

Report Highlights

Considerations for Regulating Surplus Accumulation and Community Benefit Activities of Pennsylvania's Blue Cross and Blue Shield Plans

House Resolution 865 called on the LB&FC to review the regulation, oversight, and disposition of the reserves and surpluses of Commonwealth health insurers, particularly the four Blue Cross and Blue Shield plans. The LB&FC contracted with The Lewin Group to conduct this study.

Findings:

- **Pennsylvania's Blues, like health insurers nationwide, have seen large gains in their retained earnings.** By the end of 2002, PA's four Blue plans had collective surpluses of about \$3.5 billion despite rising health care costs.
- **The PA Insurance Department took two major steps in early 2005.** First, the PID issued an Order defining acceptable ranges for the Blue plans' surplus capital. It also found that none of the plans held excess capital. Second, an "Agreement on Community Health Reinvestment" (CHRA) signed by PID and the Blue plans detailed the Blues' commitment, for 2005-2010, to devote somewhat more than 1 percent of their annual premium revenues to community benefits. The aggregate of the pledges is estimated at \$950 million, though some of the funding committed was not new. Sixty percent of this funding is to be used to support the adultBasic program.
- **Few states have formal rules concerning community benefit outlays and upper surplus limits.** Prior to the CHRA, only Maryland had a formal requirement regarding community benefit outlays that applied exclusively to a Blue plan. Further, very few states regulate the upper bounds of surplus capital accumulation. For example, Michigan has capped its one Blue plan's surplus at a risk-based capital (RBC) ratio of 1,000 percent.
- **Alternatives to capping surplus to reduce premiums or to moderate premium increases.** Traditionally, state insurance regulators have sought to affect premium levels through underwriting and rate making rules (especially in the small-group and non-group segments), rate filing and approval processes, and setting minimum medical loss ratios rather than directly regulating surpluses.
- **On balance, the PA Blues provide community benefits that are as generous as, if not more generous than, their counterparts elsewhere.**

Pennsylvania's statutory requirements in adult-Basic, CHIP, and HIPAA, plus the Blues' voluntary commitment to HCTC, subsidized guarantee issue for non-HIPAA-eligible people in the individual market, and direct charitable giving programs suggest that the PA Blues perform equally well or better than not-for-profit health insurers elsewhere. The effect of the CHRA on the affordability of health coverage for enrollees in the Blue plans is difficult to predict, however, and will depend on the approach taken by PID in approving future rate filings.

Conclusions and Recommendations:

- **The PID's February 2005 ruling set reasonable bounds on the Pennsylvania Blue plans' accumulation of surplus.** The upper limits on surplus (950% surplus ratio for Blue Cross of NEPA and Capital Blue Cross; 750% for Highmark and Independence Blue Cross) are reasonable. Surplus levels that produce RBC ratios in the range of 500-900% can be justified to protect against underwriting swings. The higher RBC ratio levels for the two smaller Blue plans are also reasonable given that these plans exhibit greater volatility. It is not likely that the ruling will disrupt the Pennsylvania insurance market. Instead, it should help limit premium growth, while still assuring a reasonably competitive marketplace.
- **We do not recommend that the General Assembly take additional steps to regulate the Blues' community benefit activities at this time.** However, we do suggest that the PID establish well-defined criteria for what types of community benefit would be accepted under the CHRA for the portion of the pledge (40%) not dedicated to the adultBasic program.

CHIP – Children's Health Insurance Program
 HCTC – Health Coverage Tax Credit*
 HIPAA – Health Insurance Portability and Accountability Act*

*HCTC and HIPAA are federal health coverage access programs