

April 22, 2010

File No. 202.182475.1

VIA ELECTRONIC MAIL

Morris J. Chavez, Superintendent of Insurance
Division of Insurance
Public Regulation Commission
P.E.R.A. Building
P.O. Box 1269
Santa Fe, NM 87504-1269

Re: Rate Hearing for Blue Cross/Blue Shield Individual-Plan Rate Increase Request

Dear Superintendent Chavez:

We are writing to request your urgent consideration of several important matters that have come to our attention regarding the Blue Cross/Blue Shield of New Mexico's ("BCBSNM") request for an increase of 24.6 percent in individual-plan premium rates and the hearing you have scheduled on this matter for Monday, April 26, 2010.

Firstly, we request that you postpone the hearing on BCBSNM's rate increase until federal regulations pertinent to your decision on this rate increase request are issued. As you know, the recently passed federal health care reform legislation, the Patient Protection and Affordable Care Act ("PPACA"), Public Law, 111-148, contains provisions relating to federal review of rate

making, including the issuance of regulations for the federal Department of Health and Human Services' annual review of rate increases in premiums.¹ These regulations are due to be issued by the end of this month, April 2010. It is only reasonable that your hearing be informed by federal law pertinent to your decision making process.

As a matter of due process and affording the public adequate opportunity to provide input through access to relevant materials, we further urge you to postpone this rate increase hearing. A visit to the Public Regulation Commission's ("PRC") web site has revealed that the PRC has not posted any information there regarding this hearing. The page titled "Insurance Hearing Calendar" was last updated in February 2009.² No memoranda or other materials pertinent to this matter are readily available to the public on this site, either.

In the event that you decide to go forward with the hearing scheduled for Monday, April 26, we request that you postpone the issuance of your decision until the regulations issued pursuant to Section 1003 of PPACA have been released.

Once you hold the hearing, we ask that you consider several factors that our review of the New Mexico Statutes and relevant regulations. We understand that you have to determine whether the rate increase is necessary in terms of whether BCBSNM would remain solvent if it were denied. Yet we ask you to recognize the leeway, pursuant to state law and the regulations promulgated by the Division, that you have when considering whether BCBSNM's rate increase

¹ Section 1003 (amending 42 U.S.C. 300gg-91 et seq. by adding a new section 2794), Pub. L. 111-148 at 21.

² See <http://www.nmprc.state.nm.us/id.htm>, last accessed April 22, 2010.

request.

The rating standards contained in Subsection B of Section 59A-17-6 NMSA 1978 state that "[i]n a competitive market, rates are presumed not to be excessive." We understand that, in New Mexico's rural areas, BCBSNM is the only insurer providing coverage in the individual market—that other insurers have very little presence in many areas. Have you examined the coverage of BCBSNM, versus other insurers, in the individual market throughout New Mexico? Is this a competitive market? On information and belief, we would argue that it is not. Hence, we argue that the presumption should not be that a proposed rate is reasonable and not excessive.

In determining whether rates are reasonable and whether a rate increase is necessary for solvency, do you have adequate information? Has BCBSNM accurately and transparently accounted for its current costs? When you request information as to its finances, does it claim that certain relevant information is proprietary? If so, then should not the presumption be that it has not complied with the disclosure requirements that would allow you to make an informed decision as to solvency?

What is BCBCN's administrative loss ratio for these individual plans? What costs can be cut before rates need be increased? What portion of administrative losses go to executive compensation? What amount of premiums goes out of state? We argue that excessive executive compensation and other cost containment measures should be addressed before any rate increase is improved.

Is BCBSNM using good assumptions to projected future costs? How much in premiums does BCBSNM hold in reserve? Two months' worth? Six months'? Twelve months'? Is the amount in reserve reasonable in terms of projected costs?

In considering reasonableness of proposed rates, what are the needs of New Mexicans when balanced against BCBSNM's? We argue that a rate is excessive in a noncompetitive market when large profits are maintained while many more New Mexicans go without insurance due to the increase.

We thank you for your consideration of these many points. In sum, we request that you postpone the April 26 hearing or, barring that, the issuance of your decision until federal regulations have been promulgated. We ask that you consider "competitiveness" in light of the lack of other insurers in rural New Mexico. Finally, we ask that any solvency review include factors such as BCBSNM's level of transparency and the interests of New Mexicans.

Sincerely,

Danice M. Picraux

New Mexico State Representative, District 25

Dede Feldman

New Mexico State Senator, District 13