



Blues Seek to Expand Market Power from Legislature

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Foster Swift Health Care Law Report

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The Michigan State House and Senate have been considering several pieces of legislation pertaining to Blue Cross Blue Shield of Michigan ("BCBSM") and individual health insurance contracts (not group contracts). The latest legislation was introduced as House Bills 5282, 5283, 5284, and 5285. The House passed this package of bills and sent them to the Senate for its action. The Senate Health Policy Committee, under Chairman Tom George's direction, made substantial revisions to the House bills. Thereafter, the full Senate plucked 5282 and 5283 from the Committee, made further revisions, and sent these bills back to the House. This is the status as of this writing, May 14, 2008.

The most noteworthy bills are 5283 and 5284. House Bill 5283, as initially written, provided for a risk pool that would have transferred some of the current Blues' liability and mission as "insurer of last resort" to private for-profit insurance companies. An early version of the Senate Bill required only BCBSM to contribute to this fund out of its surplus. But the final version of 5283 passed by the Senate provides for a study of the feasibility of a risk pool both with and without contribution from for-profit carriers.

House Bill 5284, as rewritten by the Senate, allows a BCBSM subsidiary to "market or transact" any type of insurance so long as it obtains a certificate of authority and makes a \$100,000,000.00 payment to the Insurance Commissioner for a proposed Charitable and Social Mission Fund. Other states have implemented similar laws requiring such payments. Our health care attorneys recommended to various legislators that there be further examination of the sufficiency of the \$100,000,000.00 payment. Additionally, we recommended to both the Senate and the House that the payment should include determinative variables so that the adequacy of the payment amount might be better examined.

Our health care attorneys have been actively following the progression of these bills. We have made and will continue to make recommendations to state legislators and keep you advised. We would be happy to receive any questions or comments you may have.

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