

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
23 INS 738

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.)

UNOPPOSED MOTION
TO MODIFY SCHEDULING ORDER

Pursuant to 26 N.C. Admin. Code 03.0105(3) and 03.0115, Blue Cross NC respectfully moves this Tribunal to modify the Scheduling Order in this case to allow additional time, up to and including September 27, for the parties to complete all fact discovery. The proposed modifications would not affect the hearing date for this case. Paragraph 6 of this motion lists the specific modifications that Blue Cross NC proposes.

Blue Cross NC has consulted with counsel for the State Health Plan and for Aetna, and they do not oppose the proposed modifications.

In support of this motion, Blue Cross NC states the following:

1. Document production in this case remains ongoing. Aetna will be producing documents on or before July 31 in compliance with this Tribunal's June 29 order. The State Health Plan will also be making further production of its own documents by agreement between counsel, and anticipates further productions of internal documents voluntarily produced to the Plan by The Segal Company, the consulting firm that the Plan engaged in connection with the 2022 RFP.

2. The proposed modifications to the Scheduling Order would allow time for the Plan and Aetna to complete their productions and for the parties to conduct depositions following those productions.

3. The current deadline for fact discovery is September 1. (Scheduling Order ¶ 3(b).) This deadline was premised on the parties' completion of document productions by May 26. (*Id.* ¶ 3.)

4. The modest schedule change sought by this motion will promote judicial economy. In the absence of this change, Blue Cross NC would need to begin taking depositions while reserving the right to re-open depositions to ask further questions about newly produced documents. That result would be inefficient for all parties. The proposed modifications would solve this problem by providing the parties four more weeks to schedule depositions.

5. The proposed modifications would have no effect on the February 12, 2024 hearing date. The parties would complete expert discovery by December 1 and

complete briefing on dispositive motions by January 11, more than one month before the hearing.

6. For all of these reasons, having conferred among counsel, Blue Cross NC proposes the following modified schedule:

| Deadline | Current | Modified |
|---|-------------------|--------------------|
| Completion of fact discovery | September 1 | September 27 |
| Blue Cross expert reports | September 8 | October 4 |
| SHP and Aetna expert reports | October 6 | October 31 |
| Rebuttal reports | October 20 | November 10 |
| Expert depositions | November 3 | December 1 |
| Dispositive motions | November 20 | December 15 |
| Response to dispositive motions | December 20 | January 11 |
| Hearing on dispositive motions, if deemed necessary | Week of January 8 | Week of January 15 |

WHEREFORE, Blue Cross NC requests that the Tribunal modify the Scheduling Order as set forth above and grant all other relief that the Tribunal deems appropriate.

This the 11th day of July, 2023.

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Matthew W. Sawchak
Matthew W. Sawchak
N.C. State Bar No. 17059
msawchak@robinsonbradshaw.com

Stephen D. Feldman
N.C. State Bar No. 34940
sfeldman@robinsonbradshaw.com

434 Fayetteville Street, Suite 1600
Raleigh, North Carolina 27601
Telephone: (919) 239-2600
Facsimile: (919) 328-8790

Nathan C. Chase, Jr.
N.C. State Bar No. 39314
nchase@robinsonbradshaw.com

101 N. Tryon Street, Suite 1900
Charlotte, North Carolina 28246
Telephone: (704) 377-2536
Facsimile: (704) 378-4000

Counsel for Blue Cross and Blue Shield of
North Carolina

CERTIFICATE OF SERVICE

I certify that today, I caused this motion to be filed through this Tribunal's electronic-filing system. Under Rule 03.0501(4), the system will electronically serve the motion on the following counsel:

Aaron Vodicka, Esq.
North Carolina State Health Plan for Teachers and State Employees
aaron.vodicka@nctreasurer.com

Robert H. Edmunds, Jr., Esq.
Fox Rothschild LLP
bedmunds@foxrothschild.com

Marcus C. Hewitt, Esq.
Fox Rothschild LLP
mhewitt@foxrothschild.com

Elizabeth Sims Hedrick, Esq.
Fox Rothschild LLP
ehedrick@foxrothschild.com

Attorneys for Respondent

Lee M. Whitman, Esq.
Wyrick Robbins Yates & Ponton LLP
lwhitman@wyrick.com

Benjamin N. Thompson, Esq.
Wyrick Robbins Yates & Ponton LLP
bthompson@wyrick.com

Sophia V. Blair, Esq.
Wyrick Robbins Yates & Ponton LLP
sblair@wyrick.com

Attorneys for Respondent-Intervenor

This the 11th day of July, 2023.

/s/ Matthew W. Sawchak
Matthew W. Sawchak