

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF DELAWARE

In the matter of :
Proposed Affiliation of :
BCBSD, Inc. Doing Business as : **Docket No. 99-09**
Blue Cross and Blue Shield of :
Delaware, With CareFirst, Inc. :

ORDER

WHEREAS on April 7, 2003, the Maryland General Assembly, both the House and Senate thereof, unanimously passed Senate Bill 772 and House Bill 1179 which, *inter alia*, prohibits conversion of CareFirst to a for profit corporate status for a minimum period of five years, changes the membership of CareFirst’s Board of Directors, provides for new members of the CareFirst Board to be nominated by a committee designated by the Maryland General Assembly, requires adherence to a non-profit mission by Board members at the risk of their removal by the Governor of the State of Maryland, and creates an oversight committee of Maryland appointees to review the Board’s actions; and

WHEREAS such findings and actions by the State of Maryland appear to be inconsistent with the terms of my order of March 20, 2000 permitting the Blue Cross Blue Shield of Delaware plan operated by BCBSD, Inc., a Delaware non-profit corporation (“BCBSD”) and licensee of the Delaware Insurance Department, to affiliate with and become a part of CareFirst; and

WHEREAS it is the obligation of the Insurance Commissioner of the State of Delaware to regulate its licensees and to protect the interests of Delaware’s insurance consumers; and

WHEREAS the actions of the Maryland General Assembly have created a situation where the rights and interests of BCBSD may be affected to the detriment of Delaware's Blue Cross Blue Shield subscribers; and

WHEREAS it is in the interests of Delaware's insurance consumers that I undertake those actions that will protect both BCBSD and its subscribers during that period of time necessary to evaluate and consider the impact of the events in the State of Maryland on BCBSD;

NOW THEREFORE I make the following findings and order.

A. FINDINGS AND BASIS FOR ORDER

1. Under the Final Order and Decision dated March 20, 2000 ("Affiliation Order"), I imposed certain required conditions in Exhibit B to the Affiliation Order under which the affiliation between BCBSD and CareFirst would be allowed. They included:

a. CareFirst and BCBSD must agree to comply with the provisions of Chapter 50 of the Delaware Insurance Code and the general supervisory authority of the Delaware Insurance Commissioner (Paragraph 3),

b. Any change in CareFirst's Board structure must receive the prior approval of the Delaware Insurance Department (Paragraph 4),

c. Certain transfers of assets are subject to the prior approval of the Delaware Insurance Commissioner and the conditions set forth in the Required Conditions (Paragraph 5),

d. Any change in BCBSD's corporate status (including conversion to for-profit status) must receive the prior written approval of the DOI (Paragraph 10),

e. The Required Conditions are subject to further order as circumstances may require. The Findings and Recommendations and the Commissioner's Order are subject to further modification or amendment or further review either sua sponte by the Commissioner or by motion of a party (Paragraph 19).

2. I have authority under the Delaware Insurance Code and the Affiliation Order to enter such orders as may be necessary to protect the interests of Delaware insurance consumers and to protect the assets of a Delaware domestic insurer.

3. The recently passed Maryland legislation appears to require changes to the charter and by-laws of CareFirst and BCBSD without my review and/or prior approval as required by the Affiliation Order.

4. CareFirst may not be able to comply with the conditions set forth in Paragraph 5 of the Affiliation Order to the extent that Maryland law would impact CareFirst's financial condition, product offerings, underwriting standards, etc. and cause CareFirst to request a transfer of assets from one or more of its subsidiaries (including BCBSD) to CareFirst to enable CareFirst to implement plans to comply with Maryland law and/or ensure its financial viability.

5. The passage of Senate Bill 772 and House Bill 1179 in Maryland, by its terms, alters the representations and the factual basis upon which I permitted the affiliation between BCBSD and CareFirst and appears to create a circumstance whereby BCBSD and CareFirst will, in order to comply therewith, place BCBSD in a position that will result in a breach of one or more of the conditions imposed on BCBSD and CareFirst in the Affiliation Order.

6. In order to protect BCBSD's subscribers, assure the financial well being of BCBSD, and carry out my duty as the sole regulator having jurisdiction over BCBSD, it is necessary that I enter this order to assure that the status quo is preserved and to allow the Delaware Insurance Department sufficient time to examine the impact of the Maryland events on BCBSD to determine what actions, if any, are required to assure the financial safety of BCBSD and BCBSD's and CareFirst's compliance with the terms and conditions of the Affiliation Order.

B. ORDER

1. There shall be no change to the charters, the by-laws or the Boards of Directors of BCBSD and/or CareFirst without first obtaining the written permission of the Delaware Insurance Commissioner ("Commissioner").

2. No transfers of assets as defined in and contemplated by Paragraph 5 of the Required Conditions in Exhibit B to the Affiliation Order shall be permitted without first obtaining the written permission of the Commissioner irrespective of the value of the transfer.

3. No joint venture transaction as defined in and contemplated by Paragraph 6 of the Required Conditions in Exhibit B to the Affiliation Order shall be permitted without first obtaining the written permission of the Commissioner irrespective of the value of the transaction.

4. CareFirst and BCBSD shall not, outside of the ordinary course of routine business, transfer any functions or duties of BCBSD or its personnel to any facility or location outside the State of Delaware nor shall any of such functions or duties be transferred to the control of any other entity, whether or not affiliated with BCBSD, without first obtaining the written permission of the Commissioner.

5. In all other respects the Final Order and Decision of March 20, 2000 shall remain in full force and effect.

6. This order shall remain in effect until such time as the Delaware Insurance Department shall conduct and complete an examination to determine whether and to what extent the Final Order and Required Conditions need to be revised or whether this order shall be modified, extended or terminated.

IT IS SO ORDERED this 10th day of April, 2003.

Donna Lee H. Williams
Insurance Commissioner