Government of the District of Columbia
Office of the Chief Financial Officer

Natwar M. Gandhi
Chief Financial Officer

MEMORANDUM

TO: **The Honorable Kwame R. Brown**
Chairman, Council of the District of Columbia

FROM: **Natwar M. Gandhi**
Chief Financial Officer

DATE: **May 29, 2012**

SUBJECT: **Fiscal Impact Statement – "Health Benefits Plan Members Bill of Rights Amendment Act of 2012"**

REFERENCE: **Bill Number 19-376 – shared with the Office of Revenue Analysis on May 11, 2012**

Conclusion

Funds are sufficient in the FY 2012 budget and the proposed FY 2013 through FY 2016 budget and financial plan to implement the proposed bill.

Background

The proposed bill would amend the Health Benefits Plan Members Bill of Rights Act of 1998[1] to bring the District's grievance and appeals law for commercial health plans into compliance with the federal Affordable Care Act (ACA).[2] The ACA requires that all individual and group health plans meet certain standards with regard to the appeals process available to customers who are dissatisfied with a coverage or claims determination. The bill incorporates the required federal standards.

Specifically, it would:

- Make the District's external appeals process binding on health plans;
- Broaden the scope of issues that are appealable in accordance with federal law;
- Require health insurers to notify members when claims are denied, setting forth the reasons for the denial and procedures for appealing the determination through internal and external review;

[1] Effective April 27, 1999 (D.C. Law 12-274; D.C. Official Code § 44-301.01 *et seq*.).
[2] Approved March 23, 2010 (Pub. L. No. 111-148; 124 Stat. 119).

- Require that the grievance system included in the insurer's health benefits plan incorporate the right to appeal an insurer's decision to rescind coverage;
- Clarify that coverage determinations and claims denials are subject to review;
- Provide that during the formal internal appeals process, the member and the member's representative have the rights to review the member's file, request and receive free copies of all documents and records relevant to the claim, and present evidence and testimony as part of the appeals process;
- Require an insurer that denies a member or member representative's appeal of a rescission to provide the member and the Department of Insurance Securities and Banking (DISB) a written statement explaining why the insurer found fraud or misrepresentation of a material fact and informing the member of their right to appeal to DISB;
- Clarify that only one level of internal review is required before a patient can appeal to an independent body;
- Allow self-funded plans to use the District's appeal system at their own expense; and
- Make other technical changes to comply with federal law.

In addition, the bill sets forth procedures to protect the confidentiality of mental health information during internal and external appeals. Current law does not include such procedures, so there is potential for the inappropriate disclosure of sensitive information.

The ACA requires that all states and the District incorporate the new standards by 2014. Otherwise, beginning in 2014, a federally-administered appeals process will supersede the state's appeals procedures. Thus, implementing the proposed bill will allow the District to continue to handle appeals for plans used by its residents. The District's appeals system is managed by the D.C. Office of the Health Care Ombudsman and Patient Bill of Rights (the "Office of the Ombudsman") in the Department of Health Care Finance.

Financial Plan Impact

Funds are sufficient in the FY 2012 budget and the proposed FY 2013 through FY 2016 budget and financial plan to implement the proposed bill. The District's grievance and appeals process is paid for by the commercial health plans whose customers file the appeals. The changes in the proposed bill would not have an impact on the budget and financial plan, as they are not expected to create any additional administrative burden for the staff of the Office of the Ombudsman.