

New Jersey Senate

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December 12, 2020

The Honorable Philip D. Murphy
Office of the Governor
P.O. Box 001
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Dear Governor Murphy,

We are writing you to express our fundamental concerns with, and many questions about, legislation that, among other provisions, will quickly drain \$600 million in reserves from the state's largest health insurer to prop up the State's upcoming election year budget. This legislation will have significant impacts on the care provided to, and premiums charged on behalf of, millions of New Jersey citizens that receive health benefits through local governments, small businesses, and other employers struggling through the COVID-19 pandemic. It has been reported that your office has been intricately involved in drafting the legislation and amendments reportedly being advanced next week. Therefore, it is imperative that your administration respond to our concerns and address the questions that pertain to how your administration will implement the bill, prior to scheduled committee votes Monday and Tuesday -- despite no legislators having seen the final version of what will be considered.

Fundamental concern one: This legislation will require Horizon Blue Cross Blue Shield to transfer \$600 million to the State's General Fund in the next budget. This drain of funding from the state's largest insurer is at the inopportune time when the health care system is facing the greatest health crisis and potential costs in a century. It has been suggested that the \$600 million is not needed by Horizon Blue Cross Blue Shield to ensure quality health care and the payment can be sustained. The amount is obviously arbitrary and has not been built up as a reserve without reason. We are concerned about supporting legislation that drains these funds without assurances that local property taxpayers and small businesses will not see increase in their premiums to rebuild reserves in the future. We have requested financial information from Horizon Blue Cross Blue shield demonstrating the future impact to ratepayers and on their reserves due to the one-time payment, but they have provided limited information. Your administration has the ability to review their reserves and the impact of this \$600 million dollar drain that we do not have. We request that you use that ability and provide public guidance on the impacts before this bill is considered further. We want assurances from you that this drain of funds will not put added costs on already struggling property taxpayers and small businesses.

Fundamental concern 2: If it is determined that there is some amount of funding -- whether it

be \$600 million or some other amount -- that can be drained from Horizon Blue Cross Blue Shield, we believe strongly that these funds should not simply be diverted to the state's General Fund to prop up a structurally unsound state budget. We feel strongly that these funds should be placed in a segregated account and that they should be used for the purpose of improving the quality and efficiency of health care -- especially for those people in our state who have been denied quality and efficient health care in the past. It is fundamentally unfair to take money from people who have paid high premiums to prop up the state budget when those funds were paid for a reason -- to receive quality health care for consumers.

In addition to these two fundamental concerns that we want addressed prior to voting on this legislation, we have many questions about the impacts that this legislation will have on the risks, business practices, and financial investments by our state's largest insurer. We do not doubt that some advocates of this legislation sincerely believe that these changes will allow our largest insurer more flexibility to appropriately deliver a quality and more efficient product. And we may agree with that position if we receive additional information. In fact, the health insurer has asked for these changes and has explicitly stated that they will provide for better and more efficient health care. And they have stated that there will be adequate state oversight through the Department of Banking and Insurance that will protect consumers from unnecessary risks or self-interest. Due to the complex nature of this legislation and your administration's responsibility under its provisions to provide the regulatory framework to make it work, we want to receive answers from your administration about how you intend to enforce its provisions and whether the representations made by our state's largest insurer are accurate. To that end we are attaching a list of questions that we want answers to prior to voting on this legislation.

We understand the long history of governors rarely discussing pending legislation. However, in this case your administration has reportedly helped draft this bill and yet there have been little to no public comments by your administration about it. That is unacceptable to us. It is unacceptable to the public. We look forward to receiving your comments about our two fundamental concerns and the many questions we have shared.

Thank you for your time and consideration of this matter.

Sincerely,



Senator Anthony Bucco
Member, Commerce Committee



Senator Steven Oroho
Republican Budget Officer



Senator Gerald Cardinale
Member, Commerce Committee

Questions for the Administration:

FINANCIAL SUSTAINABILITY OF \$600 MILLION GRAB OF HORIZON RESERVES FOR STATE BUDGET USE

What due diligence has the Department of Banking and Insurance undertaken to determine that Horizon Blue Cross Blue shield is able to turn over \$600 million of their reserves to the state without impacting its ability to provide services during a pandemic and without increasing the premiums paid by its customers to rebuild reserves. Please share all modeling.

Is it prudent to draw \$600 million out of the state's largest health insurer's reserve in the middle of a global pandemic which will have significant impacts to the costs of health care that could prove to destabilize premiums for customers?

APPROPRIATENESS OF THE STATE KEEPING FOR ITS OWN/USE ALL OF ANY PAYMENT FROM HORIZON

Who were the payers of the funds that would be taken from Horizon by the state? For example, how much of the \$600 million in planned payments from Horizon were actually paid for by property taxpayers whose local governments procure insurance from Horizon? How much of the \$600 million was paid for by small employers? How much of the \$600 million was paid for by individuals? Shouldn't available funds be shared with all payers and not just the state?

Other states that have received dividends from their Blue Cross Blue shield providers have locked those funds into special endowment accounts so the funds are available over a long period of time to help improve health care for traditionally underserved communities. Isn't this a better approach for the state rather than to simply wash the money into a single year's budget to patch up for one year, a structural budget deficit?

REGULATORY JURISDICTION AND AUTHORITY TO ENSURE PRUDENT INVESTMENTS AND RESERVES

Prior efforts to sell Horizon through an IPO or negotiated sale were presented with estimates of the market value approaching \$10 billion. The \$600 million upfront payment is far less than that, even though the bill's net reductions in future corporate tax liabilities should cause the value to grow. Who, or what, can potentially cash in on the remaining value in the corporation? How will the State ensure it and consumers are not forfeiting that asset value?

Which departments will regulate the holding company? What authority will those departments have and how will they use it?

Which departments will regulate the subsidiaries? What authority will those departments have and how will they use it?

What will happen if Horizon invests in money losing companies and how will regulatory agencies prevent unnecessarily risky investments from being pursued?

Will the departments have enough authority to prevent affiliated, but legally separate entities, from unreasonably compensating officers or key employees of Horizon?

Since Horizon will be given new opportunities to invest in companies what parameters will be placed on the types of investments they may make and what reporting will be required with respect to individual investments to ensure transparency for members?

BOARD STRUCTURE

Is it appropriate that this bill would increase political appointees to the board and remove minimum criteria of appointments which exist under current law?

Do other states allow for as much political interference and board activities as the state of New Jersey?

Is it appropriate to continue more than \$75,000 payments and paid health benefits to board members, especially when the size of the board is being increased with additional political appointees?