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**TESTIMONY OF  
AL REDMER, JR.  
INSURANCE COMMISSIONER  
BEFORE THE  
HEALTH AND HUMAN SERVICES SUBCOMMITTEE  
OF THE  
SENATE BUDGET AND TAXATION COMMITTEE  
FEBRUARY 23, 2015  
AND THE  
TRANSPORTATION AND THE ENVIRONMENT SUBCOMMITTEE  
OF THE  
HOUSE APPROPRIATIONS COMMITTEE  
MARCH 2, 2015**

Thank you, Subcommittee Chair and Members, for the opportunity to appear before you this afternoon. I am Al Redmer, Jr., Maryland's Insurance Commissioner. With me today are Nancy Grodin, Deputy Commissioner, Nancy Egan, Director of Government Relations, Jim Langford, Director of Fiscal Services, and Paula Keen, Chief Information Officer.

I would like to thank Elizabeth Bayly of the Department of Legislative Services for her analysis of the Maryland Insurance Administration's (MIA) FY 2016 budget. I would also like to thank Kate Holmes and Joan Peacock of the Department of Budget and Management who have been instrumental in helping the agency document its compliance with the recommendations made by the Office of Legislative Audits (OLA) in its November 20, 2014, legislative audit report (Audit). Kate Holmes, an audit compliance analyst, has been on-site with us for the past several weeks reviewing and testing the MIA's implementation of its corrective action plan in response to the Audit and in anticipation of a follow up audit.

I will comment briefly on three areas in which the Department of Legislative Services (DLS) made recommendations or invited MIA comment. First, I will address the DLS recommendation regarding the transfer of authority from the MIA to the Comptroller of Maryland to impose and collect the premium tax. Next, I will address the status of the MIA's corrective action plan with respect to the Audit findings. I will then comment on the Enterprise Complaint Tracking System project and, finally, the DLS recommendation regarding the

Managing for Results Performance measure. If you would like a copy of any documentation which supports my testimony today, please see Nancy Egan.

First, let me say that the MIA takes seriously the legislative auditors' findings regarding a lack of effective controls over certain processes, and a failure to adhere to State procurement regulations. Moreover, even though there was no finding of misappropriation or misuse of State resources, the findings in the Audit do not reflect the level of fiscal accountability and compliance that the citizens of Maryland and their elected officials rightfully expect of the MIA, and the agency is committed to coming into full compliance in the coming months.

### **DLS RECOMMENDATION**

*DLS recommends that the committees adopt language in the Budget Reconciliation and Financing Act of 2015 or separate legislation that transfers authority from MIA to the Comptroller of Maryland, to impose and collect the premium tax. If the committees decide not to transfer responsibility to the Comptroller, the DLS recommends withholding a portion of the agency's appropriation until OLA has determined that the repeat findings have been corrected.*

#### **MIA Response:**

##### *Transfer of Authority:*

The Maryland Insurance Administration is an independent unit of State government organized in accordance with Title 2, Subtitle 1 of the Insurance Article. The MIA is responsible for enforcing the laws governing the business of insurance within the State. The agency promulgates regulations to carry out the Insurance Article, and issues bulletins and other guidance for the insurance industry and consumers of insurance products in the State.

In lieu of a Maryland State income tax on insurance company profits, the MIA is required by statute to collect a 2 percent tax on insurance premiums. The MIA also audits each tax return to ensure its accuracy. The MIA collected and deposited \$335 million in premium tax revenue into the State General Fund in FY 2014. Another \$123 million collected in premium tax paid by health maintenance organizations and managed care organizations was transferred to the Rate Stabilization Fund. The MIA does not receive an appropriation from the State's General Fund. Rather, the MIA is a specially funded state agency supported entirely through fees and assessments on the insurance industry. Up to 60 percent of the MIA's annual appropriation is funded by assessments on the insurance industry, with the remainder coming from fees.

Whether the authority to impose, collect, and audit taxes on premiums paid in Maryland should be transferred to the Office of the Comptroller is a policy decision within the discretion of the Maryland General Assembly. If such legislation is to be enacted, however, the MIA would appreciate the opportunity to review the legislation in order to ensure that an insurance company which underpays its tax or fails to pay its tax on time is reported to the MIA as it may be an indication of an insurer's potential insolvency.

Subsequent to the Audit, the MIA developed a comprehensive premium tax application project plan consisting of a project scope statement and a requirements and specification plan. Currently, the MIA is working with the National Association of Insurance Commissioners (NAIC) to determine the feasibility of implementing an NAIC-developed and supported premium tax collection system called *OPTins* which is used by approximately 21 states. As a member of the NAIC there is no cost to the MIA, although companies would be charged \$10 per filing. A follow up meeting is scheduled with *OPTins* on March 3, 2015. It is expected that a final decision on whether the *OPTins* system will meet the MIA's requirements will be made on or before April 15, 2015.

*Withholding a portion of the agency's appropriation until OLA has determined that the four repeat findings have been corrected:*

The Office of Legislative Audits conducted an audit of the MIA for the period beginning September 29, 2010, and ending August 4, 2013. The Audit Report contains 14 recommendations. Four of the 14 recommendations were repeat findings. To date, the MIA has corrected the repeat findings. The following is a description of the repeat findings and the corresponding corrective action plan. Following the descriptions of the repeat findings is an update on the four OLA recommendations on which the MIA is still working to fully implement its corrective action plan.

*OLA Recommendations Pertaining to the Four Repeat Findings:*

**Finding 3:**

**OLA Recommendation 3(d):**

We recommend that MIA ***configure its firewalls to filter VPN traffic and limit contractor access to only those devices and ports involved with the contractor's support activities.***

**MIA Status:** Corrective Action Plan Complete.

As of May 30, 2014, the MIA disabled the contractor's access to MIA's VPN service. In addition, and to comply with other recommendations related to this finding, the MIA removed the premium tax system contractor's administrative access to the third party payment system.

**Finding 8:**

**OLA Recommendation 8(a):**

We recommend that MIA ***reconcile its premium tax records with the corresponding State records.***

**MIA Status:** Corrective Action Plan Complete.

The MIA has implemented a policy requiring that all financial transactions must be posted in the premium tax application within two business days of deposit and reconciled with State accounting records on a monthly basis.

**Finding 10:**

OLA Recommendation 10(a) and (c):

We recommend that MIA *ensure that*

a. *cash receipts are immediately recorded when received;*

\* \* \*

c. *an employee independent of the cash receipts function performs and documents the deposit verifications.*

MIA Status: Corrective Action Plan Complete.

The MIA has implemented a manual log on which the mail room clerk who opens the envelope containing a check records the check amount, the check number, and the party issuing the check. This manual log procedure has not significantly delayed check deposits, nor has it otherwise proved unwieldy or unworkable with existing staff resources. The MIA also has revised its procedures to ensure that an employee independent of the cash receipts and deposit functions performs and documents deposit verifications.

**Finding 12:**

OLA Recommendation 12(a):

We recommend that MIA *seek to amend the existing agreements and ensure that future agreements with service providers processing MIA data include provisions requiring the service providers to regularly obtain SOC 2 Type 2 reviews pertaining to their system operations.*

MIA Status: Corrective Action Plan Complete.

The MIA obtained from its current pre-licensing and examination services vendor a copy of its SOC 2 Type 2 audit for the period covering July 1, 2013 to June 30, 2014. The audit included review and testing of 34 functions. Only one exception was noted, and that exception was corrected. The MIA's current licensing vendor, a subsidiary of the NAIC, and which provides services to 29 states, obtains SOC 1 audits conducted by a third party on an annual basis. While the vendor is not currently performing a SOC 2 Type 2 audit, the vendor provided and will continue to provide the MIA with copies of its independent audit results. Further, the NAIC recently advised that it is investigating the feasibility of performing a SOC 2 Type 2 analysis. Finally, all MIA requests for proposals for similar vendors processing MIA data will contain DoIT's required template language with respect to SOC 2 Type 2 compliance.

*The following is a description of the four OLA recommendations that the MIA is currently working to address and the dates by which we project full implementation.*

OLA Recommendation 4(a):

***We recommend that MIA periodically obtain security vulnerability assessments for application code, remediate all confirmed vulnerabilities identified by the assessments, document these processes, and retain this documentation for future reference.***

MIA Status: On February 7, 2015, DoIT conducted a one-time vulnerability test of the MIA's web applications. The MIA is currently awaiting the DoIT vulnerability test results report. Once the report is received the MIA will establish target dates by which to remediate all vulnerabilities identified, document those corrective actions, and retain the documentation for future reference. The MIA has been in discussions with DoIT to determine the most efficient and effective method for procuring future vulnerability testing and is in the process of assembling the necessary paperwork to solicit such services from an outside vendor.

Target Completion Date: June 30, 2015

OLA Recommendation 4(b):

***We recommend that MIA use a web application firewall to gain additional security protection.***

MIA Status: The MIA is seeking to accomplish this procurement under a DoIT master contract. Vendor proposals received by the February 5, 2015, closing date were evaluated on February 19, 2015. A recommended award package will be submitted to DoIT within the next several days.

Target Completion Date: June 30, 2015

OLA Recommendation 5(g):

***We recommend that MIA review the aforementioned discrepancies [regarding premium tax audits and supervisory sign off, the assessment of penalties and interest on late payments and under-payments, and ensure agreement between premiums reported on the tax filings and the NAIC database] and take corrective action.***

MIA Status: The MIA is conducting a review of the audits identified as deficient in connection with Finding 5. The MIA has confirmed that the duplicate credit identified under the first bullet point in the analysis for Finding 5 was recovered in August 2013. Of the 7 instances reported in the audit, the MIA has identified at least two instances in which penalties and interest should be assessed and a third instance in which penalties and interest might be appropriate depending on the provision of certain documentation. In the remaining four instances, penalties and interest were not appropriate. The MIA is continuing to review late filings from 2011, 2012, and 2013 to determine whether interest and penalties are appropriate.

Target Completion Date: March 30, 2015.

OLA Recommendation 7(b):

We recommend that *duplicate refunds issued be investigated and appropriate actions be taken to recover the overpayments.*

MIA Status: Invoices were submitted to 4 of the 5 companies in September and October, 2014. The fifth payment required additional research which has been completed and an invoice submitted to the company. As of February 18, 2015, there is a total of \$8,676 to be collected from 3 companies.

Target Completion Date: February 27, 2015

### **DLS RECOMMENDATION**

*DLS recommends that the agency brief the committees on the status of the ECTS [Enterprise Complaint Tracking System] project and steps the agency has taken to ensure effective project management.*

#### **MIA Response:**

The initial phase of the ECTS project began on August 29, 2012. Since the beginning of this project, the Chief Information Officer, Paula Keen, was the dedicated IT project manager and the project estimated cost was \$2,403,500. Both were reported on the FY 2014 and FY 2015 Information Technology Project Request (ITPR) Forms. Unfortunately, due to an apparent reporting error, the estimated cost that was included on the FY 2014 Legislative Budget Analysis Report was \$1,940,000 and this amount was never corrected. Although it appears that there has been a 24% increase in the cost of the project, in fact the cost estimate has remained the same.

In addition to the above information, I would like to offer the following project time line in order to further describe the ECTS project.

- a) In October 2011, the MIA conducted internal meetings to discuss problems with the current complaint system.
- b) On August 29, 2012, the project officially began when the former insurance commissioner approved the undertaking of a formal analysis of the MIA's current process, system requirements, industry analysis, and system implementation costs.
- c) On October 16, 2012, the MIA submitted the FY 2014 ITPR to DoIT. The total ECTS project cost estimate was \$2,403,500. This included phases 1-4 and 5-9. In addition to the name of the project manager and the ECTS project cost estimate, a project schedule was included.
- d) On June, 19, 2013, DoIT approved the FY 2014 Budget Appropriation Approval for Special Funds in the amount of \$1,790,000 for the ECTS project. The amount approved was less than the total estimated project cost because the ECTS project was scheduled to be completed over a three-year period. DoIT approved the \$1,790,000

for the project's design, development, and testing; implementation was to take place the following year.

- e) On November 7, 2013, the MIA submitted the FY 2015 ITPR to DoIT providing an updated ECTS project schedule and noting again that the IT Project Manager for the ECTS project was Paula Keen and that the total estimated project cost was \$2,403,500.
- f) On January 31, 2014, the MIA submitted to DoIT the required System Development Life Cycle (SDLC) Documentation for Phases 1 – 4, including detailed functional and technical requirements for the ECTS and requested DoIT's approval to proceed.
- g) In July, 2014, the MIA received DoIT's approval to proceed from the project planning phase to the project implementation phase. As part of its approval, DoIT made the following recommendations:
  - Incorporate DoIT's April 2014 additional feedback into SDLC artifacts as those documents are updated through Phases 5-9 of the project.
  - Develop a more detailed integrated project schedule upon vendor contract award. The project schedule should include activities and deliverables for both the agency and the vendor.
  - Ensure a full time project manager will be leading this project through implementation.

The MIA intends to incorporate DoIT's feedback as the SDLC documents are updated through Phases 5-9. Further, at the time the contract is awarded, the MIA will develop a more detailed integrated project schedule with the successful bidder. Finally, as indicated throughout the life of the ECTS project, the Chief Information Officer will continue to lead this project through implementation.

- h) On March 25, 2014, the MIA submitted to DoIT a task order request for proposal (TORFP) for approval.
- i) On December 26, 2014, the MIA received DoIT's approval to release the TORFP.
- j) The TORFP solicitation was released and the solicitation will close on March 18, 2015.
- k) To date, DoIT has invoiced the MIA for oversight activities in the amount of \$35,432.78 for FY 2014. This amount was accrued from the MIA's regular operating budget so as not to impact the ECTS estimated project cost budget.

#### **DLS RECOMMENDATION**

***The Department of Legislative Services (DLS) recommends that the agency include in its Managing for Results performance measures the number of days to case closure.***

**MIA Response:** The MIA appreciates the Department of Legislative Service's recommendation and will include in its Managing for Results performance measures the number of days to close a case.

Thank you again for the opportunity to appear before you today. I am happy to address any questions you may have.