

January 17, 2011

Response to objections from BCBSD and the Delaware Department of Insurance to Jo Ann Fields' application to be a party to the affiliation of BCBSD, Inc. with Highmark, Inc.

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Statement for public hearing Tuesday 1-18-11 9:30 AM

My application for party status should be approved because I have a significant financial interest in this matter and because my interests are not adequately represented by other parties.

I have been a customer of BCBSD in the small group market since 2007.

In response to my application for party status to review the affiliation between BCBSD and Highmark both BCBSD and the Department of Insurance oppose my application. Their objections and my responses are as follows:

1) Their objection: I do not have significant pecuniary interest in the proceeding. My response:

What is significant to me may not be significant to an organization such as BCBSD with \$530 million in annual revenues (Wall Street Journal) or an organization like Highmark with \$13 billion in reported revenues in 2009 (Pittsburgh Post-Gazette 8/21/10). What is significant to me is I had to lay off my 2 full time employees in part because I could not afford to pay for my health insurance and theirs too. What is significant to me is my health insurance premium is my single biggest discretionary expense - if you want to say health insurance is discretionary. I could drop my medical insurance but I would be very afraid to do that. What is significant to me is that since I started with BCBSD in 2007 my health insurance rate jumped 12% in 2008, then 9% in 2009, then 13% in 2010. The monthly premium was \$372 in 2007 and now it is \$518.

2) Their objection: My interests are adequately represented by the Department of Insurance. My response:

I believe the Delaware Department of Insurance does the best it can but the Department of Insurance does not adequately represent my interests. In my opinion the Insurance Commissioner in Delaware does not have strong enough authority and probably not enough resources to adequately review health insurance rate increases from the private insurers. The new health care law passed in March 2010 recognizes that the rate review process in the states is weak. I base my opinion on my own experience over the past few years. As I saw my health insurance go up year after year I got involved in this issue. I had informal discussions about it with then Insurance Commissioner Matt Denn and after 2008 with Insurance Commissioner Weldin-Stewart. The extent of the explanation I got was a first grade lesson on how, in a business, revenues have to be more than expenses. I saw no proof, no documentation of what went into the rate review process or just what was the insurer doing with my money. When my rate again jumped 13% in July 2010 I wrote a formal letter to Commissioner Weldin-Stewart to ask why. My letter was answered by Jessica Luff, an investigator in the Consumer Services Division, in a letter dated 6/29/10. "A rate filing is reviewed by an actuary on behalf of the carrier" not on behalf of the Department of Insurance, not on my behalf, but on behalf of the carrier, i.e., the insurer. Then "this information is reviewed by other actuaries for accuracy and to verify that the increase is justified. The filings, actuarial reviews, audits and correspondence between an insurance company and the Department of Insurance is proprietary information and is not available for review." So it is not clear that any actuary looks at this rate increase on my behalf and even if they do I can't see it. I then took the next step and filed a Freedom of Information Act Request to find out why my rate went up. The FOIA request was answered by Deputy Insurance Commissioner

Gene Reed in a letter dated 8/10/10. Again my request was rejected. I sent a third letter to Commissioner Weldin-Stewart on 10/7/10 asking "what insurers and what health insurance rate increases have been reviewed by the Department this year". New state legislation in October 2010 gave the Insurance Commissioner stronger rate review powers and I wanted to know how that was being used. I received an email saying the Department hopes to have this information available by early first quarter 2011. Nothing is available so far.

I ask: Where is the representation of my interests here? There is none. I am on my own. I have used what means are available to me to get answers from the Department of Insurance. The Department of Insurance may want to make information available but I suspect it does not have the authority to expose excessive insurance rates or do anything about excessive rate increases.

Studies show that active rate review lowers the premium requests filed by insurers. That is the conclusion of a study done by the Kaiser Family Foundation and Georgetown University Health Policy Institute in December 2010. I want the benefit of active health insurance rate review.

3) Their objection: My interests are already adequately represented by the Attorney General. My response:

In his media release January 4, 2011, the Attorney General says he wants to look at BCBSD's surplus cash reserves and how Highmark intends to use them. Excessive surpluses could be applied toward holding down rate increases so I hope Mr. Biden looks into that. Mr. Biden also asks how will the expected cost savings resulting from economies of scale be passed onto customers. That is a good question. I hope the Attorney General follows up on that.

I am proposing increased scrutiny and transparency of BCBSD's proposed rates as a condition of an approval of the proposed transaction. To my knowledge, the Attorney General has not requested a similar condition.

4) Their objection: The protection of my interests is not impeded if I am not admitted as a party. My response:

If the affiliation is approved, who has authority to do rate reviews? Delaware or Pennsylvania or both? Who in Pennsylvania is going to listen to me if I have a complaint? In Pennsylvania, Highmark already is being criticized for threatening to pull out of the state's Adult Basic health insurance plan which offers low-cost health insurance to low-income working families and then they plan to transfer those customers to a much more expensive plan with rates up to 4 times higher. At the same time Highmark's surpluses have grown to \$5.6 billion last year (Pittsburgh Post-Gazette 8/1/10). So Highmark's track record for raising rates is under scrutiny. If we add problems with controlling insurance rates in PA to problems we already have controlling insurance rates in DE, then I lose protection.

Conclusion - I have a significant financial interest in the matter of the affiliation between BCBS of Delaware and Highmark of Pennsylvania. My interests are not adequately represented by other parties. I am specifically advocating that any approval of the proposed affiliation include a condition of full transparency of BCBSD's rates, and a requirement of prior approval before new rates are effective. The condition must include a standard of review for BCBSD's proposed rates:

BCBSD's rates shall be (1) actuarially sound, (2) reasonable, and not excessive, inadequate, or unfairly discriminatory, and (3) based on reasonable administrative expenses. Rates may not be deceptive or constitute an unfair trade practice. An insurer shall have the burden to show by clear and convincing evidence that its rates comply with these terms. The public may review summary documents.

The Commissioner shall disapprove a proposed rate change if the proposed rates are (1) not actuarially sound, (2) unreasonable, (3) excessive, (4) inadequate, (5) unfairly discriminatory, (6) based on unreasonable administrative expenses, (7) not in the public interest, or (8) if the rate filing is incomplete.

Neither the Insurance Commissioner nor the Attorney General has proposed a similar condition of approval of the affiliation.

Thank you for your time and consideration, Judge Robinson.

Respectfully,

Jo Ann Fields, MD