

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



MIKE COX
ATTORNEY GENERAL

P.O. Box 30212
LANSING, MICHIGAN 48909

April 24, 2008

*Sent by facsimile to 313-225-6250
and by first class mail*

Daniel J. Loepp
President and CEO
Blue Cross Blue Shield of Michigan
600 E. Lafayette Blvd., #2003
Detroit, MI 48226

Dear Mr. Loepp:

I write to address two matters that arose last week at the Senate Health Policy Committee hearing regarding HBs 5284 and 5285. First, I have been asked to investigate whether Blue Cross and Blue Shield of Michigan (BCBSM) has ever used its funds to subsidize or infuse capital into the Accident Fund and, if it has, whether this is prohibited by the BCBSM enabling Act, PA 350 of 1980 ("PA 350"). Second, former BCBSM Chief Operating Officer Mark Hogle testified that in 2005 he attended a staff meeting where Accident Fund and BCBSM executives discussed ways to deal with "obscene profits"¹ to avoid contributing more to BCBSM's reserves and possibly run afoul of the 1,000 percent state-mandated cap on risk-based capital. Any contributions that exceeded the 1,000 percent cap could force premium rebates to BCBSM's customers.

Upon initial investigation, Schedule "Y" of BCBSM's 2007 Annual Statement reflects that BCBSM made a \$125 million "capital contribution" to the Accident Fund in 2007. The Annual Statement does not disclose the purpose of this capital contribution. However, BCBSM's 2007 Audited Financial Statement discloses that on November 20, 2007, the Accident Fund "acquired 100% of the outstanding common shares of CWI Holdings, Inc." for the aggregate purchase price of \$127,409,000. It further discloses that CWI owns CompWest Insurance Company, "a California domiciled property/casualty insurance company that underwrites workers' compensation insurance primarily in California."

¹ This phrase was used in April 21-April 27, 2008, Crain's Detroit Business.

The similarity in amount between the \$125 million capital contribution and the \$127.4 million CWI purchase price creates a question whether the Accident Fund used BCBSM's capital contribution to finance the majority of the CWI acquisition. As you know, Section 207(1)(x)(vi) of PA 350 prohibits the use of BCBSM company and subscriber funds "to operate or subsidize in any way the [Accident Fund] including the use of such funds to subsidize contracts for goods and services."

Section 207(3) of PA 350 authorizes the Attorney General to commence an action or special proceeding to enjoin BCBSM from transacting any unauthorized business or to set aside any BCBSM transaction that was not authorized under the Act. In addition, Section 619 of PA 350 broadly authorizes the Attorney General to commence an action to enjoin BCBSM from "transacting business," "disbursing money," or "conveying property" if that corporate activity is not authorized under PA 350, and to seek "other equitable or extraordinary relief to enforce" PA 350.

In order to determine whether a violation of PA 350 has occurred and whether further action by my office is warranted, please provide me the following information by no later than the close of business on Monday, June 2, 2008:

- 1) The date in 2007 on which BCBSM made the \$125 million capital contribution to the Accident Fund;
- 2) The specific reason(s) why BCBSM made the \$125 million capital contribution to the Accident Fund;
- 3) How the transaction by which BCBSM contributed \$125 million to the Accident Fund was structured (e.g., as a loan, a grant, etc.);
- 4) In what form BCBSM transferred the \$125 million to the Accident Fund (e.g., by wire transfer, check, accounting entry, etc.);
- 5) The source of BCBSM's \$125 million capital contribution to the Accident Fund, including from where the funds used to make the contribution derived, how BCBSM accounted for the contribution in its financial records, and the effect of the contribution on BCBSM's total adjusted capital.
- 6) The precise manner in which the Accident Fund used the \$125 million capital contribution from BCBSM;
- 7) Any agreements, correspondence, memoranda, notes, or other documents relating to BCBSM's \$125 million capital contribution to the Accident Fund;

Daniel J. Loepp
Page 3
April 24, 2008

- 8) The amount, date, purpose, and use of any other capital contribution(s) or transfer(s) of funds from BCBSM to the Accident Fund that occurred on or after the effective date of Section 207(1)(x)(vi) of PA 350, which was October 19, 1993; and
- 9) Any documents, memoranda, or minutes of any discussions or meetings involving Mr. Hogle or any other officers, employees, or agents of BCBSM and the Accident Fund regarding transfers of monies from BCBSM to the Accident Fund.

Thank you for your cooperation in this matter. If you have any questions or need to meet regarding the production of these documents, please feel free to call my office or contact Division Chief Robert Ianni at (517) 373-1123.

Very truly yours,



Mike Cox
Attorney General

- c: Senator Tom George, Chairman - Health Policy Committee
Senator Bruce Patterson, Vice Chairman - Health Policy Committee
Senator Alan Sanborn
Senator Jason Allen
Senator John Gleason
Senator Hansen Clarke
Senator Gilda Jacobs
Senator Majority Leader Michael Bishop
Senator Minority Leader Mark Schauer
Speaker of the House Andy Dillon
House Minority Leader Craig DeRoche
Ken Ross, OFIR Commissioner