



State of Vermont
Department of Financial Regulation
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June 14, 2023

SENT VIA EMAIL TO: LParmely@bcbsm.com, SDobecki@sidley.com

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Blue Cross Blue Shield of Michigan
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Re: Proposed Affiliation by Blue Cross Blue Shield of Michigan Mutual Insurance Company and Blue Cross and Blue Shield of Vermont and The Vermont Health Plan, LLC

Dear Attorney Parmely:

The Insurance Division of the Vermont Department of Financial Regulation (“DFR”) has completed a preliminary review of the Form A Statement regarding the proposed Affiliation of Blue Cross Blue Shield of Michigan Mutual Insurance Company (the “Applicant”) with Blue Cross and Blue Shield of Vermont and The Vermont Health Plan LLC, (the “Domestic Insurers” or “BCBSVT”), dated May 15, 2023. As a result of the DFR’s review, it was determined that the information requested below is necessary to complete the filing.

ITEM 1. METHOD OF ACQUISITION

The Department has no questions at this time.

ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT

1. Item 2(b)(2) provides a high-level overview of the cultural fit between the Applicant and BCBSVT. It states, “[t]he Applicant and BCBSVT aspire to bring together two like-minded Blues System plans to deliver innovative and affordable products in the Vermont market and create a differentiated healthcare experience for the members we each serve.” See Form A Statement Regarding the Acquisition of Control of or Merger with a Domestic Insurer, dated May 15, 2023 (hereinafter “Form A”), p. 10.



- a. Please provide more specific details regarding any potential impacts on BCBSVT's operations and the way it treats members, subscribers and other stakeholders resulting from the affiliation and any material differences in the Applicant's culture. For example, regarding operations, will there be changes to BCBSVT's risk tolerances in areas such as investments (as Bricktown works for better market returns), marketing and strategy? Regarding member, subscriber and other stakeholder treatment, will there be changes to BCBSVT's claims adjudication and payment practices, addressing member complaints, etc.? Please provide specifics regarding all likely changes.
2. During the Letter of Intent phase of the application process, the Applicant presented to the DFR three areas (admin., market and strategic) of affiliation value and savings. We understand that a robust analysis was performed, which was reviewed by a third party. Please provide specific and broken-down details of the anticipated financial savings/value.
3. Further, Item 2(b)(2) advises that the Applicant and BCBSVT are well positioned to form an impactful affiliation which will benefit BCBSVT and its subscribers. This Item summarizes the benefits to BCBSVT as follows:

By building from a shared foundation of core platforms, systems, and businesses, BCBSVT and its subscribers will benefit in several ways. First, the affiliation will yield a lower cost administrative operating structure by reducing the level of capital investments required by BCBSVT to address evolving market needs and by leveraging many of the same vendors as the Applicant to generate scale efficiencies. Second, the range of solutions available to members, customers, and providers will grow beyond what BCBSVT could achieve on its own, resulting in higher levels of member and provider satisfaction and improved health outcomes.

Form A, p. 9.

A key message in Item 2(b)(2) is that BCBSVT will realize efficiencies/savings and improve stakeholder value from the Applicant's significant experience and expertise, market-leading capabilities, and scale efficiencies to support the strategic priorities of BCBSVT. To support this message, Item 2(b)(2) provides overviews of certain areas where the Applicant will provide support to BCBSVT. Among other things this support will help drive the estimated \$10M in cost savings over three years described in the Form A.

While the information provided is helpful and generally comprehensive, in some areas the information is more conceptual than specific. This may be because the information was not fully fleshed out in Item 2(b)(2), or it may be because the parties have not fully evaluated areas where the Applicant's support can be beneficial. In the Responses to Questions Posed by DFR document (the "Response Document"), the Applicant noted that "precisely which platforms and systems will be integrated (e.g., NASCO Customer Servicing tools and Salesforce) remains under consideration and will be finalized during integration planning. . . ." Response Document, App. A-1, § 4, Q. 8.



To help the DFR better understand the specific areas where the Applicant will provide support to BCBSVT, and how that specific support will ultimately drive cost savings to BCBSVT, please revise Item 2(b)(2) to more fully detail the extent to which the parties have in fact identified those specific areas, especially the specific areas where the Applicant has committed to providing cost savings. If these areas have not yet been fully evaluated, please so note and explain the current thinking on where the Applicant's support will be beneficial.

In developing your response, please provide details in the following areas.

- a. Core Systems – Currently, the plans share a common foundation across several core systems and vendors, such as NASCO core administration solutions, pharmacy benefit management, customer relationship management, several information exchange vendors connecting payors and providers, outsourced data processing tools and data centers, etc.
 - i. Please provide an overview of all core systems identified as keys to integration and savings potential and those that are not essential, the core systems currently shared via NASCO, and those core systems not currently shared.
 - ii. The Form A notes that over time, BCBSVT will migrate to many, if not most, of the Applicant's systems and technology (i.e., OneIT), and have its functions integrated within those systems. To the extent core systems are not currently shared, what is the plan for alignment and the anticipated benefits? In addressing this item, please include core systems that are not part of NASCO.
 - b. Claims Processing – In the Response Document, the Applicant states that improvements in BCBSVT's core claims processing system and new digital capabilities will, over time, improve providers' servicing and make more efficient self-service options available to providers. *See* Response Document, App. A-1, § 3, Q. 6.
 - i. To the extent not addressed by Item (a) above, please revise Item 2(b)(2) to explain what improvements are envisioned to BCBSVT's claims processing and how they will be accomplished.
 - c. Value-Based Care – The Response Document states that, over time, BCBSVT will have access to more analytics support tools that will enable providers to engage in more value-based contracting. *See* Response Document, App. A-1, § 3, Q. 6. The Form A describes the Applicant's risk sharing contracting with a significant percentage of its provider groups. *See* Form A, p. 6.
 - i. If risk sharing arrangements are implemented in Vermont, how will the parties work to help ensure the provider groups have the financial acumen and capabilities to put a portion of their capital at risk in the event of poor member outcomes?
 - ii. Will this lead to provider market disruption and how do you plan to mitigate any negative impacts?
 - iii. How will this lead to positive outcomes for providers?
 - iv. How will this integrate with and impact BCBSVT's participation in the All-Payer ACO Model?
4. How does the Applicant envision these anticipated savings impacting premiums?



ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT

1. Please confirm that the list of pre-closed BCBSVT board members in Exhibit 4 is accurate.
2. Please identify any anticipated changes post-closing regarding BCBSVT board members. Please identify if the new board members are affiliated with the Applicant.
3. Please confirm that the Officers of BCBSVT will not change post-close.
4. Please identify whether any member of the BCBSVT board will be on the Applicant's board post-close, for example the President and CEO of BCBSVT?

ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION

1. Regarding Exhibit A, the Principal Transaction Agreement (the "PTA"), please respond to the following:
 - a. Please provide a list of all "Close BCBSVT Subsidiaries" along with the rationale as why they were determined to be close subsidiaries. *See* PTA, § 1.1.
 - b. Please provide justification as to why Comprehensive Benefits Administrator, LLC, Cobalt Benefits Group, LLC, EBPA, LLC, and Blue Cross and Blue Shield Vermont Caring for Children Foundation, Inc. are not considered "Close BCBSVT Subsidiaries". *See* PTA, § 1.1.
 - c. Please provide a copy of the Hart Scott Rodino filing made with the Federal Trade Commission and Department of Justice. In addition, please provide an update regarding the filing. *See* PTA, § 6.2(ii).
 - d. Please define what is meant by "substantially all employees". *See* PTA, § 6.8; *see also infra* Item 5, # 3.
 - ii. Pursuant to PTA, Section 6.8 the retention period for employees of BCBSVT is listed as one year. We would like to discuss an additional commitment to maintain jobs within Vermont for 3 years whether at BCBSVT or with the larger BCBSM enterprise.
 - e. The PTA states that the Integration Office shall provide each party with quarterly reporting on the status of the implementation of the Integration Plan and estimated Benchmark Measurement of Value Realized as of the applicable calendar year. DFR requires a copy of this quarterly report in addition to the required semi-annual reporting. *See* PTA, § 6.9(b).
 - f. Please provide more detail on the Integration Plan and an estimated timeline of key and critical integration initiatives identified in the Plan. *See* PTA, Exhibit A.
 - g. The Applicant states that it agrees to use commercially reasonable efforts to reduce net transition costs through the creation of scale efficiencies with existing BCBSM vendors and shared services within the broader BCBSM enterprise. What is meant by "shared services within the broader enterprise"? PTA, § 6.10.
 - h. Please provide a detailed list of both transition costs and enhancement costs, including estimated dollar values. *See* PTA, § 6.11(a)-(c).
 - i. The PTA states that this agreement (including the schedules and exhibits hereto) represents the entire understanding and agreement between the Parties. It appears that there are multiple schedules and exhibits omitted. Please submit all referenced schedules and exhibits. *See* PTA, § 10.4.
 - j. Please provide additional details on retention incentives. *See* PTA, Schedule 4.11(a).



- k. Please provide additional details regarding the subscriber settlement in the MDL litigation. *See* PTA, Schedule 4.13.
- l. Please provide additional details regarding the payments issue with DVHA. *See* PTA, Schedule 4.15(a).

ITEM 5. FUTURE PLANS OF INSURER

1. The Response Document notes that functions that benefit from scale will become more integrated over time. Initial plans call for integrating the information technology, corporate finance (e.g., tax, corporate insurance, and investment services), pharmacy operations, and procurement functions of BCBSVT with those of the Applicant. *See* Form A, pp. 13-14. Please provide a list of those services that the parties anticipate will be integrated into the Applicant's operations after the "transition period" and those services that are to remain "as is" within BCBSVT.
2. The Applicant states that "[t]he parties have agreed to rules of engagement and guiding principles for building an integration plan." Form A, p. 13. Please provide any written representations of the above referenced rules of engagement and guiding principles.
3. The Applicant notes that no plans currently exist to make material staff reductions, or undertake any office closures, that would affect BCBSVT. *See* Form A, p. 12. The Response Document takes this a step further, noting there is no plan to reduce headcount at BCBSVT. It is hard to envision significant cost savings and efficiencies being realized without some impact on BCBSVT employees. For example, the parties may determine that an effective strategy might be to transition certain employees from BCBSVT to the Applicant.
 - a. To help us fully understand the likely impact on BCBSVT employees, please provide clarification on the plans for retaining those employees, particularly in the areas that may be integrated over time.
4. The Applicant states that all applicable agreements will be submitted for regulatory approval in advance of closing. Please provide drafts of all intercompany agreements between the Applicant, and any affiliates, and BCBSVT, and explain the fees charged under those agreements if it is not on an actual-cost basis. *See* Form A, p. 14.
5. Please incorporate the entirety of Appendix A, from your Response Document into the Form A, enhanced as noted above.

ITEM 6. VOTING SECURITIES TO BE ACQUIRED

The Department has no questions at this time.

ITEM 7. OWNERSHIP OF VOTING SECURITIES

The Department has no questions at this time.

ITEM 8. CONTRACTS ARRANGEMENTS OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER

The Department has no questions at this time.

ITEM 9. RECENT PURCHASES OF VOTING SECURITIES



The Department has no questions at this time.

ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE

The Department has no questions at this time.

ITEM 11 AGREEMENTS WITH BROKER-DEALERS

The Department has no questions at this time.

ITEM 12. FINANCIAL STATEMENT AND EXHIBITS.

The Department has no questions at this time.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

The Department has no questions at this time.

ITEM 14. SIGNATURE AND CERTIFICATION

The Department has no questions at this time.

Exhibits

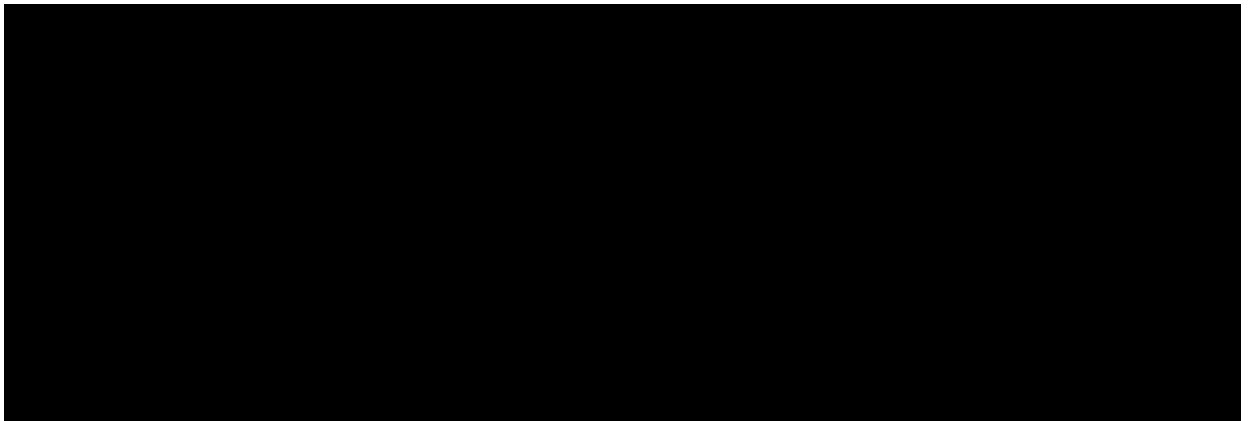
1. Principal Transaction Agreement:
 - a. Please see questions above in Item 4.
2. Bylaws:
 - a. There appears to be a conflict between Section 302 of the Bylaws and the requirements of Title 11B. 11B V.S.A. § 8.08 states that “[i]f at the beginning of a director’s term on the board, the articles of incorporation or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office votes for the removal.” Pursuant to Section 302 of BCBSVT’s Bylaws, a Director will be removed automatically after missing the specified number of meetings. *See* Bylaws, § 302. Please update the Bylaws to resolve this conflict.
 - b. Section 317 of the Bylaws states that “[e]ach Director shall comply with the Conflict of Interest Policy of the Corporation in effect from time to time.” Bylaws, § 317(a). Please clarify the meaning of “in effect from time to time” and considering amending to read “as amended from time to time.”
 - c. There seems to be a typo in the first sentence of Section 503: “The Corporation may, but shall not be required to have **an** use a corporate seal bearing the name of the Corporation.”
 - d. Please provide a redline of the Amended Bylaws reflecting all proposed changes.
3. Articles of Incorporation:
 - a. Please provide a definition for BCBSA.

Miscellaneous



1. Several of the documents associated with the Form A filing have been stamped confidential. We would like to schedule a time to discuss these confidentiality requests in further detail.
2. Please provide an update from all applicable rating agencies regarding their reaction to the proposed affiliation.
3. Please provide the Applicant's 2022 assessment of internal controls related to its audited financial statements.
4. Please advise us of the anticipated date the Applicant's 2022 annual report to members will be completed and provided to the DFR.
5. As the DFR continues to evaluate the proposed affiliation, please continue to keep the Applicant's Form A filing current including but not limited to required financial statement filings.
6. The DFR has identified Directors it would like to interview. Please provide a list of available interview times for the following Directors:
 - a. Daniel Loepp
 - b. Kenneth Dallafior
 - c. Renee Axt
 - d. Kate Williams
 - e. Jason Robart
7. The Organizational Chart included in BCBSVT Chapter 123/125 filing shows that the Chief Information Officer and Chief Financial Officer at BCBSVT will be reporting directly to executives at the Applicant. Please provide additional information on why these positions are reporting directly to the Applicant. What type of efficiencies are envisioned based on the new reporting structure? Will there be indirect reporting to BCBSVT President and Chief Executive Officer?

8.



[REDACTED]

10. Health and Wellness Partners, Incorporated Cell (“HWP”) is indirectly affected by the proposed affiliation. The DFR, Captive Division will require additional filings and/or notification. Have you had any communication with the Captive Division on their filing requirements or when do you expect to file with them?

To address these questions most efficiently, we would like to schedule a call in the coming weeks to discuss the issues raised in this letter and provide you an opportunity to ask questions. In the meantime, please let us know if you need additional information.

Sincerely,



Emily Brown

Deputy Commissioner of Insurance

