

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
2007 JUN 19 AM 9:38
ADMIN HEARINGS OFFICE

IN RE: : **ALLEGED VIOLATIONS:**
: 40 P.S. §§ 1171.4, 1171.5
Blue Cross of Northeastern Pennsylvania :
19 North Main St. :
Wilkes-Barre :
Pennsylvania 18711 :
: :
: :
Respondent : Docket No. CO 07-05-027

CONSENT ORDER

AND NOW, this *18* day of *JUNE*, 2007 this Order is hereby issued by the Insurance Department of the Commonwealth of Pennsylvania pursuant to the statutes cited above and in disposition of the matter captioned above.

1. Respondent hereby admits and acknowledges that it has received proper notice of its rights to a formal administrative hearing pursuant to the Administrative Agency Law, 2 Pa.C.S.A. §101, et seq., or other applicable law.

2. Respondent hereby waives all rights to a formal administrative hearing in this matter, and agrees that this Consent Order, and the Findings of Fact and Conclusions of Law contained herein, shall have the full force and effect of an Order duly entered in accordance with the adjudicatory procedures set forth in the Administrative Agency Law, supra, or other applicable law.

3. Respondent neither admits nor denies the Findings of Fact or Conclusions of Law contained herein.

FINDINGS OF FACT

4. The Deputy Insurance Commissioner finds true and correct each of the following Findings of Fact:

- a. Blue Cross of Northeastern Pennsylvania (“Respondent”) is licensed as a hospital plan corporation with its principal place of business at 19 North Main St., Wilkes-Barre, Pennsylvania 18711.
- b. Respondent and its subsidiary First Priority Health, provides health insurance to members of the Pennsylvania Builders Association Benefits Trust (“PBA”) via a group contract.
- c. On or around late December of 2006, Respondent’s group contract with PBA was up for renewal.
- d. After that time, Respondent continued to perform under the PBA group contract, accepting premiums from PBA and providing benefits thereunder.
- e. By letter dated March 9, 2007, Respondents notified PBA members that the PBA group contract would be terminated effective June 1, 2007.

- f. Respondent was notified by the Pennsylvania Insurance Department that termination of the PBA contract constituted a failure to renew or continue in force health coverage at the option of the plan sponsor.
- g. Thereafter, on or about March 16, 2007 Respondent agreed to rescind its termination of the PBA contract.
- h. Respondent cooperated in the Department's review of this matter.

CONCLUSIONS OF LAW

5. In accord with the above Findings of Fact and applicable provisions of law, the Deputy Insurance Commissioner concludes and finds the following Conclusions of Law:

- (a) Respondent is subject to the jurisdiction of the Pennsylvania Insurance Department.
 - (i) The activities described above in paragraph 4(e) constitute violations of 40 P.S. §§1171.4 and 1171.5.
 - (ii) Such violations are punishable by the following, under 40 P.S. §§1171.8, 1171.9 and 1171.11:
 - (a) issuance of an order to cease and desist;
 - (b) commencement of an action for the following civil penalties:
 - (1) for each method of competition, act or practice defined

in Section 5 and in violation of the Act which the

person knew or reasonably should have known was such a violation, a penalty of not more than five thousand dollars (\$5,000.00) for each violation, not to exceed an aggregate penalty of fifty thousand dollars (\$50,000.00) in any six month period;

- (2) for each method of competition, act or practice defined in Section 5 and in violation of this Act which the person did not know nor reasonably should have known was such a violation, a penalty of not more than one thousand dollars (\$1,000.00) for each violation, not to exceed an aggregate penalty of ten thousand dollars (\$10,000.00) in any six month period;
- (3) for each violation of an Order issued by the Commissioner pursuant to Section 9 of the Act, while such Order is in effect, a penalty of not more than ten thousand dollars (\$10,000.00).

ORDER

6. In accord with the above Findings of Fact and Conclusions of Law, the Insurance Department orders and Respondent consents to the following:

- (a) Respondent shall not engage in the activities described herein in the

Findings of Fact and Conclusions of Law.

(b) Respondent shall pay a penalty in the amount of \$22,500. Payment shall be made by check payable to the Commonwealth of Pennsylvania, directed to Sharon L. Harbert, Office Manager, Bureau of Enforcement, 1227 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment must be made no later than thirty (30) days after the date of this Order.

7. In the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, based upon the Findings of Fact and Conclusions of Law contained herein, the Department may pursue any and all legal remedies available, including but not limited to the following: The Department may enforce the provisions of this Order in an administrative action pursuant to the Administrative Agency Law, supra, or other relevant provision of law; or, if applicable, the Department may enforce the provisions of this Order in any other court of law or equity having jurisdiction.

8. Alternatively, in the event the Insurance Department finds that there has been a breach of any of the provisions of this Order, the Insurance Department may declare this Order to be null and void and, thereupon, reopen the entire matter for appropriate action pursuant to the Administrative Agency Law, supra, or other relevant provision of law.

9. In any such enforcement proceeding, Respondent may contest whether a breach of the provisions of this Order has occurred but may not contest the Findings of Fact and Conclusions of Law contained herein.

10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

11. This Order constitutes the entire agreement of the parties with respect to the matters referred to herein, and it may not be amended or modified except by an amended order signed by all the parties hereto.

12. This Order shall be final upon execution by the Insurance Department. Only the Insurance Commissioner or a duly authorized delegee is authorized to bind the Insurance Department with respect to the settlement of the alleged violation of law contained herein, and this Consent Order is not effective until executed by the Insurance Commissioner or a duly authorized delegee.

BY: Blue Cross of Northeastern Pennsylvania,
Respondent



President / Vice President, GENERAL COUNSEL
SR.

On Behalf of the Insurance Department:



Terrance A. Keating
Deputy Chief Counsel