



JOSEPH R. BIDEN, III
ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
NEW CASTLE COUNTY
820 NORTH FRENCH STREET
WILMINGTON, DELAWARE 19801

CIVIL DIVISION (302) 577-8400
FAX (302) 577-6630
CRIMINAL DIVISION (302) 577-8500
FAX (302) 577-2496
FRAUD DIVISION (302) 577-8600
FAX (302) 577-6499
TTY (302) 577-5783

October 4, 2011

Via Email and U.S. Mail

The Honorable Battle R. Robinson
104 West Market Street
Georgetown, DE 19947

RE: Proposed Affiliation of BCBSD, Inc. ("BCBSD") with Highmark, Inc. ("Highmark")

Dear Judge Robinson:

On Thursday, September 29, 2011, via conference call, Your Honor requested that the parties send to you a list of proposed conditions relating to the Proposed Affiliation and information as to whether such conditions have been agreed to by the parties. On October 3, 2011, counsel for the Delaware Department of Insurance (the "DOI") sent to Your Honor the proposed conditions agreed to by Highmark and BCBSD and stated that certain other conditions are currently being discussed.

The Delaware Department of Justice (the "DOJ") has also proposed a condition to the parties and hereby requests that it be considered by Your Honor in Your Honor's review of the Proposed Affiliation in addition to the conditions proposed by the DOI. This condition has not been agreed to by Highmark and BCBSD at this time. The DOJ's proposed condition and rationale/statutory criteria are as follows:

Proposed Condition	Rationale/Statutory Criteria
BCBSD and Highmark must establish a mechanism to guarantee that the public's investment in BCBSD remains in Delaware to be held and protected for the benefit of Delawareans, specifically to serve the State's unmet health needs. The public investment Delawareans have made in BCBSD should be valued prior to the closing of the transaction, taking into account the effect of the affiliation, by a valuation expert approved by the Department of Justice, but the asset that shall be held and protected should in no event be less than \$45 million.	Ensures preservation of surplus or reserves of BCBSD for use solely for the benefit of the Delaware public. 18 Del. C. § 6311(b). This condition also expresses the position of the DOJ representing the State in its capacity as <i>parens patriae</i> to protect the interests of the public.

Respectfully submitted,

Ian R. McConnell
Director of the Consumer Protection and Fraud Division

IRM/mam

cc: See attached service list

<p>The Honorable Battle R. Robinson 104 W. Market St. Georgetown, DE 19947 Phone: 302-856-2248 Email: robinsonrh@ce.net <i>Hearing Officer</i></p> <p>And</p> <p>GianClaudio Finizio, Esquire Bayard, P.A. 222 Delaware Avenue, Suite 900 P.O. Box 25130 Wilmington, DE 19801 Phone: 302-429-4240 Email: gfinizio@bayardlaw.com <i>Counsel to Hearing Officer Robinson</i></p>	<p>Michael Houghton, Esquire Leslie Polizoti, Esquire Morris, Nichols, Arsht & Tunnell LLP 1201 North Market Street, 18th Floor P.O. Box 1347 Wilmington, DE 19899-1347 Phone: 302-351-9215 Email: mhoughton@mnat.com Email: lpolizoti@mnat.com</p>
<p>William E. Kirk III, Esq. Vice President, General Counsel and Secretary BCBSD, Inc. 800 Delaware Ave, Suite 900 Wilmington, DE 19801-1368 Phone: 302-421-3416 Email: william.kirk@bcbdsde.com <i>Counsel for BCBSD, Inc.</i></p>	<p>David S. Swayze, Esq. Michael W. Teichman, Esq. Parkowski, Guerke & Swayze, P.A. 800 King Street, Suite 203 Wilmington, De 19801 Phone: 302-594-3330/302-594-3331 Email: Dswayze@pslegal.com Email: MTeichman@pslegal.com <i>Counsel for BCBSD, Inc.</i></p>
<p>Mona A. Parikh Buchanan, Ingersoll & Rooney PC 1105 North Market Street, Suite 1900 Wilmington, DE 19801 Phone: 302-421-3416 Email: mona.parikh@bipc.com</p> <p>Frederick K. Campbell, Esq. S. Doak Foster, Esq. Mitchell, Williams, Selig, Gates & Woodyard, PLLC 425 West Capitol Ave, Suite 1800 Little Rock, AR 72201-3525 Phone: 501-688-8882/501-688-8841 Fax: 501-918-7882/501-918-7841 Email: rcampbell@mwlaw.com Email: dfoster@mwlaw.com <i>Counsel for Highmark</i></p>	<p>Edward A. Bittner, Jr., Esq. Senior Counsel-Highmark, Inc. Fifth Avenue Place 120 Fifth Avenue, Suite 2180 Pittsburg, PA 15222-3099 Phone: 412-544-8529 Fax: 412-544-7423 Email: ed.bittner@highmark.com <i>Counsel for Highmark</i></p>

Gene Reed, Deputy Insurance Commissioner
John Tinsley
David Lonchar
Charles Santana
Linda Sizemore
Delaware Department of Insurance
841 Silver Lake Blvd.
Dover, DE 19904
Phone: (302) 674-7300
Gene.reed@state.de.us
John.tinsley@state.de.us
Dave.lonchar@state.de.us
Charles.santana@state.de.us
Linda.sizemore@state.de.us