic paid all claims up to November 2015, and all members were transitioned to new plans.

Currently, there are approximately 700,000 remaining policy-related claims that require resolution. We believe the true valid claims are much less than this figure. To ensure that the claims are accurately and properly determined in a liquidation of this size and claim complexity, we have engaged a Court-approved claims auditor to determine those claims that are in compliance with plan designs, benefits, exclusions and eligibility requirements, and to remove duplicative claims. We expect the audit will be substantially complete by this May, and we will be issuing claims determinations in the form of Explanations of Benefits/Allowances (EOBs) beginning in the second quarter of 2017 and through year-end. Claimants will have the opportunity to appeal the EOBs under the Court-approved Claims Adjudication Procedures.

From the start, I have been committed to an honest and transparent process for Health Republic's liquidation. We publish on our website relevant events and court orders, as well as financial information. I have directed an audit of the company's financial statements for year-end, which will be completed shortly. The unaudited September 30, 2016 financial statement contains an estimate of about \$212 million in policy-

related claims, which amount is not a determination of the actual amount of claims. The claims audit that is underway will determine the actual amount of claims. That said, Health Republic's liabilities exceed its current assets.

Presently, we are assessing the merits of Health Republic's claims against the federal government, including approximately \$432 million due under the risk corridors program and \$51 million due under the federal reinsurance program, as well as what we anticipate will be the federal government's claims of offset for start-up loans provided to Health Republic and amounts allegedly owed for risk adjustment, which we dispute. As many other states with similar Co-op failures have argued, Congressional limits on funding these federal programs in 2014 caused significant solvency risk for the Co-ops. Court actions are underway and we are considering whether to join those actions, while seeking to be as efficient as possible in managing the liquidation process and steadily decreasing the expenses of the process. In addition, we are assessing other potential third-party claims, including against directors and officers, and the availability of a D&O policy.

Apart from potential action against the federal government, we do not believe that there will be significant additional assets with which to pay claims. We will not know the amount of liabilities until the end of this year at the earliest, and payments to claimants cannot be made until the dueling claims with the federal government are resolved. We will continue to provide updates throughout the year and will remain committed to a fair, efficient and transparent process.

Conclusion

During my confirmation hearings, I promised candor and transparency and spoke about my belief in a fair process and a deliberative approach. Throughout the year, I have been consistent in my outreach to stakeholders and in my interactions with both industry and consumers, and the public at large. I have employed my authority based on substantive analysis and a deliberative process.

I have also been responsive to legislative inquiries, and my staff is ready and willing to assist your constituents. When you call or write, I do answer. Or – as today – I appear in person. My team at DFS is working hard every day to build on our successes and make New York's

financial services industries work better for both industry and consumers. And we are doing all of this effective work as efficiently as possible, and within our budget.

Thank you. I look forward to your questions.