



## CONSUMER PROTECTION ISSUES

### HB 5282, 5283, 5284 AND 5285

- The bills eliminate the ability of Blue Cross insureds to seek public hearings on whether Blue Cross' rates are excessive. Currently, a Blue Cross subscriber has requested a hearing on the Blue Cross individual rates (scheduled for December 2007). Blue Cross had originally requested a composite increase of 24.3%. The rate increase was held in abeyance due to the hearing, and an interim increase (10% composite) was granted pending the results of the hearing. These hearings provide an important check and balance on rate hikes given Blue Cross' unique social mission.
- The bills eliminate the ability of the Attorney General to seek public hearings on whether Blue Cross' rates are excessive. Earlier this year, the Attorney General stopped a proposed Blue Cross rate hike of 50.3% for Medicare supplement coverage. As a result of this action, Blue Cross agreed to a 19% rate increase. This was significant since Census Data indicate that more than 40% of the state's seniors have incomes below 200% of the federal poverty limit. Under the bills, the Attorney General could not bring these actions in the future.
- The bills eliminate all community rating by Blue Cross and HMOs, thus driving up the cost for older and less healthy residents.
- The bills extend the length of pre-existing condition exclusions for Blue Cross and HMOs from 6 months to 12 months, thus increasing gaps in coverage.
- The bills allow carriers to establish premium rates with a 70% loss ratio. This means that 30% can be retained for profit and administration. This ratio is quite low in the case of Blue Cross which has the largest book of individual business and whose current retention for profit, administration and subsidies is less than 10%.
- The bills do not require Blue Cross and HMOs to have prior approval of their rates, as required under existing law. In fact, under the proposed legislation, the Insurance Commissioner does not even have the power to reject a rate filing. This is particularly concerning in the case of Blue Cross since their enabling statute has a requirement that coverage be made available at a "fair and reasonable price."
- The bills eliminate any review of Blue Cross' surplus in determining whether its rates are excessive. Today, specific standards exist to consider surplus in evaluating the reasonableness of Blue Cross premium rates. As a result, Blue Cross will be able to amass substantial surplus without ever having to take that into account in developing premiums.

- The bills do not include any provisions requiring premium assistance for low income residents.
- The bills do not require Blue Cross to use subsidiary earnings and investment income on its surplus to reduce premium rates.
- The bills allow Blue Cross to enter into other businesses and purchase other companies, which could threaten the solvency of the company or result in a misappropriation of its charitable assets.
- The bills allow Blue Cross to own health insurance companies and operate them without restriction, thus creating the risk of a de facto conversion of Blue Cross. Blue Cross could move existing business into the health insurance subsidiary and later spin out that subsidiary or take it public. In 2001, then Insurance Commissioner Frank Fitzgerald recognized this risk: “Another avenue to effectively turn Blue Cross into a for-profit company would be the creation or acquisition of a subsidiary for-profit insurer.... The net effect could be the transfer of many or all of the company’s assets to this new for-profit entity, leaving the current BCBSM as nothing more than a shell and effectively creating a new company within the for-profit subsidiary. This scenario is more than idle speculation as this approach was recently pursued by the Blues plans in Pennsylvania, Washington, Wisconsin, Utah, Oregon, and Idaho.”