

Testimony of R. Kevin Clinton, Commissioner

Office of Finance and Insurance Regulation

House Insurance Committee

September 27, 2012

In September of 2011, Governor Snyder gave a special message on health and wellness. During that speech, he discussed his vision for Blue Cross and Blue Shield of Michigan. He stated, in part:

“Blue Cross Blue Shield of Michigan plays a critical role in our health care system in Michigan. Approximately 4.3 million Michiganders are insured through Blue Cross, and it is estimated that Blue Cross enjoys a 70% health insurance market share in our State. Blue Cross employs more than 7,000 Michiganders, and has made significant and continuing investments in our State’s important urban areas.

The legislation under which Blue Cross operates is more than 30 years old. That legislation has served Michigan well. Our individual and small business health insurance rates are lower than the national average. In fact, we have the 12th lowest individual health insurance rates in the nation. But the ACA requires the state to make certain changes to the way insurance rates are established and reviewed

So, we plan to begin examining whether our 30-year-old statute and Blue Cross’ current legal and regulatory structure best meet these goals for the Michigan health care marketplace, in this time of great change. Blue Cross belongs to you and me, as a charitable trust established for Michigan’s residents to deliver quality and affordable health care coverage. We look forward to working with the legislature to determine the best ways to maximize the long term value of this important asset to Michiganders.”

During the past several months, we have reviewed the way Blue Cross operates and the way Blue Cross will operate, assuming the Affordable Care Act, called the “ACA”, takes place in 2014. Currently, Blue Cross serves several critical roles in our health care system in Michigan. First and foremost, they serve as the insurer of last resort. This means that regardless of your health status, or preexisting conditions, you can still buy insurance from Blue Cross. No other carrier in Michigan currently has that requirement or responsibility. In return for that obligation, Blue Cross is not required to pay state and local taxes, which saves them approximately \$100 million a year.

In addition to being the insurer of last resort, Blue Cross also subsidizes Medigap policies for seniors. The Medigap policy provides coverage for medical expenses not covered by Medicare. Last year, the attorney general negotiated a 5 year freeze on Medigap rates with Blue Cross and approximately 4 years remain on that agreement.

The State also receives an annual donation of \$15.5 million from Blue Cross to the MICHild program. The MICHild program is a health insurance program for uninsured children of Michigan's working families.

Assuming there are no changes to the ACA, on January 1st, 2014, there will be significant changes to the roles and responsibilities that Blue Cross plays in our health care system. First of all, Blue Cross will no longer be the only insurer of last resort. Effective 1/1/14, every insurer operation in the State of Michigan will be required to offer health insurance to an individual, regardless of health status or preexisting conditions or health status.

Given these changes, we have proposed changes to Governor Snyder regarding the way Blue Cross operates and is regulated. We want to create a health care regulatory environment that encourages competition, jobs creation, and provide for high quality, low cost, health care.

Our proposal is as follows:

- 1) Blue Cross would become a non-profit mutual insurance company formed under Chapter 58 of the Michigan Insurance Code, regulated like other mutual insurance companies. This is not a sale of Blue Cross. It is simply transitioning Blue Cross to a mutual insurance company. They will remain a non-profit and operate the same way they operate now. The Office of Financial and Insurance Regulation will continue to review and approve Blue Cross's rate and form filings, as we do for every health insurer.
- 2) Blue Cross would pay state and local taxes, estimated to be approximately \$100 million a year.
- 3) Under the direction of the State's Attorney General, a new nonprofit entity would be formed and dedicated for the purpose of continued improvement of public health and community health care, including quality, cost and access, for the people of the State of Michigan.
- 4) In addition to paying State and local taxes, Blue Cross would contribute \$1.5 billion to the new nonprofit entity over the course of 18 years.
- 5) Safeguards would be put in place assure Blue Cross is not sold and remains a Michigan Company. In addition, if Blue Cross is sold, or otherwise loses control through a merger, the new nonprofit would receive proceeds equal to the fair market value of Blue Cross and its subsidiaries at the time of the transaction.
- 6) The Medigap agreement with the Attorney General's office would stay in effect for the remaining term (approximately 4 years).
- 7) The State would seek a fairness opinion from an outside firm to confirm that the proposal is fair to Michigan citizens.

These are the general terms of the proposal, but I would like to cover some likely questions up front.

- 1) **Are we getting fair value?** This proposal would have Blue Cross; 1) begin paying state and local taxes, 2) continue the remaining 4 year Medigap agreement with the Attorney General's office, and 3) make \$1.5 billion of contributions into a newly created non-profit entity. The new non-profit entity will use the proceeds to provide better health care for our citizens, including children and seniors. This amounts to \$4.3 billion over the next 18 years.
- 2) **What if Romney is elected and the ACA is repealed?** If the ACA is repealed, we will have time to adjust our plans. In addition, Governor Romney has stated that there are certain aspects of the ACA that he would retain, including the requirement that all insurers may not underwrite on the basis of health status.
- 3) **What will this proposal do to competition?** As the insurer of last resort, Blue Cross is currently not required to pay state and local taxes, which saves them approximately \$100 million a year. Under the ACA, all insurers will become the insurer of last resort. If Blue Cross is no longer the only that must accept all applicants regardless of their health status or preexisting conditions, then they should be required to pay State and local taxes. This would help to level the playing field and create a more competitive environment. In addition, regulating Blue Cross under Chapter 58 of the Insurance Code will speed up the rate review and rate approval process to the same time period as other insurers, allowing Blue Cross to revise rates and add new products on a timely basis. This should be a positive for consumers as "speed to market" is competitive
- 4) **How will seniors be protected?** Because of the Medigap agreement the Attorney General put together with Blue Cross, seniors are protected for the next 4 years. The legislature will have the ability over the next 4 years to see how competition unfolds under the Affordable Care Act and if seniors are protected. If seniors are not adequately protected, the legislature can pass laws that protect seniors that apply to all insurance companies, not just Blue Cross. The Governor has also previously stated that he would like a portion of the \$1.5 billion to be contributed into the new non-profit to go toward senior issues.

