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PA INSURANCE DEPARTMENT
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HEARINGS OFFICE

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : VIOLATIONS:
: :
CAPITAL BLUE CROSS : Section 9(a)(1) of the Health and
2500 Elmerton Avenue : Accident Reform Act, No. 159
Harrisburg, PA 17110 : (40 P.S. § 3809)
: :
Respondent. : Docket No. CO04-01-001

CONSENT ORDER

AND NOW, this *18th* day of *March*, 2004, this Order is hereby issued by the Deputy Insurance Commissioner 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. § 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. Without admitting the allegations of fact and conclusions of law contained herein, Respondent specifically denies that it violated any law or regulation of the Commonwealth.

FINDINGS OF FACT

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

- (a) Respondent is Capital Blue Cross, and maintains its address at 2500 Elmerton Avenue, Harrisburg, Pennsylvania 17110.
- (b) Respondent, at all applicable times herein, has been a licensed Hospital Plan Corporation in Pennsylvania.

- (c) Between January, 2001 and March, 2003, Respondent utilized Addenda to traditional hospital agreements and to managed care hospital agreements that were not filed with the Department.

- (d) At all times herein, Respondent was required to file Addenda with the Department no less than 30 days prior to the effective date specified in the Addenda, but failed to do so.

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.

- (b) Section 9(a)(1) of the Accident and Health Filing Reform Act, No. 159 (40 P.S. § 3809(a)(1)) requires provider contracts to be filed by insurers with the Department no later than 30 days prior to the effective date specified in the contract.

- (c) The Department asserts that Respondent's activities described above in paragraphs 3(c) and 3(d) constitutes use of contracts that were neither filed nor approved, in violation of Section 9 of Act 159 (40 P.S. § 3809(a)(1)).
- (d) Respondent's violations of Section 9 of Act 159 (40 P.S. § 3809(a)(1)) are punishable under Section 13 of Act 159 (40 P.S. § 3813):
- (i) suspension or revocation of the license of the offending insurer;
 - (ii) refusal, for a period of not to exceed one year, to issue a new license to the offending insurer;
 - (iii) a fine of not more than \$5,000 for each violation of this act;
 - (iv) a fine of not more than \$10,000 for each willful violation of this act.

ORDER

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

- (a) Respondent shall cease and desist from engaging in the activities described herein in the Findings of Fact and Conclusions of Law.
- (b) Respondent shall pay a civil penalty of Ninety Thousand Dollars (\$90,000.00) to the Commonwealth of Pennsylvania. This penalty shall be payable to the

Commonwealth of Pennsylvania, and directed to Sharon L. Harbert, Administrative Assistant, Bureau of Enforcement, 1311 Strawberry Square, Harrisburg, Pennsylvania 17120. Payment may be enclosed with the Consent Order, but must be paid in any event no later than thirty (30) days after the date of the Consent Order.

7. In the event the Deputy Insurance Commissioner 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 Deputy Commissioner finds that there has been a breach of any of the provisions of this Order, the Deputy Commissioner 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.

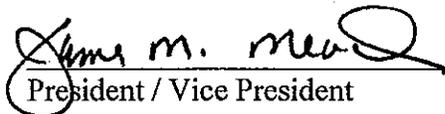
10. Respondent hereby expressly waives any relevant statute of limitations and application of the doctrine of laches for purposes of any enforcement of this Order.

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 Deputy Insurance Commissioner. Only the Insurance Commissioner or the duly authorized Deputy Insurance Commissioner 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 the duly authorized Deputy Insurance Commissioner.

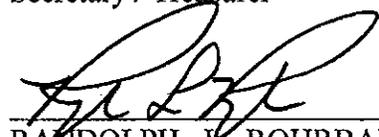
BY: CAPITAL BLUE CROSS, Respondent



President / Vice President



Secretary / Treasurer



RANDOLPH E. ROHRBAUGH
Deputy Insurance Commissioner
Commonwealth of Pennsylvania