



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS
COMMISSIONER

January 21, 2009

MEMORANDUM

To: Health Care Providers, BCBSM Subscribers, Interest Groups,
and Other Interested Parties

From: Susan M. Scarane ^{SS}
Health Plans Division

Subject: Public Input on Blue Cross Blue Shield of Michigan's
Hospital and Ambulatory Surgical Facilities Provider Class Plans

Under 1980 P.A. 350, as amended, the Nonprofit Health Care Corporation Reform Act (Act), Blue Cross Blue Shield of Michigan (BCBSM) must develop and maintain a "provider class plan" for each type of health care provider that provides services to BCBSM subscribers. A provider class plan must include a description of the reimbursement arrangement used by BCBSM to pay providers; measurable objectives for meeting the access, quality of care, and cost goals specified by Section 504 of the Act; and, in the case of those providers with which BCBSM contracts, a copy of the provider contract. Each plan must also show how BCBSM proposes to balance the goals stated above.

Attached is a copy of Order No. 09-001-BC, dated January 15, 2009, providing notice of intent to make a determination on the hospital and ambulatory surgical facilities provider class plan, pursuant to Section 509(2) of the Act. BCBSM's hospital provider class plans filed on June 30, 2006 and June 27, 2007 were deemed incomplete by OFIR as the reimbursement exhibit to the hospital participation agreement was not included, however, BCBSM was allowed to implement these provider class plans while an analysis was done to determine which reimbursement provisions needed to be included in BCBSM's hospital provider class plan. BCBSM filed its hospital provider class plan with an acceptable reimbursement methodology on May 23, 2008. These versions of BCBSM's hospital provider class plan will be the subject of this review. BCBSM also filed modifications to its hospital provider class plan on January 6, 2009. The most recent revision of BCBSM's hospital provider class plan includes revisions to set hospital rates for outpatient laboratory, radiology and surgery at the same levels that are paid to freestanding facilities for these services. BCBSM's ambulatory surgical facilities

provider class plan filed on August 2, 2005 will be the subject of this review. BCBSM also filed revisions to its ambulatory surgical facilities provider class plan on February 13, 2008. All of these provider class plan documents are available at the OFIR website at www.michigan.gov/ofir.

Section 505(2) of the Act requires that the Commissioner of Financial and Insurance Regulation (OFIR) establish a procedure to gain input into the review and development of provider class plans prepared by BCBSM. Attachment A to the Order For Notice of Intent to Review contains a list of questions pertaining to the hospital and ambulatory surgical facilities provider class plans. We would appreciate any comments you may have with respect to these questions or any other matters concerning the hospital and/or ambulatory surgical facilities provider class plans.

Written testimony will be accepted through March 17, 2009, when mailed, faxed or e-mailed to:

Office of Financial and Insurance Regulation
Health Plans Division
Attention: Susan M. Scarane
P. O. Box 30220
Lansing, MI 48909
Fax: (517) 241-4168
E-mail: scaranes@michigan.gov

BCBSM is required to file an annual report for each provider class with the Commissioner of Financial and Insurance Regulation regarding the level of achievement of the above-mentioned goals. Pursuant to Section 517 of the Act, these reports need to include the data necessary to make a determination of BCBSM's compliance or noncompliance with the goals and compliance with objectives contained in each provider class plan. BCBSM's 2006-2007 annual reports for the hospital and ambulatory surgical facilities provider classes are available at the OFIR website at www.michigan.gov/ofir.

If you prepare and distribute a newsletter or other publication, I would ask that you include information about the opportunity to provide written testimony on BCBSM's hospital and ambulatory surgical facilities provider class plans in any such publication for the benefit of your readership. All of the BCBSM materials identified in this memorandum are available at the OFIR website at www.michigan.gov/ofir or you may obtain a copy of these documents by contacting Mindy Hilton at (517) 241-4549. Thank you for your assistance in this regard.

If you have any questions regarding the above referenced matter, please contact me at (517) 335-2052.

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner

In the matter of notice of intent to make a
determination with respect to the Hospital and
Ambulatory Surgical Facilities
Provider Class Plans of Blue Cross
Blue Shield of Michigan pursuant to Section
509(2) of 1980 P. A. 350

No. 09-001-BC

_____/

Issued and entered
this 15th day of January 2009
by Ken Ross
Commissioner

**ORDER FOR NOTICE OF
INTENT TO REVIEW**

I

BACKGROUND

Section 509(1) of 1980 P. A. 350, as amended (Act), being MCLA 550.1101 et seq.; MSA 24.660 (101) et seq., allows the Commissioner of Insurance and Financial Regulation (Commissioner) to determine whether the arrangements Blue Cross Blue Shield of Michigan (BCBSM) has established with health care providers have substantially achieved the cost, access and quality of care goals set forth in the Act.

The Commissioner is required to evaluate enough BCBSM provider class plans to account for at least 75% of the corporation's provider payments during a 3-year period. The latest 3 year period began on January 1, 2007 and ends December 31, 2009. The Commissioner intends to review the provider class plans for hospitals and ambulatory surgical facilities at this time.

Section 509(2) of the Act requires the Commissioner to give written notice to BCBSM, and to each person who has requested a copy of such notice, of his intent to make a determination with respect to the provider class plans filed by BCBSM. Section 509(2) grants the Commissioner six months in which to reach his determinations.

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Section 505(2) of the Act requires the Commissioner to establish and implement procedures whereby any person, including a subscriber, may offer advice and consultation on the development, modification, implementation, or review of provider class plans.

In addition to the requirement to gain input on the review and development of provider class plans, there is need to establish an accurate record of the comments presented to the Commissioner. The record can then serve as part of the basis for the determinations that will be made by the Commissioner with regard to BCBSM's achievement of the goals of Section 504.

II

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the foregoing considerations, it is FOUND and CONCLUDED that:

1. Pursuant to Section 509(2) of the Act, the Commissioner shall give written notice to BCBSM, and to each person who has requested a copy of such notice, that he intends to make a determination with respect to a particular provider class plan. The Commissioner shall have 6 months in which to reach a determination.
2. Pursuant to Section 505(2) of the Act, the Commissioner must establish a procedure to gain input into the review and development of provider class plans prepared by BCBSM. The statute is silent as to the method chosen by the Commissioner to fulfill this responsibility.
3. The procedure established by the Commissioner should facilitate the presentation of information by any person and encourage input.

III

ORDER

Therefore, it is ORDERED that:

1. A determination shall be made with respect to the hospital and ambulatory surgical facilities provider class plans. The evaluation period shall include calendar years 2006 and 2007. A determination with respect to the hospital and ambulatory surgical facilities provider class plans will be made by July 15, 2009.
2. This order shall serve as notice of intent to make a determination with respect to the above stated provider class plans pursuant to Section 509(2) of the Act.

3. Questions of interest pertaining to the hospital and ambulatory surgical facilities provider class plans are included in Attachment A. Pursuant to Section 505(2), written comments will be accepted with regard to these questions or any other matters concerning the hospital and ambulatory surgical facilities provider class plans through March 17, 2009, when sent to:

Office of Financial and Insurance Regulation
Health Plans Division
Attention: Susan M. Scarane
P. O. Box 30220
Lansing, MI 48909

The Commissioner retains jurisdiction of the matters contained herein and the authority to enter such further Order or Orders, as he shall deem just, necessary, and appropriate.

A handwritten signature in black ink, appearing to read 'K. Ross', written over a horizontal line.

Ken Ross
Commissioner

**BLUE CROSS BLUE SHIELD OF MICHIGAN
HOSPITAL AND
AMBULATORY SURGICAL FACILITIES
PROVIDER CLASS PLANS
QUESTIONS OF INTEREST
JANUARY 15, 2009**

ACHIEVEMENT OF STATUTORY GOALS

The Office of Financial and Insurance Regulation needs to answer the following questions to determine whether Blue Cross Blue Shield of Michigan's (BCBSM) provider contracts and reimbursement arrangements for hospitals and ambulatory surgical facilities have met the access, quality and cost goals specified in Section 504 of the Act:

1. Does BCBSM have participation agreements with an appropriate number of hospitals and ambulatory surgical facilities throughout Michigan to assure that each subscriber has access to covered services?
2. Has BCBSM established and maintained reasonable standards of health care quality for participating hospitals and ambulatory surgical facilities?
3. Do the reimbursement arrangements for hospitals and ambulatory surgical facilities assure that the rate of change in BCBSM payment per member to those providers is not higher than the compound rate of inflation and real economic growth?

The Commissioner needs to consider the overall balance of the goals achieved by BCBSM under the hospital and ambulatory surgical facilities provider class plans. Weight is to be given to each of the 3 statutory goals so that one goal is not focused on independently of the other statutory goals. Comments on how achievement of these goals can best be measured and evaluated will assist the Commissioner in making a determination.

ACHIEVEMENT OF BCBSM'S OBJECTIVES

BCBSM must include objectives in each provider class plan. These are expected achievement levels for the goals of reasonable access, cost and quality of health care services. The Office of Financial and Insurance Regulation needs to also determine whether BCBSM has achieved the objectives contained in the hospital and ambulatory surgical facilities provider class plans and how the objectives relate to the statutory goals. Comments regarding the appropriateness and importance of BCBSM's objectives will assist the Office of Financial and Insurance Regulation in making these determinations.

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A. ACCESS:

The BCBSM access objectives in the hospital and ambulatory surgical facilities provider class plans under review are:

- Provide direct reimbursement to participating providers who render medically necessary, high-quality services to BCBSM members.
- Communicate with participating providers about coverage determinations, billing, benefits, provider appeal processes, BCBSM's record keeping requirements and the participation agreement and its administration.
- Maintain and periodically update a printed or Web site directory of participating providers.

An additional BCBSM objective specific to the ambulatory surgical facilities provider class plan is to:

- Recognize the unique needs of rural areas by establishing specific operating room minimums for rural ambulatory surgery facilities.

What types of information and data should the Office of Financial and Insurance Regulation examine to determine whether or not BCBSM has met its access objectives?

Would meeting BCBSM's access objectives be sufficient to assure that cost effective, quality services provided by hospitals and ambulatory surgical facilities are available, throughout the state, to BCBSM subscribers?

B. QUALITY OF CARE:

The common BCBSM objectives in the hospital and ambulatory surgical facilities provider class plans under review are to:

- Ensure BCBSM members receive quality care by requiring participating providers to meet BCBSM's qualification and performance standards.
- Maintain and update, as necessary, an appeals process that allows participating providers to appeal individual claims disputes and disputes regarding utilization review audits.

Additional BCBSM objectives specific to the hospital provider class plan under review are to:

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- Obtain continuous input from hospitals through the Contract Administration Process.
- Meet with provider organizations such as the Michigan Health and Hospital Association to discuss issues of interest and concern.

Additional BCBSM objectives specific to the ambulatory surgical facilities provider class plan are to:

- Meet with specialty liaison societies to discuss issues of interest and concern.
- Assess member satisfaction with ambulatory surgery facility services.

What types of information and data should the Office of Financial and Insurance Regulation examine to determine whether BCBSM has met its quality of care objectives?

Would meeting BCBSM's quality of care objective be sufficient to assure that hospitals and ambulatory surgical facilities actually meet and abide by reasonable standards of health care quality? Is it also necessary or desirable to consider:

1. Whether BCBSM has satisfactorily recognized changes that have taken place in the health care industry?
2. The ability of BCBSM to process claims in a reasonable and timely manner? Whether BCBSM has satisfactorily provided for a reasonable period for the implementation of policy and claims processing system changes?
3. The need for prompt, reasonable explanations from BCBSM regarding reimbursement issues, medical necessity determinations, audit determinations, etc.?
4. Whether BCBSM has established reasonable internal procedures for promptly resolving disputes?

C. COST:

BCBSM's achievement of this statutory goal is determined by the application of the cost goal formula found in Section 504 of the Act.

BCBSM's cost objectives in the hospital and ambulatory surgical facilities provider class plans under review are to:

- Strive toward meeting the cost goal within the confines of Michigan and national health care market conditions

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- Provide equitable reimbursement to participating providers through the reimbursement methodology outlined in the participation agreement

The Office of Financial and Insurance Regulation examines existing cost, utilization and communication patterns, the appropriateness of BCBSM's reimbursement arrangements with providers and the overall impact of access and quality of care concerns on cost goal achievement as part of the review process. Comments on the appropriateness of BCBSM's reimbursement arrangements with hospitals and ambulatory surgical facilities, focusing on whether or not such reimbursement arrangements assure a rate of change in BCBSM payment per member that is not higher than the compound rate of inflation and real economic growth, would be welcome.