THE FOUNDATION FOR TAXPAYER AND CONSUMER RIGHTS

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According to those close to the deal, WellPoint and Anthem are in the process of negotiating written undertakings with the Department of Managed Health Care on the following issues concerning Blue Cross of California ("BBC"):

"1. BCC would not be allowed to pay dividends or "upstream" amounts to its parent company if the payment would cause BCC's required tangible net equity (TNE) to fall below 150% of the amounts required under the Knox-Keene Act."

- ✓ This undertaking allows the new merged company to "upstream," or transfer out of the state to the new parent company, $652 million of Blue Cross of California's premium funded reserves.

According to documents filed with the Department of Managed Health Care by BCC, as of March 31, 2004 BCC has $1,074,378,000 in reserves, called tangible net equity. Of that, $281,506,000 is required under the Knox-Keene Act. 150% of this amount is $422,259,000. Therefore, under this provision, the new merger company would be allowed to remove $652,119,000 of Blue Cross' reserves.

See page 20 of Blue Cross of California's March 31, 2004 filing with the Department of Managed Health Care available at:
http://www.consumerwatchdog.org/healthcare/rp/rp004388.pdf

"2. Also, no amounts could be dividended or "upstreamed" if the payment would cause BCC to fail to have on hand liquid assets (cash and short-term investments) equal to at least 150% of BCC's monthly total claims and administrative expenses."

- ✓ This undertaking provides an even lower protection than undertaking 1, and would allow the company to upstream all of the $1 billion plus in reserves except $237.6 million.

As of March 31, 2004 the total administrative cost for the first three months of the year was $333,975,000, which gives a monthly average of $111,325,000. As of March 31, 2004 the total payable claims for the first 3 months of the year was $141,129,000, which gives a monthly value of $47,043,000. Average total monthly claims and administrative expenses for the first quarter of 2003 was $158,368,000. 150% of this average is $237,552,000.

"3. BCC and its assets would not be liable for or encumbered by any parent company debt."

- ✓ This is an absurd and meaningless statement. Under the terms of the merger, the new company can transfer reserves and profits from Blue Cross at will. Whether or not Blue Cross is liable for its parent company's debt is not the issue.

"4. BCC would provide assurances through its independent external auditors or an independent actuarial firm that BCC's incurred but not reported claims estimates were within the estimates of that independent professional firm."

- ✓ "Incurred but not reported claims" is an accounting tool used by health insurers to make it appear that they have less cash, and therefore less profit, than they actually do – thus helping them to avoid scrutiny from policymakers and regulators. This undertaking gives lip service to the concern of overstated claims but provides no guarantees that "external auditors" or "actuarial firm" will be truly independent.

"5. BCC would renew and not terminate any products in full compliance with the Knox-Keene Act and would not terminate any product before the end of its contract term. If BCC discontinued a product no further time would be required for members in the midst of a pre-existing condition period under replacement products."

- ✓ This undertaking gives a nod toward one of the leading concerns associated with Anthem – "cherry picking," the practice of weeding out severely ill customers – but does not provide any real assurances. The issue in "cherry picking" is not whether further time would be required for members in the midst of a review period, but rather whether new review criteria will be adopted.

"6. BCC would maintain its existing efforts in Medi-Cal. Healthy Families, MRMIP and AIM, assuming the same underlying circumstances that currently exist."

- ✓ This undertaking is meaningless. "Assuming the same underlying circumstances that currently exist" is so overly broad that the merged company could end its health care programs for low-income and disabled patients for nearly any conceivable reason.

"7. BCC would maintain its existing efforts in offering and renewing individual and sma11 group products, assuming the same underlying circumstances that currently exist."

- ✓ As in undertaking 6, the phrase "assuming the same underlying circumstances that currently exist" allows the company to refused to re-enroll patients and businesses

or drop lines of insurance altogether. This provision seems to undermine any narrow protection against "cherry picking" provided in undertaking 5 and would allow the company to drop insurance products or refused to insure any enrollee for nearly any reason.

"8. BCC would maintain organizational and administrative capacity in California, including medical matters, formulary determination, prior authorization and referrals, grievances, independent medical review and provider dispute resolution."

- ✓ This undertaking gives the appearance of providing some new protections, but each of the provisions ("formulary determination, prior authorization and referrals, grievances, independent medical review and provider dispute resolutions") are aspect of existing state law that the plan would have to abide by anyway.

"9. BCC would agree to regular, at least annual surveys and audits at BCC's expense."

- ✓ This undertaking fails to answer key questions: Annual surveys conducted by whom? Conducted by Blue Cross of California and paid for by Blue Cross of California? What types of inquiries will be included in the surveys and audits? What measures of evaluation will be used?

The Foundation for Taxpayer and Consumer Rights is a non-profit and non-partisan consumer advocacy group. For more information, visit us on the web at http://www.consumerwatchdog.org