

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
23 INS 00738

<p>Blue Cross and Blue Shield of North Carolina Petitioner,</p> <p>v.</p> <p>North Carolina State Health Plan for Teachers and State Employees Respondent.</p>	<p>NOTICE OF CONTESTED CASE AND ASSIGNMENT G.S. 150B-23, 33(b)(4)</p>
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NOTICE IS HEREBY GIVEN that a petition for a contested case hearing was filed with the Office of Administrative Hearings, pursuant to N.C.G.S. § 150B-23(a) and accepted by the Office of Administrative Hearings **on** February 16, 2023.

1. In accordance with N.C.G.S. 150B-23(a) and 26 NCAC 3 .0103, the Undersigned hereby assigns Administrative Law Judge Melissa Owens Lassiter to preside in this case.
2. The Parties shall file with the Office of Administrative Hearings a copy of the Document Constituting Agency Action, which caused the filing of the Petition, **within 30 calendar days** of the date of this Notice as well as serve a copy of the Document on the opposing side.
3. An Order for Prehearing Statements is attached. Each party **MUST** complete and file the Order for Prehearing Statements with the Office of Administrative Hearings within **30 calendar days** of the date of this Order.

If a party changes his or her mailing address, or the address listed for a party is incorrect, that party must notify the Office of Administrative Hearings of the new or corrected address.

This the 16th day of February, 2023.



Donald Robert van der Vaart
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

Stephen D. Feldman
Robinson, Bradshaw & Hinson, P.A.
SFeldman@robinsonbradshaw.com
Attorney For Petitioner

Matthew W. Sawchak
Robinson, Bradshaw & Hinson, P.A.
MSawchak@robinsonbradshaw.com
Attorney For Petitioner

Nathan C. Chase Jr.
Robinson, Bradshaw & Hinson, P.A.
NChase@robinsonbradshaw.com
Attorney For Petitioner

Joel Heimbach
North Carolina State Health Plan
3200 Atlantic Avenue
Raleigh NC 27604
Respondent

This the 16th day of February, 2023.



Maria G Erwin
Chief Hearings Clerk
N. C. Office of Administrative Hearings
1711 New Hope Church Road
Raleigh, NC 27609-6285
Phone: 984-236-1850

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23 INS 00738

<p>Blue Cross and Blue Shield of North Carolina Petitioner,</p> <p>v.</p> <p>North Carolina State Health Plan for Teachers and State Employees Respondent.</p>	<p>ORDER FOR PREHEARING STATEMENTS</p>
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Pursuant to 26 NCAC 3 .0104, the undersigned Administrative Law Judge hereby ORDERS the following:

1. Each party **MUST** complete and file this Prehearing Statement with the Office of Administrative Hearings at 1711 New Hope Church Road, Raleigh, NC 27609 **within 30 calendar days** of the date of this Order. You may attach additional pages if needed. Each party **must** also serve a copy of its Prehearing Statement on the opposing party **within 30 calendar days** of the date of this Order.
2. Failure of a party to comply with this Order for Prehearing Statements may result in the Administrative Law Judge imposing one or more of the sanctions set forth in N.C.G.S. 150B-33(b)(10) and 26 NCAC 03.0114(a) against the non-complying party, including dismissal of the contested case petition.

PREHEARING STATEMENT

1. The issue(s) to be resolved: _____

2. A brief statement of the facts and reasons supporting the issue(s) in dispute:

3. The statutes, rules, and legal precedent, if known: _____

4. A list of proposed witnesses you may call at the hearing: _____

5. Whether you wish to pursue discovery. If so, the estimated time required. (Discovery is a legal means by which the parties may prepare for hearing and acquire previously unknown facts and information about the case from the other party through pretrial procedures and rules such as depositions, interrogatories and exchanging of exhibits.):

6. If you received a Scheduling Order, is the date and location of the hearing on the Scheduling Order acceptable? If not, you must file a separate request (motion) for a change.

7. If you do not have an attorney representing you in this contested case, please provide the following information in order to receive communications from the Office of Administrative Hearings about your case:

Home address: _____

Business address: _____

Telephone number(s): _____

Email address: _____

8. Estimated length of hearing: _____

9. Please list any special needs/considerations you may require for the hearing:

YOUR SIGNATURE

PRINT YOUR NAME

This the 16th day of February, 2023.



Melissa Owens Lassiter
Administrative Law Judge

CERTIFICATE OF SERVICE

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Joel Heimbach
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3200 Atlantic Avenue
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Respondent

This the 16th day of February, 2023.



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<p>Blue Cross and Blue Shield of North Carolina Petitioner,</p> <p>v.</p> <p>North Carolina State Health Plan for Teachers and State Employees Respondent.</p>	<p>ORDER FOR MEDIATED SETTLEMENT CONFERENCE G.S. 150B-23.1 26 NCAC 03.0200</p>
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IT IS ORDERED that this contested case be referred to a mediated settlement conference.

Within 21 days after the date of this Order, the parties may, by agreement, select a certified mediator or nominate a non-certified mediator to conduct their mediated settlement conference. Within 21 days after the date of this Order, the Petitioner or Petitioner's attorney shall notify the presiding Administrative Law Judge of the selection of a certified mediator or the nomination of a non-certified mediator, or the failure of the parties to agree on a mediator as set out in 26 NCAC 03 .0202 (a) and (b). Notice shall be given on OAH form DESIGNATION OF MEDIATOR, H-08 (copy enclosed).

A Mediator selected by agreement of the parties shall be compensated at a rate agreed upon between the mediator and the parties. A mediator selected by the presiding Administrative Law Judge shall be compensated at the rate of \$150 per hour for time spent in the mediated settlement conference, to be billed in quarter hour segments. In addition, a \$150 preparation fee shall be paid unless a settlement agreement has been finalized and the conference is canceled by the parties, and the mediator is notified thereof, more than seven (7) calendar days before the conference date.

Unless otherwise agreed to by the parties or ordered by the presiding Administrative Law Judge, all mediator fees shall be paid directly to the mediator at the conclusion of the settlement conference. The fee shall be paid as follows: one equal share by the Petitioner, one equal share by the Respondent, and one equal share by any Intervenor. Parties obligated to pay a share of the costs shall pay them equally.

The following persons shall physically attend the mediated settlement conference: (1) All individual parties; (2) For a corporate party, an officer, director or employee having authority to settle the contested case claim; (3) For a governmental party or agency, a representative of that governmental party or agency with full authority to negotiate on behalf of the party agency and to recommend settlement to the appropriate decision making body of the agency; and (4) The parties' counsel of record, if any.

This the 16th day of February, 2023.

A handwritten signature in black ink, reading "Donald Robert van der Vaart". The signature is written in a cursive style and is positioned above a solid horizontal line.

Donald Robert van der Vaart
Chief Administrative Law Judge

CERTIFICATE OF SERVICE

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service:

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<p>Blue Cross and Blue Shield of North Carolina Petitioner,</p> <p>v.</p> <p>North Carolina State Health Plan for Teachers and State Employees Respondent.</p>	<p>DESIGNATION OF MEDIATOR</p> <p>G.S. 150B-23.1 26 NCAC 03.0200</p>
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DEADLINE FOR COMPLETION OF MEDIATED SETTLEMENT CONFERENCE:

NOTE TO ATTORNEYS: Petitioner's attorney should check and fill out only one of the three Sections.

[] **SECTION 1 - SELECTION OF CERTIFIED MEDIATOR BY AGREEMENT PURSUANT TO 26 NCAC 03.0202(a)**

The above named contested case was referred to a mediated settlement conference. The parties have selected the mediator named below who has agreed to serve in this contested case and is certified pursuant to Rule 8 of the Supreme Court's Revised Rules of Mediated Settlement Conferences (December 1, 1993).

Name: _____

Address: _____

Telephone No.: _____

The parties and the mediator have agreed upon the mediator's rate of compensation as follows: (specify all terms of the compensation agreement.)

[]

SECTION 2 - NOMINATION OF NON-CERTIFIED MEDIATOR PURSUANT TO 26 NCAC 03.0202(b)

The above named case was referred to a mediated settlement conference. The parties nominate the non-certified mediator named below to conduct the mediated settlement conference. The mediator has agreed to serve and has agreed to mediate indigent cases without pay.

Name: _____

Address: _____

Telephone No.: _____

The parties petition the presiding Administrative Law Judge to approve the nomination and represent that the mediator is qualified to mediate this case by virtue of the following training, experience or other qualifications:

The parties and the mediator have agreed upon the mediator's rate of compensation as follows:
(specify all terms of the compensation agreement.)

[]

SECTION 3 - MOTION FOR APPOINTMENT OF CERTIFIED MEDIATOR PURSUANT TO 26 NCAC 03.0202(c)

The above named contested case was referred to a mediated settlement conference.

After a full and frank discussion, the parties have been unable to agree upon the selection of a mediator.

The parties move the Presiding Administrative Law Judge to appoint a certified mediator to conduct the mediated settlement conference.

This the _____ day of _____, 19_____.

Signature

Please Print or Type Name

Address

Telephone

