



**STATE OF RHODE ISLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

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*Peter F. Neronha*  
*Attorney General*

August 10, 2020

**Via Electronic Mail Only**

Marie Ganim, Ph.D.  
Health Insurance Commissioner  
Office of the Health Insurance Commissioner  
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Cranston, Rhode Island 02920  
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**In re: Blue Cross Blue Shield of Rhode Island**  
**Rates Filed for 2021 Individual Market Plans**  
**SERFF ID: BCBS-132404728 (July 28, 2020 refile)**

Dear Commissioner Ganim:

Pursuant to Rhode Island General Laws §§ 27-19-6(j)(2), 27-20-6(j)(2), and 27-36-1, and consistent with the deadline for public comment set forth in the Office of the Health Insurance Commissioner's ("OHIC") Public Comment Solicitation dated July 21, 2020, the Rhode Island Attorney General submits the following objection to the 5.7% rate increase in the "individual market" sought by Blue Cross Blue Shield of Rhode Island ("BCBSRI").

Because both issuers in the individual market, BCBSRI and Neighborhood Health Plan of Rhode Island, requested rates below 10%, no public hearing was held. *See R.I. Gen. Laws §§ 27-19-6(f) and 27-20-6(f)*. OHIC held a public comment meeting via Zoom on the rate review process on Thursday, August 6, 2020 at 4:30pm. Representatives from our Office were in attendance.

The Attorney General's objections are based on the attached actuarial report of Oliver Wyman Actuarial Consulting, Inc. ("Oliver Wyman") submitted on behalf of the Office of the Attorney General and the unaffordability of the proposed increase. Our Office asks that you exercise your authority to account for affordability and deny a rate increase.

## **Preliminary Statement**

BCBSRI's request for a substantial rate increase comes at a time when more and more Rhode Islanders are without work, at the end of unemployment insurance, facing taxation for failing to carry health insurance and reeling from an unprecedented pandemic and the resulting economic consequences. These are the Rhode Islanders who must turn to the individual market for health insurance, where this rate increase is sought. Yet BCBSRI's request comes at a time when it has financial reserves three times the mandatory minimum to avoid regulatory action, and over one and a half times what the Blue Cross Association requires.<sup>1</sup> Over the last eight (8) of ten (10) years, BCBSRI has requested increases above what OHIC has found necessary and appropriate for consumers. A thorough analysis of BCBSRI'S current rate increase request by Oliver Wyman, a nationally-recognized firm, demonstrates that this request is inflated and unnecessary as well.<sup>2</sup> Given the historic health disparities and obstacles to healthcare of many Rhode Islanders who will be affected by your decision, the enormous economic and health risks *all* individuals and families currently face who must turn to the individual market, and the clear solvency of BCBSRI, the Attorney General recommends BCBSRI's rate increase be denied and no increase imposed.

## **Unaffordability of a Rate Increase**

The Attorney General addresses OHIC in his distinct role in this rate review: to represent, protect and advocate for Rhode Islanders who are and will be consumers of these insurance products. *See R.I. Gen. Laws § 27-36-1*. In addition, as the State's Health Care Advocate, the Attorney General is obligated to carry out the mandate of the Health Care Advocate statute and advocate for quality and affordable health care for the people of this State. *R.I. Gen. Laws § 42-9.1-1*.

At least 17,300 lives will be affected by these final rates, and that number will likely rise for 2021 enrollment, given the increase in uninsured adults as a result of unemployment.<sup>3</sup> Since March 9, 2020 thru August 2, 2020, Rhode Island Department of Labor and Training reports a total of 369,883 Covid-related unemployment claims, inclusive of Covid-specific claims and pandemic unemployment assistance claims.<sup>4</sup>

It is critical that all individuals seeking healthcare in the individual market, whether by choice or by force of circumstance, pay the lowest possible rates to ensure continuity of care for themselves and their families. In addition, those who will need health insurance in the individual

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<sup>1</sup> Oliver Wyman Actuarial Report for BCBSRI, p. 6-7.

<sup>2</sup> *Id.* at pp.5-13.

<sup>3</sup>Rhode Island is one of the top five States with the highest percentage of individuals losing their employer-sponsored health insurance due to COVID-19, with a 55% increase in uninsured adults <https://www.ajmc.com/view/states-facing-covid19-spikes-report-greatest-health-insurance-coverage-losses>, dated July 14, 2020.

<sup>4</sup> <https://dlt.ri.gov/coviddata/>.

market – who simply cannot afford an increase in rates – include people and communities already suffering from profound inequities.

As of July 2020, job loss nationally has been experienced disproportionately by African-Americans at 14.6 %, followed by Latinx at 12.9 %, with 12 % for Asian people and 9.2 % for white people.<sup>5</sup> These are the people and communities who will be turning to the individual market. Yet even before the Covid-19 pandemic, in Rhode Island the proportion of Blacks and Latinx who report not seeking medical attention is 11.3% and 21%, respectively, according to the Rhode Island Commission for Health Advocacy and Equity – Legislative Report January 2020.<sup>6</sup> Recognizing the many social determinants of health, this report identifies housing burden and food insecurity (among other measures) concentrated in communities with high Black and Latinx populations.

These stark and disturbing disparities in health care and its determinants have played out with a vengeance during the COVID-19 pandemic. In Rhode Island, 46% of all coronavirus cases are among Latinx, who make up just 16% of the population. Likewise, 12% of all cases are among African-Americans who make up just 6.55% of Rhode Island's population.

In addition, now that Rhode Island has instituted a state-based individual mandate<sup>7</sup>, all Rhode Islanders must have health insurance or pay a tax penalty. The cost of not having health insurance is not only felt when an uninsured person needs care, but when he or she pays her state taxes.

The disparate health impact of decades of policy and practice on Latinx and African American communities in Rhode Island has been clearly documented by the State's own Commission for Health Advocacy and Equity, and any increase in rates will present yet another obstacle to care. Further, because a rate increase in the individual market would fall upon those who have lost employer-provided health insurance, it will have the greatest impact on these same communities that are bearing a particularly heavy cost as a result of the Covid-19 pandemic, compounding these historic and current inequities.

The Attorney General urges you to exercise your regulatory authority and discretion to determine 2021 rates based upon affordability to the people who must pay for those insurance products. OHIC Regulation 230-RICR-20-30-4 (Powers and Duties of OHIC), Section 4.9 (C) delineates the factors to consider in determining affordability of rates, including the ability of lower-income individuals to pay for health insurance. In addition, BCBSRI has a responsibility to "provide affordable and accessible health insurance to insureds" and "employ pricing strategies that enhance the affordability of health care coverage." *See R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).*

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<sup>5</sup> See Bureau of Labor Statistics report of July 2020, <https://www.bls.gov/news.release/empsit.nr0.htm>

<sup>6</sup> <https://health.ri.gov/publications/reports/2020CommissionForHealthAdvocacyAndEquityLegislative.pdf>

<sup>7</sup> R.I.G.L. 44-30-101(c) (imposing a shared-responsibility payment on all persons who do not show proof of health insurance)

## **The Actuarial Basis for Denying BCBSRI's Request for a 5.7% Increase**

There is a strong actuarial basis for denying the increase proposed by BCBSRI. After review of BCBSRI's filings and the company's responses to questions posed both by OHIC and the Attorney General, Oliver Wyman concluded that it is both reasonable and actuarially appropriate to reduce BCBSRI's proposed rate increase by 4.2%. This results in a net overall increase of no more than 1.2% as opposed to BCBSRI's proposed net overall increase of 5.7%, **and this even before affordability is factored in**. As explained more fully in our actuarial report, we find that reductions based on inpatient trends, reserves, and certain drug costs are necessary and actuarially appropriate, with total premium savings of approximately \$5 million if all reductions are adopted by OHIC.

BCBSRI has sought increases for eight (8) out of the past ten (10) years. BCBSRI's requested increases have ranged at its lowest of 2.4% in 2011 to a high of 18.1% in 2013.<sup>8</sup> Our Office has consistently provided alternative rate calculation reductions which always result in less of a rate increase (or even resulting in a decrease) than what BCBSRI proposes. Based on our Office's historical experience of reviewing BCBSRI's rate filings and based on the current information contained in BCBSRI's rate filing for 2021 rate, our Office has found no evidence that BCBSRI will become insolvent or significantly underfunded if its rates are not approved as requested by our Office. We thus request all actuarially supported data be viewed in the light most favorable to the insured and to the affordability of products.

## **Conclusion**

The Attorney General's actuaries cannot justify an increase of more than 1.2%. Taking into account the unaffordability of even that increase, as you are authorized to do, no increase at all can be justified. In addition to actuarial assumptions and findings, the impact COVID-19 has on the very real people the insurance plans serve must be considered. It is no secret that many Rhode Islanders are struggling financially during this pandemic. The unemployed will find themselves in a precarious situation, having to choose between paying for insurance no longer received through their employer or paying for other necessities such as food or housing and facing a tax penalty.

Even if the OHIC found the actuarial arguments by BCBSRI and our Office equally balanced – which the Attorney General maintains they are not - given the historic and current realities facing those who will ultimately bear the consequences of OHIC's decision on the one hand and the undisputed solvency of BCBSRI on the other, this is an instance where a tie should go to the runner, the people of Rhode Island.

Keeping the needs and considerations of the affected insured always first and foremost, the Office of the Attorney General asks that you place significant weight on the unaffordability of

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<sup>8</sup>Due to the implementation of the 1332 waiver reinsurance program, BCBSRI requested a decrease of 0.1% in 2019 for 2020 rates.

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Health Insurance Commissioner  
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higher health insurance rates and deny any rate increase in the individual market to BCBSRI in the best interest of the public. Thank you for your consideration.

Respectfully Submitted,

PETER F. NERONHA  
ATTORNEY GENERAL

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cc: Emily Maranjian, Esq. (OHIC)  
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