

## 2008 NEWS

12/3/08 Gongwer News

### BLUES OPPONENTS ARGUE NEED FOR PROTECTIONS

Blue Cross Blue Shield of Michigan is losing money on its individual market business, but not as much as the company is asserting, opponents of a plan to reform regulation of the non-profit insurer said Tuesday. They argued legislation being discussed in the House would give the Blues too much authority to increase its rates free from state oversight. Members of the Put Michigan People First Coalition, which includes groups such as AARP and unions representing customers as well as for-profit insurance companies, urged the Legislature to hold off action on any changes in the Blues' regulation until next session. And they said they support a final solution closer to legislation as it came from the Senate if something is passed.

Though Blue Cross has argued the newest versions of the bills (HB 5282 and HB 5283) have customer rate protections built in, various members of the coalition said the final package must include the ability for the attorney general, the Office of Insurance and Financial Regulation and individual residents to request hearings on proposed rate increases for both group and individual coverage.

The latest drafts of the bills would allow hearings only on group coverage rates, opponents said.

"My concern with these bills is people who have disabilities will be priced out of the individual market," said RoAnne Chaney, health policy manager for the Michigan Disability Rights Coalition. "When prices rise, people go without health insurance."

She and others raised concerns about the inclusion of rate bands that would allow the Blues to set rates based on a customer's age, health and home address. She said the bands would mean even higher rates for those with disabilities.

"What these bills do is raise rates," said Eric Schneidewind, president of AARP Michigan. "They tie the hands of the insurance commissioner and the attorney general."

Attorney General Mike Cox has also spoken out against the proposal (See Gongwer Michigan Report, December 1, 2008).

OFIR is working with legislators to develop a compromise, said spokesperson Jason Moon. "The latest drafts do include some creative ideas including a uniform 6 month waiting period, minimum loss ratios with a requirement for refunds, and prohibitions on improper rescissions and reunderwriting," Mr. Moon said.

Blue Cross has argued the rate bands are needed to allow it to attract younger, healthier people to better spread the cost of those who need more health care. And it has argued that the consumer protections demanded by these groups and by Mr. Cox are included in the latest version of the legislation.

Mary Ablan, executive director of the Area Agencies on Aging Association of Michigan, argued the Legislature should wait not only for its own new session, but for the new federal administration.

"Let our new president make his proposals for the reform of the health care system," Ms. Ablan said. "There are many problems with the health care system and they require more systematic, national solutions."

Insurance attorney Joseph Aoun argued Blue Cross should only be allowed to consider as losses under the package those coming from customers for whom it could be the insurer of last resort, which would exclude any losses from Medigap coverage and group conversion, where former members of a group plan continue that same plan but pay for it themselves.

Mr. Aoun said that would drop Blue Cross' losses on individual markets for 2007 from \$245 million to about \$140 million. And of that, he said, \$111 million is projected losses for 2008-11 that also should not be counted in setting current-year rates.

But Andy Hetzel, vice president of corporate communications for Blue Cross, said none of those items can be taken out of the losses the Blues books for individual coverage. In addition to the simple designations that Medigap and group conversion are individual coverage and so belong on the losses for individual coverage, Mr. Hetzel said accounting rules require that the projected losses be included in the current year revenues.

"We're required by accounting rules to book a premium deficiency reserve," he said. "We know that our premiums are not going to account for the expenses. There's no way around booking those."

Medigap is also an important part of the calculation because of the number of large companies dropping coverage for retired workers. "Employers like GM formerly covered those people," he said. "They're turning them into the individual market."

And he said the projected losses "are a direct result of an inadequate regulatory system."

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12/2/08 MIRS NEWS

Blues: 'Label At Risk'

Blue Cross/Blue Shield of Michigan (BCBSM) could lose its "Blue Cross Blue Shield" moniker if its financial situation isn't turned around soon, and only the Legislature is in a position to help, company executives said today.

With its individual health care product quickly taking on water and the state's rate adjustment process too slow to respond, BCBSM said legislative action must happen sooner rather than later. The company's own projections show that by 2011, the licensing overseer of Blue Cross products nationwide would be forced to begin hearings that could strip a financially ravaged BCBSM of its name.

As BCBSM CFO Mark BARTLETT laid out the company's dire situation to the media this afternoon, BCBSM President and CEO Daniel LOEPP was sending out a letter to lawmakers, informing them of the extent of the crisis.

"The worst case possible for all of us is to have a situation whereby a Blue license is removed from any plan," Loepp wrote in his letter.

The news comes on the eve of lame duck, the last two or three weeks of the 2008 session in which pending legislation can be taken up. BCBSM wants legislative reform in the individual health care market before its

increasing popularity among the riskier population it is obliged to cover sinks the company.

At least one source said BCBSM employees were calling senators' offices from work today, urging action on the individual health care reform package.

BCBSM officials claim it's OK with one of two options -- a risk pool that all insurance companies selling individual market health care must kick into for the state's sicker clients or an assessment (also called the cherry-picking tax) for-profit insurers would have to pay BCBSM to subsidize the Blues' status as the state's insurer of last resort.

Either way, they claim something needs to be done about the pending "crisis." BCBSM is required by the Blue Cross and Blue Shield Association (BCBSA) to have a certain percentage of money in reserve to handle its projected risk. The BCBSA threshold for this "risk-based capital" is 375 percent.

BCBSM's 900 percent level in 2005 has dropped "precipitously" to 627 percent in 2008 and a projected 559 percent in 2009. The cause is the "unmanageable" losses in the individual group product, which is projected to lose \$250 million in '08 alone.

Asked directly if there was anything else BCBSM could do to mitigate the losses outside of legislative reforms to the state's regulatory structure of the individual market, Bartlett and BCBSM Vice President for Corporate Communications Andy HETZEL said no.

The dollars figures involved are too great and the process in achieving rate increases is too slow to react to the volatile market for BCBSM to react on its own.

Bartlett drew an analogy to the federal bailout of AIG, where the insurance carrier took on far too much risk and then didn't alert regulators of a problem until it was too late. In this case, BCBSM is telling lawmakers problems are on the horizon, but a crisis can be averted if regulatory reforms are made now.

"We would prefer the Legislature not wait for the situation to escalate into a crisis situation, where decisions are forced upon them," Hetzel said.

Attorney General Mike COX said today he finds the information hard to believe. His research has shown that BCBSM has, with the exception of two cases, never had any problem getting its proposed rate increases through the Office of Financial and Insurance Regulation (OFIR).

Cox conceded that rate cases could take up to 15 months and if the Blues wants the rate approval process sped up, he's willing to lend a hand.

But the type of "bad reform" BCBSM wants the Legislature to shove through in the next six days is not in anybody's best interest but BCBSM's.

While the state's not-for-profit health insurer submitted reams of information in response to a request he made weeks ago, he won't know for a week to 10 days if BCBSM addressed all of his questions on the individual group market situation.

In the meantime, Cox said the Senate Republicans' lead on the issue, Tom GEORGE (R-Texas Twp.), is getting frozen out of any real negotiations and that the impression he's getting is that BCBSM is taking a "you're-either-for-us-or-against-us" mentality with individual group reform.

Today's barbs came after BCBSM responded to Cox's request for information by today's deadline with reams of information that Cox said would take his staff a week to 10 days to sift through.

In other news, Cox said he is using some of his 501(c)4 money to run radio ads in the Detroit area critical of the BCBSM individual market reform package. The money comes from the Attorney General Cox Committee, an education fund that has accepted no donations from any insurance-related companies.

"We were being hit with a nuclear assault, and what we're responding with is a couple of broken-down pistols," said Cox in response to what he sees as a barrage of BCBSM media in favor of the package.

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12/2/08 Gongwer News

#### BLUES WARNS LOSS OF FRANCHISE; COX CALLS FOR RATE HEARINGS

Without some change that will stem the losses in the individual coverage market, Blue Cross Blue Shield of Michigan risks losing its franchise, company officials said on Monday. But Attorney General Mike Cox said any changes to the individual market had to include full hearings on the insurer's rates. Blue Cross Chief Financial Officer Mark Bartlett said the time to complete rate hearings is only one of the factors driving up the Blues' losses in the individual market. He said the insurer needs to be able to implement rate changes more quickly, it needs to be able to attract more healthy customers and it needs to have some market protection for being the insurer of last resort. And Mr. Bartlett said those changes need to be made quickly to stem the tide of losses the Blues is projecting into the coming years.

Mr. Cox acknowledged there would have to be some changes to the current individual health insurance market.

"I think that we need to preserve a strong Blue Cross and I believe there's going to have to be some changes in the regulation of the individual market," he said. But Mr. Cox urged legislators to hold off any action on HB 5282 and HB 5283, or any other Blue Cross bills, until his staff can complete its review of the financial information the insurer provided last week. "There's no reason why this can't be done in February or March or April and be done right," he said. Mr. Cox said his key concern about the legislation continues to be the lack of oversight it would provide to his office, which has been disputed by House Speaker Andy Dillon (D-Redford Twp.).

Though Blue Cross officials have said most recent drafts of the legislation do provide oversight, Mr. Cox said the bills would still allow a 75.4 percent increase in Medigap rates and a 37.7 percent increase in traditional individual coverage without a hearing. "The most I could do is ask for an actuarial review," he said. "There would be no hearings, no calling of witnesses." Mr. Cox argued the current rate filing system has not been as hard on Blue Cross as the company maintains, and he said he would be open to a system similar to that just approved for electric utilities that would allow the rate to go into effect in six months but to be corrected if it is later found excessive. Mr. Bartlett said, given the rapid cost increases in the market, Blue Cross needs to be able to file and implement rates more quickly and he said the current legislative proposals would do that. That certainty of quick rate increases is one of the things the company needs to protect itself from credit downgrades and potentially the

loss of its Blue Cross affiliation.

While current law requires the Blues to maintain a minimum 200 percent ratio of capital to risk, he said the Blue Cross Blue Shield Association requires a minimum of 350 percent and begins a review of any affiliate that drops below 450 percent. The Blues is currently at 627 percent, but Mr. Bartlett said current projections would bring that below 450 percent in 2011. That dropping reserve also could put the Blues' credit rating at risk, which could also harm its for-profit subsidiaries. And Mr. Bartlett said those subsidiaries have actually helped to boost the Blues' credit rating and reserve levels, not harm them as he said Mr. Cox has asserted in a lawsuit filed over the issue.

Mr. Cox said the concern over the subsidiaries, primarily the Accident Fund Company, is not what the purchases did to Blue Cross' bottom line, but whether the non-profit insurer had the legal right to purchase the for-profit companies. But Mr. Cox said he did still question Blue Cross' arguments of financial doom considering the whole of its financial filings. "They already made \$110 million profit this fiscal year," he said. "That is not a company going in the tank." Mr. Bartlett acknowledged the company has added to its reserves (it does not technically make a profit) the past several years, but he said that has been on the strength of group insurance business that has been flagging the last two to three years. The individual market, he said, is expected to lose \$166.5 million for 2008 after a \$130.9 million subsidy from the group policies. As the individual market grows, that loss also grows, he said.

And Blue Cross spokesperson Andy Hetzel argued provisions in the legislation that would have other insurers contribute to covering that loss are not designed simply to transfer revenue. "The assessment on private carriers is not just designed to raise money; it's designed to change behavior," he said. The assessments would not apply to companies that use a community rate similar to that used by the Blues. Whether that fee goes directly to Blue Cross or into some sort of high-risk pool Mr. Hetzel said is up to the Legislature. The Blues does not have a preference on that outcome, he said.

"We would like to see the Legislature finish work on a package that strengthens regulation on the non-group market and that contains a mechanism to address the financial problems in the market," he said. "We would prefer that the Legislature not wait for this to escalate into a crisis situation." But Mr. Cox still questioned that the issue was not about increasing the Blues' bottom line. He noted the current version of the bills would reduce the waiting period for preexisting conditions for all carriers, he argued that the original versions changed Blue Cross' waiting period to 12 months like most private carriers uses shows the underlying plan to boost revenue. And he argued that he and his office should have been included in the discussions on creating customer protections in the bills. "If they want a consumer protection bill we can draft one if they let us in the room," he said. Other groups continued to join Mr. Cox in raising concerns over the bills, including Michigan AFSCME Council 25, which objected to the potential for rate increases without hearings as well as to the provisions allowing Blue Cross to consider age and health in setting rates.

Mr. Bartlett indicated, as have others, that Blue Cross needed a product that would attract younger, healthier individuals to reduce overall risk. Rep. Marc Coriveau (D-Northville), who has been shepherding the legislation, could not be reached for comment on when the bills might be addressed in conference committee.

MIRS NEWS 11/18/08

Cox: BCBSM Painting State Blue

Attorney General Mike COX today showed reporters a slide show of Michigan maps carved out by legislative districts.

Those whose lawmaker received recent Blue Cross Blue Shield of Michigan political action committee (PAC) contributions were shaded blue. The maps were virtually all blue except for a few isolated spots.

"I guess we could say Michigan is becoming a blue state," Cox quipped, pointing to the map. "We know that 102 of the 110 Michigan House members got donations from the Blue Cross PAC over the last year. In the Senate, 36 or 38 members got donations -- even though the Senate wasn't up for election."

Cox is trying to prevent Blue Cross Blue Shield of Michigan's (BCBSM) individual market reform legislation (HB 5282 and HB 5283) from passing in the upcoming lame duck session. If the bills don't get passed before the end of this year, the legislation would need to start over again from scratch in 2009.

Cox is holding several press conferences on the topic across the state this week and next. They're accompanied by the usual whirls of rhetoric and mountain of handouts from both sides of the issue.

Step, by step, the Attorney General painted a portrait of Blue Cross trying to ram the legislation through in a lame duck session populated by lawmakers to whom it has given money and many of whom won't have to be accountable to the voters.

"They could have passed it before the election but didn't," Cox said. "So the question is, 'Why now?' And I think most of you already know the answer -- because there will be no time for evaluation and 46 of the House members won't be around after Jan. 1."

John TRUSCOTT, spokesman for the Consumers for Fair and Affordable Insurance Reform (CFAIR), the group backing the legislation, said Cox was telling a one-sided tale.

"Is he saying that employees of a company don't have a right to participate in the political process?" Truscott asked rhetorically. "If so, that's a very precarious position for him to take. The groups he was standing up with today participate just as much or more than Blue Cross does."

The groups that were represented at the Cox event were AARP and the Consumers Union, which publishes Consumers Reports magazine.

In spite of all the talk about the term-limited House in lame duck, the Senate has been and remains the stopper for these measures, which Cox claims are really about Blue Cross "cooking the market" for its future. The original, "very Blues friendly" version of the bills shot through the House 13 months ago with few members having taken a good look at them.

Some House members took it in the chin for that vote, as unions and consumer groups joined Cox in opposing the legislation. Somewhat more reluctantly the House voted for the bills a second time in what was really a

procedure vote this summer. It's believed the House could again garner the votes for passage of the bills in lame duck.

But House Speaker Andy DILLON (D-Redford Twp.) may resist bringing the bills up for yet another vote, unless he's sure Senate Majority Leader Mike BISHOP (R-Rochester) will bring them up -- and that they'll pass.

Senate Health Policy Committee Chair Tom GEORGE (R-Texas Twp.), the Blues' top obstacle in the legislature, plans to "gut" what Blue Cross wants. He wants to keep the Attorney General's regulatory oversight and not tax competing insurance companies to shore up a community pool for high-risk subscribers.

So far, Bishop has been willing to back-up George, but the Blues have been applying heavy pressure. Bishop could step aside, as he did on last year's tax hike vote and this year's smoking ban vote. In both cases, he voted no while the legislation passed. Most observers believe that would be the case with the Blues bills, as well.

But Bishop may have paid a very heavy price for allowing the tax hike vote to take place. What's more, this time around there are independent insurance companies, unions and consumer groups urging him not to allow a vote. At this point, insiders say it's difficult to predict what Bishop will do.

The Blues claim they're hurting financially and without the legislation, the survival of Blue Cross as Michigan's insurer of last resort is at risk.

If this is true, Cox said Blue Cross should open up its books for an audit and ask to be allowed to institute a rate hike. Minus this action, Cox said he suspects Blue Cross is just faking sick.

"What they're doing is putting what would be profits -- if they were a for-profit company -- into their reserves.

Their reserves are at 680 percent. They're only required to have 400 percent."

Cox also pointed out that Blue Cross hasn't exactly acted like a company that is hurting for money. His slideshow pointed out the following:

- Blue Cross "jacked up" its price 88 percent over the past five years
- Meanwhile, the salaries of the top executives for the Blues have gone up 53 percent
- The Blues tax break has equaled \$1 billion, while it has paid only \$52 million fulfilling its "insurer of last resort" responsibility
- It has paid \$400,000 lobbying for the legislation and more in public relations
- It spent \$16.5 million advertising in '06 and again in '07
- It has recently spent millions purchasing other companies

"That's about \$500 million it could have spent to lower rates," Cox said, in reference to the purchasing of other companies -- some of which were out-of-state. He also pointed out that the Blue Cross groups in some other states have become for-profit companies and suggested that's what Michigan's Blue Cross may have in mind here.

Truscott called all of this, "pure baloney."

"When Mike Cox moved up from the prosecutor's office to become Attorney General, did he get a pay increase? Of course he did," Truscott said. "This kind of selective use of the facts is an abuse of the process."

Cox, who created a gubernatorial exploratory committee, repeatedly compared the Blue Cross legislation to the recent national financial crisis in the credit markets.

"Blue Cross wants to deregulate the market," he said more than once. In addition, he also compared a potential lame duck on the bills to last year's passage of the ill-fated service tax.

Truscott said these comparisons by Cox don't stand up under scrutiny.

"That shows an ignorance of the legislative process," Truscott said. "This legislation creates a level playing field. It reduces the ability of other companies to cherry pick the healthier people and it creates the same rules (for all companies) on pre-existing conditions."

"What the Attorney General admitted today was that neither he nor his attorneys read the latest compromise," Truscott continued. "I think as an elected official he should have at least done that before saying these things."

Dillon issued a press release blasting Cox for "his selfish grandstanding and inaccurate attacks" on the fifth version of individual market reform legislation, which was released Monday. Dillon then picked at four details the Attorney General made about the new legislation that aren't right.

BCBSM took a different approach in its release, urging Cox to support stronger regulation for for-profit insurance companies by ending some of their "anti-consumer" practices, including stopping insurers from jacking up rates because their medical status has changed.

The draft "compromise" also protects women from gender-setting premiums, discourages insurers from rejecting applicants, reducing the waiting period for pre-existing conditions to six months as opposed to 12 and prohibits insurers from taking more than 10 percent profit on senior products.

Andy HETZEL, BCBSM vice president of corporate communications, also said the bill maintains the BCBSM's "insurer of last resort" status.

"We hope Michigan's leading consumer advocate will join Michigan's leading health insurance company and lawmakers from both political parties to support stronger regulation and consumer protection in the individual health insurance market this year," Hetzel said.

David WAYMIRE, spokesman for the AARP-led consumer coalition "Put Michigan People First," said the newest version of the House bill is a bigger giveaway to Blue Cross than the original legislation.

The bill creates a new risk pool by a different name, releases Blue Cross of its responsibility as insurer of last resort and allows the not-for-profit to keep its tax-exempt status, Waymire said.

To suggest the legislation is a "compromise" is infuriating, Waymire said, considering the Senate Republican leadership was not involved and House Republican support for the package is spotty. He challenged conference committee chair Marc CORRIVEAU (D-Northville) to hold a hearing on the issue since negotiations on the House side have been held primarily behind closed doors.

"The only compromise is between the left hand of Blue Cross and the right hand of Blue Cross," Waymire said.

MIRS NEWS 11/6/08

Anxious Senate Sitting On Blues Issue

Senate Health Policy Committee Chair Tom GEORGE (R-Kalamazoo) is saying, "Let's wait" and Senate Majority Leader Mike BISHOP (R-Rochester) reportedly has his back.

But others in the Senate GOP caucus disagree. Hanging in the balance is whether the lame duck legislature tackles the individual market legislation being pushed by Blue Cross Blue Shield of Michigan (BCBSM). The disagreement on timing may come to a head during an afternoon retreat of Republican senators on Thursday afternoon in East Lansing.

BCBSM CEO Dan LOEPP has reportedly made the rounds to individual lawmakers urging immediate action. Loep is making the argument that the financial health of BCBSM is at risk. He points to a 25 percent drop in the company's cash reserves from \$3.2 billion down to \$2.4 billion.

And with the impending merger in the auto industry, theoretically more autoworkers may find themselves in the individual market and the Blues want to be sure they can compete for those dollars.

It appears that Sens. Randy RICHARDVILLE (R-Monroe), Alan CROPSEY (R-DeWitt) and Jason ALLEN (R-Traverse City) are at the front of the line pushing for a vote now. George several weeks ago confirmed that he wanted to wait because he was not happy with the product that was emerging from a work group assigned to write a compromise.

Complicating the debate, there are rumblings that Bishop's tenure as leader may be in play as well if a vote on the Blues does not materialize sooner rather than later.

(Contributed by Senior Capital Correspondent Tim SKUBICK.)

"THE FINANCIAL CRISIS AND HEALTHCARE REFORM"

Chicago Tribune -

Oct. 12: The financial markets are gyrating. The world economy is teetering. The U.S. government is making a \$700 billion or more bailout to avert a worldwide disaster. No surprise, health care has become a side show. Or has it? Not only does this upheaval actually make health-care reform more pressing, it makes comprehensive reform change in the way health care is paid for and how care is organized and delivered more realistic and feasible.

"Socialism" has come to Wall Street. For more than 60 years, Republicans have criticized as "socialized medicine" any reform proposal that gave government a central role in funding health services or in regulating providers.

The charge has always been false. True socialism requires governmental ownership of the means of production. No health-care reform proposal, even the most ardent single-payer plans, ever suggested the government should employ doctors, or own hospitals, pharmacies, home health-care agencies or drug companies. Moreover, in the current system, the government already pays for more than 40 percent of the health-care bill. With a Republican administration leading the takeover of Freddie Mac, Fannie Mae, American International Group Inc., and the purchase of housing securities, it hardly seems credible to criticize health-reform plans as socialized anything. The phenomenal failure of Wall Street dramatically changes the appetite of the country for regulation and for shoring up the safety net. With trillions of dollars evaporating in this crisis, millions of middle-class Americans face the prospect of losing their homes and jobs, and witnessing a dramatic contraction of their retirement savings. In response, the public will desperately want financial security, and health care is a critical element of that.

This financial crisis also means Americans may be more willing to forgo gold-plated comprehensive insurance that covers everything with few restrictions. Under the threat of losing everything, Americans may feel content with the guarantee of a decent plan that covers cost-effective treatments with some restrictions on choice and services to save money. This should enhance the chances for a bipartisan deal on health care.

With politicians and regulators committing \$700 billion in a single week, spending a few hundred billion to make the health-care system cover everyone more efficiently and at higher quality begins to look like chump change.

This upfront spending can create the infrastructure such as systematic measurement of quality and patient outcomes for serious health-care cost savings. After the last several weeks, health-care investment appears more reliable and politically palatable than bailing out bankers and other gamblers.

The huge increase in the federal debt that these bailouts will entail intensifies the pressure to rein in health-care costs. This favors comprehensive rather than incremental reform.

Before the financial crisis, the most likely options for controlling government health-care costs involved tinkering around the edges striking a new deal between Medicare and physicians on their pay, initiating more demonstration projects in paying for performance and efficiency, and assessing comparative effectiveness of new tests and treatments.

While absolutely valuable, these policies are far from certain to control health-care costs and it will be five or 10 years before they are likely to generate savings. Paradoxically, only more radical changes in the health-care system are likely to actually save money and improve care and more quickly. For instance, the Wyden-Bennett health-care bill which proposes more extensive changes than either Barack Obama's or John McCain's proposals is the only health-care legislation scored as budget neutral by the Congressional Budget Office.

The CBO said that in the first year of full implementation, the expenditures would equal revenues, and in subsequent years the Wyden-Bennett bill would generate a surplus because it would save the health-care system money. The Lewin Group, a health-care policy research and management consulting firm, estimated that within a decade this plan could save as much as \$1.4 trillion. No other health-care legislation comes close.

Some will find this comprehensive reform unpalatable because it removes employers from health care altogether. As the economy stagnates, this may be absolutely necessary to keep employers afloat. Facing a rising deficit, more comprehensive reform that can really control costs begins to look more realistic than a few untested adjustments here or there.

The dean of health-care economists, Victor Fuchs of Stanford, has long maintained that we will get health-care reform only when there is a war, a depression or some other major civil unrest. It's beginning to look like we might just have all three.

While the financial crisis has appeared to knock health care off the national agenda, in the strange chemistry that

is American politics, it may in fact make comprehensive health-care reform more politically feasible, indeed maybe even absolutely necessary for fiscal stability.

Wednesday, October 29, 2008

Don't rewrite Blue Cross law in lame duck session

The Detroit News

With the economic upheaval afflicting the state, more residents are losing their job-related group health insurance and turning to Blue Cross Blue Shield for individual coverage. Blue Cross is pushing for a major overhaul of state law regarding individual health insurance in this year's lame duck legislative session. That's a bad idea.

The issue is extremely complex. A lame duck lawmaking session of a couple of weeks, which would be held after next week's election, is not the place or time to solve it.

Circumstances are particularly unpropitious this year. A year ago, a majority in the state House of Representatives rushed through a Blue Cross-backed legislative package with no hearings. The state Senate took more time this year and held a number of hearings, drafting its own amendments to the House bills. The House, however, rejected the Senate's work.

Now, both the House bills and the Senate legislation are in a conference committee. Any compromise legislation reported out of the conference would have to be adopted without hearings or amendment by both houses of the Legislature. That's a bad process for a major change in Michigan's health insurance policy.

Making it worse is the fact that there are other pressures facing the Legislature, such as demands for dropping the surcharge on the state's new business tax or direct revisions to the business tax itself. If a series of legislative trades occurs, there is no telling what may emerge by the end of the year.

Blue Cross points out, rightly, that urgent action is needed. Its officials point to a deteriorating financial position, in which more and more people are losing their group health insurance as firms fold or drop insurance. Displaced workers are switching to individual policies, and the insurance pool for such coverage is gaining more and more people who are older and less healthy.

Blue Cross notes that it has gained 59,000 new individual coverage policyholders since 2006, an increase of 96 percent, but it expects its losses in this segment of the market to reach \$264 million by 2009.

Blue Cross officials contend that the company is in danger of such a large decline in the overall ratio of its financial reserves to its possible risks of loss that it could lose the right to call itself a Blue Cross insurer.

But the officials candidly admit that their preferred reform to solve the problem would entail raising costs on some sicker people while allowing Blue Cross to more aggressively compete through lower premium costs for younger, healthier people. They may well be right that this is necessary if they are to continue to be the insurer of last resort in this state.

This kind of change, though, should not be made in a last-minute flurry of activity during the holiday period.

A lot of work has been done on this issue by both houses, so it should be resolved quickly early next year. This state's unhappy experience with the new business tax shows what can happen when major changes are rushed through at the last possible minute.

October 28, 2008

'Lame duck' is no time for Blues bills

LANSING STATE JOURNAL EDITORIAL

Huge insurance rewrite should get full attention

Attorney General Mike Cox is worried the Legislature soon will focus work again on bills to revamp state insurance law. Blue Cross Blue Shield of Michigan has strongly backed an overhaul of insurance laws.

He's right to be worried - and right to urge delay at the State Capitol.

One of the sad traditions under the Capitol dome is to use so-called "lame duck" legislative sessions to rush through items that lawmakers don't want scrutinized. With citizens engaged with the holiday season and an election cycle safely navigated, legislators have seen November and December as an opportunity to work largely free of oversight.

In fact, that was the original plan for the Blue Cross bills. The package was rushed through the House last October, with only two weeks between them being filed and being voted out of the House and into the Senate.

The Senate and Gov. Jennifer Granholm were supposed to quickly follow suit and this revamp would have been a done deal by Christmas 2007.

The bills stalled though, and consideration continued in 2008 at a much more reasonable pace. As matters stand, two of the bills are in a House-Senate conference committee and two are in the Senate itself.

While Cox is worried about imminent action, representatives of Senate Majority Leader Mike Bishop and House Speaker Andy Dillon told the Gongwer News Service recently that no plans were in place for lame-duck work on the bills.

Good.

There are elements within these bills that are enticing. For the Lansing area, the opportunity for a larger Accident Fund Insurance Co. of America, able to grow by writing insurance beyond its workers comp line, is most exciting. The problem with the Accident Fund initiative has been the issue of fairness. Other insurance companies in this state, with large numbers of employees in the Lansing area, have argued that they would be at a disadvantage because Accident Fund is backed by money from Blue Cross, a nonprofit firm that provides charitable care in exchange for a state tax exemption.

And Cox's office is still in litigation over how money from Blue Cross was used by Accident Fund to buy another firm.

Nearly 10 months have passed in 2008. The Legislature has done quite a bit of work on these bills in this time.

Lawmakers also have had plenty of off days, too.

In that light, it seems prudent to avoid any last-minute, lame-duck rush to pass anything on this topic.

COMPROMISE BEING SOUGHT ON BLUES BILLS

Lawmakers are now beginning the process of seeking out a compromise on the Blue Cross/Blue Shield of Michigan bills, HB 5282 and HB 5283, and officials are confident a resolution will be reached. House Speaker Andy Dillon (D-Redford Twp.) has asked Insurance Committee Chair Rep. Virgil Smith III (D-Detroit) to form a workgroup to begin the process of searching out a compromise on the issue.

The Senate passed the two bills on Thursday. Two other bills in the package, HB 5284 and HB 5284 (which deal with the Accident Fund) have been held up as Attorney General Mike Cox has asked for information about a recent corporate purchase.

Mr. Smith and a spokesperson for Mr. Dillon said the House has not yet finished its review of the Senate versions of the bills.

The two are, however, considerably different from the versions of the bills the House passed last fall. Among other issues, the House version of the bills dealt more with keeping rate changes for individual health insurance within certain ranges.

But Greg Bird, spokesperson for Mr. Dillon, said legislators were confident an agreement could be reached.

And Mr. Smith said he hoped all four bills would end up in the package. He would prefer that lawmakers resolve all their issues on the four bills together.

The important thing is, Mr. Smith said, is that action on the bills is continuing.

MIRS NEWS 5/5/08

Blues Workgroup To Start Next Week

Next stop for the Blue Cross/Blue Shield of Michigan (BCBSM) legislation is a workgroup, House Insurance Committee Chair Virgil SMITH (D-Detroit) told MIRS today.

Smith plans next week to convene a group with one representative apiece from the House and Senate party caucuses, the Blues, UAW and the Coalition for Access and Affordability in Michigan (CAAM) of commercial carriers.

When asked what kind of timeline he was looking at, Smith said, "It isn't going take us six months like the Senate. I'm willing to work every day to get it done."

Senate Republicans have constantly criticized the House for rushing through individual market reform legislation in November after one hearing. The Senate Health Policy Committee held nine hearings since January on the bills. On Thursday, the Senate passed a compromise on HB 5282 and HB 5283 between substitutes offered by Health Policy Chair Tom GEORGE (R-Texas Twp.) and Sen. Jason ALLEN (R-Traverse City) (See "Two Blues Bills Clear Senate," 5/1/08).

Senate GOP spokesman Matt MARSDEN said he wasn't aware of the workgroup but wondered the House would not just convene a conference committee.

Legislation did not create a high-risk pool, which the Blues had aggressively pushed for, and was a key part of the House versions. Smith said he has not read the final versions and wasn't ready to make a statement. But he does know George's subs "in and out and I don't agree with those subs at all." Smith wants to see legislation with a high-risk pool and rate bands.

Greg BIRD, spokesman for House Speaker Andy DILLON (D-Redford Twp.), said the Speaker hasn't put a timeline on the legislation, but said it "remains one of our priorities." Dillon has set the goal for the budget and one piece of major legislation — the Blues, energy or water protection — to make it through the Legislature by the July 4th break.

Bird said he was confident that a compromise could be reached.

John TRUSCOTT, spokesman for the pro-BCBSM Consumers for Fair and Affordable Insurance Reform (CFAIR), said he knew things were "moving fast and furious" in the House. He said the coalition was disappointed in the Senate bills and how fast they moved Thursday.

"We didn't even see what they passed before they put it up," said Truscott, whose coalition supported the Allen subs that included a high-risk pool.

CFAIR hopes that an "actual compromise" can be found in the House and believes bills will be closer to the original House versions.

"It's just a matter of how much it moves in the end and we'll see if it's something we like," Truscott said.

As for the Senate's non-movement of HB 5284 and HB 5285, which allows BCBSM subsidiary The Accident Fund to expand into other insurance markets, Smith said he was "very disappointed." Attorney General Mike COX is inquiring about the Blues' purchase of the Accident Fund and George said he isn't eager to take the bills up until the AG gets some answers.

"Being from Detroit," Smith said, "adding competition and more lines of insurance is a good thing. We need more competition and fairness."

GONGWER NEWS 5/2/08

BLUES BILLS PASS CONTENTIOUS SENATE

After spending months reviewing a package of bills that would restructure Blue Cross/Blue Shield of Michigan, the Senate rushed through two key bills on Thursday, new compromises to HB 5282 and HB 5283 that supporters said would provide greater consumer protection to all persons with private health insurance.

"Rushed," however, was a relative term in respects to HB 5282 and HB 5283 as officials of BCBSM objected to new substitutes for the bills and Senate Democrats objected to the effort to move the bills through the chamber (though the bills were likely destined for a conference committee) which led to both sides using parliamentary moves before the votes were held.

Both bills passed on a 23-13 vote, with Senate Minority Leader Mark Schauer (D-Battle Creek), Sen. James Barcia (D-Bay City) and Sen. John Gleason (D-Flushing) all voting for the bills while other Democrats opposed the measures.

Sen. Bruce Patterson (R-Canton) did not vote on the bills. He had complained earlier that members were not getting enough time to review the substitutes. (Sen. Gilda Jacobs (D-Huntington Woods) was excused for jury duty.)

The measures were criticized by BCBSM as not providing meaningful change and adequate consumer protections. But they were praised by BCBSM's opponents for not including a high-risk pool that would amount to a de facto tax increase.

The action Thursday followed a one-day delay of the Health Policy Committee as officials and legislators discussed changes to the bills. (The Health Policy Committee and the full Senate did not deal with HB 5284 and HB 5285, which deal largely with the Accident Fund, as Attorney General Mike Cox has asked BCBSM for information on a funds transfer to the Accident Fund shortly before the Accident Fund purchased a company.)

Sen. Tom George (R-Kalamazoo) said earlier in the week he thought it might be next week before the committee acted, but he said after the Senate adjourned that Senate members wanted to keep to the initial schedule for action on the bills.

Plus, he said after discussions it was clear that there were a large number of elements in the various substitutes and versions that had common ground and could be enacted.

The new substitutes attempt to blend elements of the substitutes to the bills that Mr. George and Sen. Jason Allen (R-Traverse City) both sponsored.

The bills do not create a high-risk pool for individuals otherwise unable to get insurance, as Mr. Allen's substitutes did, but require the state to conduct a year-long study on high-risk pools and make a determination if one should be enacted in Michigan.

The bills also shorten to six months, from the current 12 months, the length of time a commercial health insurance company can refuse to provide coverage for pre-existing conditions (both earlier sets of substitutes also did that).

The substitutes do not change current oversight provisions for BCBSM but provide a shorter time frame for the state to act on rate requests by BCBSM.

The measure also allows BCBSM to base rates on an individual's tobacco use and participation in health screenings and wellness programs (as Mr. George's substitute proposed) and allow for the company to establish rates in five different territories (as Mr. Allen's substitute proposed).

It also adds two new members of the BCBSM board, one appointed by the House speaker and the other by the Senate majority leader, and requires BCBSM to issue an annual report on its social mission activities.

And the package requires that commercial health insurance companies maintain a standard loss ratio of 60 percent and to provide refunds to customers if that ratio is not met.

Mr. George told the Senate that a vote against the package "is a vote against consumer protection."

The package turns "what is otherwise a battle of insurance companies to benefit people," he said, because "the health of the people is paramount."

But Sen. Hansen Clarke (D-Detroit) worried that the package could actually upset its good intentions if it is not reviewed carefully. There was much in the package that appeared good, he said, but lawmakers needed more time to review the bills to ensure they would accomplish what they intended.

Senate action came after a day of maneuvers. The Health Policy Committee came into session in the morning and almost immediately went into recess as Democrats wanted more time to review the measures. Republican committee members also caucused until Mr. Patterson arrived. Mr. Patterson said he had only gotten notice of the meeting after 10 p.m. the night before and only gotten the legislation that morning.

The committee was still in recess when the Senate went into session. The committee was given leave to meet during the session, but after some time being unable to take any action the committee recessed again.

Senate Majority Floor Leader Alan Cropsey (R-DeWitt) called for the bills to be discharged which Democrats objected to. On party line votes the measures were brought to the floor. Once they were moved to third reading, Senate Minority Floor Leader Buzz Thomas (D-Detroit) called for the bills to be read.

That prompted Mr. Cropsey to call for a call of the Senate, where Senate members are locked in the chamber, to ensure that all members were there as the bills were read.

While Secretary Carol Viventi read HB 5282 (the motion to read HB 5283 was later dropped), no one in the Senate appeared to pay attention to her as members talked to each other, talked on the phone or ate lunch.

When she finally completed reading the bill, members and staff applauded.

Helen Stojic of BCBSM said that throughout the process of reviewing the legislation it has been clear that more Michigan residents are becoming reliant on individual health insurance and the system does little to help them. She said the company hoped the House would try to craft new solutions to the bills.

But Denise DeCook with the Coalition for Access and Affordability in Michigan praised the bills for not creating a risk pool that would have been an effective tax increase on insurance customers.

MIRS NEWS 5/2/08

Two Blues Bills Clear Senate

Two of the long-awaited Blue Cross/Blue Shield of Michigan (BCBSM) bills finally passed the Senate today after being discharged from the Health Policy Committee this afternoon.

HB 5282 and HB 5283 passed 23-13, with Sen. Bruce PATTERSON (R-Canton) not voting. Senate Minority Leader Mark SCHAUER (D-Battle Creek), Sen. Jim BARCIA (D-Bay City) and Sen. John GLEASON (D-Flushing) crossed over with Republicans.

"The health of the people of Michigan is paramount," said Chair Tom GEORGE (R-Texas Twp.). "This turns a battle of insurance companies into something that benefits the people of Michigan."

The deal went down yesterday afternoon with George, Senate Majority Leader Mike BISHOP (R-Rochester), Sen. Jason ALLEN (R-Traverse City) and caucus members. Democratic members of the Health Policy committee, Gleason, Sen. Gilda JACOBS (D-Huntington Woods) and Sen. Hansen CLARKE (D-Detroit) were consulted, George said.

Though he knew Democrats had some concerns George candidly said the coalition could break down if there had been another hearing next week.

"I know they wanted more time. It was a real dilemma for me as Chair, in particular," George said. "But when

you've got the votes, vote."

One Democrat described the legislation as a "giant punt" by Republicans, who didn't want to hash out the big issues. In the Democrat view, the GOP was split three ways among Blues sympathizers, commercial carrier advocates and George, who had his own view as a doctor and not exactly a friend of the Blues.

As for the Dems, they were split, though not as much, between labor and the Blues. There was a feeling that more comprehensive legislation could have been passed if the Dems and pro-BCBSM Republicans could get together, but Democrats blame Bishop for holding that up.

The Health Policy Committee did not hold a meeting Wednesday to move the bills, causing strained relations between George and Bishop, who wanted a more aggressive timetable to get legislation through the Senate. Health Policy met starting about 9:20 a.m. today and was at ease for most of the time until the afternoon. The Senate adjourned at 10 a.m.

George introduced a compromise in committee similar to the one he outlined last week that includes elements of both his substitutes and Allen's. It did not include a high-risk pool, which the Blues had aggressively pushed for, and was present in Allen's bill.

George's proposal for a \$100 million charitable social mission fund with BCBSM's excess surplus also got scrapped.

The Chair apparently came out the biggest winner, as the subs looked an awful like the stripped-down compromise he proposed last week (See "Blues Back Allen Bills," 4/24/08).

Legislation includes consumer protections without changing the Attorney General's role, expediting rate filings and a one-year study on the individual market and high-risk pools. The Blues can take behaviors such as smoking into account in rates, something backed by George, a physician.

The legislation also shortens the pre-existing condition exclusion to six months for commercial carriers, which can exclude for one year. There also would be two new BCBSM directors to include one public member appointed by the Senate Majority Leader and one by the House Speaker.

Patterson noted that the adoption of the subs for discussion purposes in committee violated Mason's rules, so the votes were rescinded and taken again. Patterson stressed that he had not read the bills and had only received a voicemail about the meeting at about 10 p.m. Wednesday.

George said he respected Patterson's decision not to vote and didn't see any long-term harm, saying the Canton lawmaker was "an excellent Vice Chair and I appreciate his help on the issues."

After caucus sessions, bills were discharged on the floor about noon. Democrats tried to stop both bills from being sprung, but that failed on party-line 21-16 votes.

Democrats held up the process by calling for the 21-page HB 5282 and 17-page HB 5283 to be read. Secretary of the Senate Carol Morey VIVENTI read HB 5282 over a steady stream of noise in the chamber. That gave the Dems enough time to check in with their labor allies and see if they were satisfied with the legislation, which they largely were.

Minority Floor Leader Buzz THOMAS (D-Detroit) spared her and withdrew the motion to read HB 5283.

"I don't think there will be any objection to that," quipped President Pro Tem Randy RICHARDVILLE (R-Monroe). Clarke protested voting on the bills after having 40 minutes to read them. He said that there should be another committee hearing and expressed concern that the new versions (dubbed by the Chair as the "George Allen" subs) didn't adequately address the health care costs in the individual market.

"We shouldn't be dealing with this issue on the fly," Clarke said.

Clarke noted "all the special interest lobbyists in the galleries" and said they were the reason the legislation was moving "so fast, so soon."

On April 16, Clarke made a motion to adopt Allen's subs before they had even been handed out to committee members. He withdrew his motion a minute later. Clarke had talked about the urgency of getting the legislation through (See "New Subs Emerge On Blues Bills," 4/16/08).

George notes that Health Policy has held nine hearings since January, covering all aspects of the legislation, including high-risk pools, Attorney General oversight and the status of the individual market.

"There was nothing in the new substitutes that was brand new," he said.

When asked to comment on Clarke's apparent change of heart on timelines, George declined.

BCBSM was not pleased with the outcome, but Vice President of Communications Andy HETZEL called it "just one step in the process." The Blues and their allies in the Legislature are looking to the House or a conference committee to produce more palatable legislation.

"We're disappointed that the bills passed lacked the comprehensive amount of reform passed in the House last year," Hetzel said.

He said that Michigan's individual market hasn't undergone change in 30 years and much is needed, stressing the need for a high-risk pool as in other states.

"Unfortunately, Sen. George's bills are a Band-Aid on a gaping wound. It's a quick-fix approach that does little to help consumers," said John TRUSCOTT of the pro-Blues Consumers for Fair and Affordable Insurance Reform. "As the legislative process moves forward, we would hope for and urge legislators from both sides of the aisle to take a more comprehensive, complete approach and reach a sound, substantial compromise that focuses on protecting people, not the interests of the commercial insurers."

Meanwhile, the anti-Blues Coalition for Access and Affordability in Michigan (CAAM) was ready to pop the Champagne.

"Today the Michigan Senate voted against a tax increase — to which we say, Good work!" said spokeswoman Denise DeCOOK. "By resisting efforts to establish a risk pool, the Senate's bipartisan action guarantees that Michigan citizens who buy health insurance will not be slapped with what amounts to a tax hike on their premiums."

Accident Fund Bills In Limbo

So what ever happened to the other two bills, HB 5282 and HB 5283?

The bills allowing the Accident Fund, a BCBSM subsidiary, to sell other forms of insurance were not considered in committee or on the floor. Attorney General Mike COX is inquiring about the Blues' purchase of the Accident Fund. George and the anti-Blues groups have told MIRS they're uncomfortable passing those bills until Cox's questions are answered.

George said "there's a good case to be made to my colleagues" to delay a vote until Cox is finished. The workgroup agreed not to take those bills up today.

But BCBSM is getting increasingly impatient with the Senate.

"The Accident Fund represents jobs and economic development for the state of Michigan," Hetzel said. "If the Legislature is interested in supporting economic development for a Michigan-based company to be competitive nationally and bring jobs back home, they will move these bills."

GONGWER NEWS 4/29/08

#### ACTION ON BLUES BILLS DELAYED FOR DISCUSSIONS

With discussions on a compromise continuing, committee action on a package of bills making changes to the structure of Blue Cross/Blue Shield of Michigan has been delayed.

Senate Health Policy Committee Chair Sen. Tom George (R-Kalamazoo) said he wanted to continue discussions between different sides in hopes of reaching concurrence on a compromise proposal to HB 5282, HB 5283, HB 5284 and HB 5285.

A committee meeting is unlikely this week on the subject, Mr. George said, though he held out the possibility of a meeting next week.

"It would have been nice to move forward, but we're not ready yet. This is not like the budget when we need to be done by a certain time. I'm more concerned about the outcome than I am about the date," Mr. George said. He and other Senate members of the Health Policy Committee have been in discussions as part of a workgroup formed by Senate Majority Leader Mike Bishop (R-Rochester). Mr. Bishop urged the group to reach concurrence on a proposal that would win a majority in the caucus.

Some sources have indicated the majority GOP caucus in the Senate is nearly evenly split on proposed substitutes to the bills drafted by Mr. George and substitutes drafted by Sen. Jason Allen (R-Traverse City).

Some Democrats have also supported the Allen substitutes, but for the time being they are watching to see what the Republicans come up with as a proposal.

"They will have to come to us with whatever they come up with," one Senate Democratic official said.

Mr. George said there are areas of "overlap" between his substitutes, Mr. Allen's substitutes and the bill versions passed last fall by the House. There are also considerable areas of difference.

Between the two Senate versions, Mr. Allen's substitutes create a shared risk pool where individuals not otherwise able to get insurance could obtain coverage, but critics have said the substitutes weaken oversight and allow for large rate increases.

Mr. George's substitutes would require BCBSM to use some of its reserves to underwrite coverage for uninsured people and would give BCBSM some ability to adjust rates based on a person's health behaviors. But critics have said those substitutes are too restrictive on the health insurance giant.

BCBSM has supported the Allen substitutes while Attorney General Mike Cox and others have backed the George substitutes.

On Tuesday, different consumer and health advocacy groups - who have mostly opposed BCBSM in the issue - called on the Senate to enact a proposal that would prevent individuals from being dropped by health insurance companies, conduct a one-year study of the individual health insurance market before making any changes to its regulation, grant Rights Coalition.

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#### MIRS NEWS

##### Blues Bills Shelved For Now

So much for the Blues bills moving in April.

Thanks to the one-two punch of a new investigation by Attorney General Mike COX into the Blue Cross Blue Shield of Michigan's (BCBSM) purchase of the Accident Fund and ongoing negotiations over a compromise, Senate Health Policy Chair Tom GEORGE (R-Texas Twp.) has canceled Wednesday's meeting.

The plan had been to vote out his substitutes for the individual market reform bills that overwhelmingly passed the House last fall. Sen. Jason ALLEN (R-Traverse City) had also introduced subs that contained some of the elements in the House versions that George eliminated, most notably a high-risk pool. That won the eventual support of the Blues and the pro-BCBSM coalition, Consumers for Fair and Affordable Insurance Reform (CFAIR). "There's been some identifiable common ground," George told MIRS today. "But it would be imprudent to vote at this time."

"It appears there is unanimous support for a substitute in the Senate," said Denise DeCOOK, spokeswoman for the Coalition for Access and Affordability in Michigan (CAAM), which represents commercial insurers and opposes the Blues. "We think they're working on a compromise that is in the best interest of taxpayers and our most vulnerable citizens."

CAAM supports George's subs. Another anti-Blues group, the Coalition for a Fair and Competitive Insurance Market (CFCIM), wants the committee to delay or cancel a vote on the bills until Cox concludes his investigation into whether BCBSM violated so-called "firewall provisions" established when it purchased the Accident Fund in 1994.

BCBSM could not be reached for a comment today. But the Blues have been pushing for speedy passage since last year.

The sticking point in negotiations appears to be the high-risk pool, something the Blues have backed from the start. George said interested parties have been meeting.

George has proposed tossing out both the high-risk pool and charitable mission fund he backs funded by BCBSM's excess surplus and leaving what he and Allen agreed on: consumer protections, expediting rate filings and a

study on the individual market. George said after the study was finished in three years, the Legislature could revisit the other issue (See "Blues Back Allen Bills," 4/24/08).

The chair said that's the framework he'd like to work from. He's very concerned about Cox's investigation, which arose from issues raised at committee meetings. So it's unclear what kind of timeframe the committee is looking at to move the bills. George didn't commit to holding a meeting next week.

On Monday, Cox came out in support of George's versions (See "Cox Backs George's Blues Subs," 4/28/08).