

**BEFORE THE COMMISSIONER OF INSURANCE**

**STATE OF GEORGIA**

**IN THE MATTER OF:**

**CHAPTER 120-2-98  
REVIEW OF HEALTH BENEFIT  
PLAN RATE INCREASES**

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**DOCKET NUMBER I-11-R-2**

**ORDER**

**I. STATEMENT OF PROCEEDINGS**

On September 30, 2011, Notice of Intent to Adopt Rule Changes and Notice of Hearing was given regarding the proposed repeal of Emergency Regulation Chapter 120-2-98-0.23 titled “Review of Health Benefit Plan Rate Increases” and adoption of Regulation Chapter 120-2-98, having the same title (Record, Exhibit 1). The proposed regulation is necessary to preserve the Commissioner of Insurance’s ability to review certain health insurance rates and preserve the public welfare as contemplated by O.C.G.A. §33-9-1(a) and other applicable provisions of the Insurance Code.

By letter dated November 1, 2011, the Office of the Attorney General opined that the proposed regulation was within this office’s scope of authority (Record, Exhibit 5). Pursuant to O.C.G.A. §50-13-4(e), the proposed regulation was transmitted to Wayne R. Allen, Legislative Counsel for the General Assembly, for assignment to the appropriate standing committees of the Senate and House of Representatives (Record, Exhibits 6 and 7).

Interested persons were given the opportunity to participate in the proposed rulemaking by submitting their written comments by November 1, 2011, and by making oral comments at the public hearing held November 8, 2011. One written submission of comments was offered by

C. Morgan Kendrick, President of Blue Cross Blue Shield of Georgia (“BCBSGA”). No one from BCBSGA was present at the hearing. Trey Sivley, the Assistant Director of the Regulatory Services Division of this office, was the only person to offer oral comments at the hearing.

According to Mr. Sivley, the proposed regulation brings the state into compliance with new requirements in federal law, thereby preserving the Commissioner of Insurance’s authority to review certain health insurance rate filings. The proposed regulation requires, among other things, the publication on this office’s website of certain information associated with those filings. Only filings of rate increases of greater than ten percent will be governed under the proposed regulation. And this office will accept public comments on any proposed rate increase made under the proposed regulation.

## **II. CONSIDERATION OF INTERESTED PARTY COMMENTS**

BCBSGA requested that language be added to the Standards of Review section of the proposed regulation to provide that the standards enumerated therein will be applicable *to the extent applicable to the filing under review*. Additionally, BCBSGA requested that language be modified in the Additional Filing Requirements Review Standards section of the proposed regulation to change “Any documentation requested by the Department in association with any rate increase subject to review” to “Any documentation requested by the Department *to the extent that such documentation is pertinent to the filing under review*” (emphasis added). Mr. Sivley commented that neither all of the standards nor all of the requests for information will necessarily apply to every rate filing. Consequently, he did not object to these recommendations for changes to the proposed regulation.

BCBSGA’s final request was that BCBSGA be informed fourteen days prior to this office’s planned release of the information associated with rate filings made under the proposed

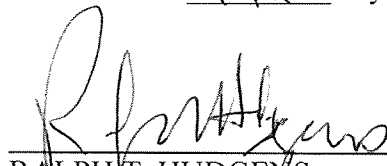
regulation. Mr. Sivley asserted that this office should not be required to provide such notification. Moreover, in order to remain consistent with the intent of the federal government and the proposed regulation, the documents need to be posted for public comment before rate filings are approved or disapproved.

**III. DECISION**

This office has given careful consideration to each of BCBSGA's three requests for changes to the proposed regulation and to Mr. Sivley's comments at the hearing. This office grants BCBSGA's first two but not its third request. A key goal of the proposed regulation is to provide consumers with sufficient information regarding carriers' asserted justifications for proposed rate increases. That goal could be unnecessarily stymied if BCBSGA's third request was granted.

**WHEREAS**, this office finds Mr. Sivley's comments in support of the proposed regulation persuasive, and **WHEREAS** this office grants BCBSGA's first two but not its third request, **IT IS HEREBY ORDERED** that Regulation Chapter 120-2-98 titled, "Review of Health Benefit Plan Rate Increases," a copy of which is attached hereto and made a part by reference, is **HEREBY ADOPTED**.

Given under my Hand and Seal this 14th day of December, 2011.



RALPH T. HUDGENS  
INSURANCE AND SAFETY FIRE COMMISSIONER  
STATE OF GEORGIA

