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**State of Vermont**  
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**SENT VIA EMAIL**

August 10, 2023

Stephanie Dobecki  
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Rebecca C. Heintz  
Blue Cross and Blue Shield of Vermont  
445 Industrial Lane  
Berlin, VT 05602

Re: Request for exemptions pursuant to 8 V.S.A. §§ 3683(a) and 5107a

Dear Attorneys Dobecki and Heintz,

On May 15, 2023, the Insurance Division of the Vermont Department of Financial Regulation (the “Department”) received two letters (the “Exemption Letters”) requesting exemptions related to the proposed affiliation between Blue Cross and Blue Shield of Vermont (“BCBSVT”) and Blue Cross Blue Shield of Michigan Mutual Insurance Company (“BCBSM”) (hereinafter “Proposed Affiliation”).

In the first of the Exemption Letters, BCBSVT requested that the Commissioner exempt the Proposed Affiliation from the approval requirements of 8 V.S.A. § 5107a, “on the grounds that the proposed transaction will not have a material impact on the members of The Vermont Health Plan, LLC (“TVHP”) or Vermont Blue Advantage, Inc. (“VBA”).” In the second of the Exemption Letters, BCBSM requested a finding exempting the Proposed Affiliation, as it relates to VBA, from the provisions of 8 V.S.A. § 3683(a).

The Commissioner has reviewed these requests. For the reasons stated below, the Commissioner exempts the Proposed Affiliation from the filing requirements of 8 V.S.A. § 5107a (as they relate to TVHP and VBA) and 8 V.S.A. § 3683(a) as they relate to VBA.

**BACKGROUND**

The facts set forth below are based on representations made and information provided by BCBSVT and BCBSM in your correspondence with the Department, and this determination is contingent on



such representations and information being true, accurate, and complete, both when made and on an ongoing basis.

1. The Proposed Affiliation will be effectuated pursuant to the terms of a Principal Transaction Agreement, dated as of April 28, 2023 (the “Agreement”), by and between BCBSM and BCBSVT.
2. Pursuant to the terms of the Agreement, BCBSM will become the sole member of BCBSVT with the right to approve all BCBSVT board members.
3. TVHP is a wholly owned subsidiary of BCBSVT and is a Vermont domestic health maintenance organization.
4. VBA is a Vermont domestic health maintenance organization. BCBSM and BCBSVT currently indirectly control 51% and 49%, respectively, of the voting securities of VBA.
5. Thus, because of the Proposed Affiliation, BCBSM, as the sole member of BCBSVT and by virtue of its right to approve all members of the BCBSVT board, may be deemed to acquire “control” of BCBSVT and thereby acquire control TVHP and change the control of VBA.
6. BCBSM has filed with the Department a Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer (the “Form A”) with respect to the effect of the Proposed Affiliation on BCBSVT and its direct, wholly owned subsidiary TVHP.
7. BCBSVT has filed with the Department an application seeking approval under Title 8, Chapters 123 and 125, for a change of control, pursuant to 8 V.S.A. §§ 4523 and 4595 (the “123/125 Application”).
8. As a result of the changes related to TVHP and VBA, the Proposed Affiliation could also require approval by the Commissioner pursuant to 8 V.S.A. § 3683(a) (as it relates to VBA) and 8 V.S.A. § 5107a (as it relates to TVHP and VBA).

### **DETERMINATION**

The Commissioner has reviewed the information related to these transactions and determined that the requested exemptions are appropriate.

#### **I. Request for exemption pursuant to 8 V.S.A. § 3683(a)**

Vermont law requires a person seeking to acquire control of a Vermont-licensed health maintenance organization to submit a Form A filing seeking the Commissioner’s approval. However, 8 V.S.A. § 3683(h) specifically provides the Commissioner with discretion to exempt transactions from the Form A filing if the transaction is not entered into for the purpose, and will not have the effect, of changing or influencing the control of a Vermont domestic insurer, or the transaction is otherwise within the purpose of the Form A Statute.



As a result of the Proposed Affiliation, no new unaffiliated persons will acquire control of VBA. BCBSM will remain the ultimate controlling person of VBA. Further, the Proposed Affiliation will not result in any changes to VBA's business plan, operation, management team, board of directors, officers or consolidated assets and liabilities. Furthermore, as a result of BCBSM's Form A filing related to TVHP, the Department is in possession of virtually all information that would be included in a Form A filing related to VBA.

For these reasons, the Commissioner finds that BCBSM is exempt from the requirements of 8 V.S.A. § 3683(a) as they relate to VBA. This should not be construed to limit the Commissioner's power to further review and investigate BCBSM's Form A filing and the ways that filing may relate to VBA.

## II. Request for exemption pursuant to 8 V.S.A. § 5107a

Pursuant to 8 V.S.A. § 5107a(d), the Commissioner is authorized to exempt from the approval requirements of 8 V.S.A. § 5107a "any transaction that does not have a material impact on Vermont members." Here the Commissioner has determined it is appropriate to exempt BCBSVT from the approval requirements of 8 V.S.A. § 5107a as they relate to TVHP and VBA.

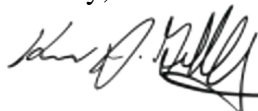
As with the provisions of 8 V.S.A. § 3683 detailed above, the provisions of Section 5107a are designed to ensure compliance from entities with new unaffiliated owners. Here, the Proposed Affiliation includes no new owners and does not alter the ownership structure among existing affiliates. BCBSVT's Exemption Letter and the filings associated with the Proposed Affiliation state that there are no changes contemplated to the direct ownership of TVHP or VBA, and thus no changes to the legal framework applicable to either entity. Further, from an operational perspective, no immediate changes to the operations or the directors or executive officers of either entity are anticipated because of the Proposed Affiliation. Any impacts on TVHP will be similar to the impacts on BCBSVT more broadly. Those impacts are extensively detailed as a part of BCBSVT's 123/125 Application as well as in the Form A filing submitted by BCBSM.

For VBA, there is no anticipated change in VBA's ultimate controlling person or operations.

Accordingly, the Commissioner finds that (i) BCBSVT is exempt from the approval requirements of 8 V.S.A. § 5107a as they relate to TVHP and VBA; and (ii) BCBSM is exempt from the approval requirements of 8 V.S.A. § 3683(a) as they related to VBA.

The applicability of this determination letter is limited to the filings described in your correspondence to the Department and to the specific facts set forth herein.

Sincerely,



Kevin J. Gaffney, Commissioner  
Vermont Department of Financial Regulation

