

STATE OF NORTH CAROLINA  
DURHAM COUNTY

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
23 INS 00738

BLUE CROSS AND BLUE SHIELD OF	)
NORTH CAROLINA,	)
	)
Petitioner,	)
	)
v.	)
	)
NORTH CAROLINA STATE HEALTH	)
PLAN FOR TEACHERS AND STATE	)
EMPLOYEES,	)
	)
Respondent,	)
	)
and	)
	)
AETNA LIFE INSURANCE COMPANY,	)
	)
Respondent-Intervenor.	)

**RESPONDENT-INTERVENOR’S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Pursuant to Rule 56 of the North Carolina Rules of Civil Procedure and 26 N.C.A.C. 3 .0115, Respondent-Intervenor Aetna Life Insurance Company (“Aetna”) hereby moves for partial summary judgment in its favor on the grounds that there are no genuine issues of material fact, and Aetna is entitled to judgment as a matter of law. As further set forth in the Memorandum in Support of this Motion for Partial Summary Judgment and the exhibits incorporated therein by reference, which have been filed contemporaneously with this Motion, Petitioner Blue Cross and Blue Shield of North Carolina (“Blue Cross NC”) has waived its claims against Respondent in this contested case to the extent they are predicated on the express terms of Request for Proposal # 270-20220830TPAS, (“2022 TPA RFP”).

The 2022 TPA RFP required Blue Cross NC to raise “questions, issues, or exceptions regarding any term, condition, or other component” of the 2022 TPA RFP *before* proposals were

due. Blue Cross NC failed to observe this mandatory requirement and has thereby waived its right to raise challenges to the terms of the 2022 TPA RFP in this litigation under the express terms of the 2022 TPA RFP and the doctrine of laches, consistent with the waiver rule universally observed in federal procurement litigation.

WHEREFORE, Aetna requests that its Motion for Partial Summary Judgment be granted in its favor, and that Blue Cross NC's claims be dismissed to the extent they challenge the terms of the 2022 TPA RFP. Aetna further respectfully requests oral arguments on this Motion in this Tribunal's discretion under 26 NCAC 03 .0115(b).

This the 15th day of December, 2023.

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By: /s/ Lee M. Whitman

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **RESPONDENT-INTERVENOR'S MOTION FOR SUMMARY JUDGMENT** on the following via electronic transmission:

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This, the 15<sup>th</sup> day of December, 2023.

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