



## State of North Carolina

ROY COOPER  
ATTORNEY GENERAL

Department of Justice  
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February 11, 2004

North Carolina Senate President Pro Tempore Marc Basnight  
North Carolina House of Representatives Speaker James Black  
North Carolina House of Representatives Speaker Richard T. Morgan  
Co-Chairs, Joint Legislative Commission on Governmental Affairs

Senator Scott Thomas  
Representative Bill Culpepper  
Representative Joe L. Kiser  
Co-Chairs, Appropriations Subcommittees on Justice and Public Safety

North Carolina General Assembly  
Raleigh, North Carolina 27601-1096

Re: N.C.G.S. § 114-2.5; Report of Settlement Agreement in Favor of the  
State; In The Matter of Blue Cross and Blue Shield of North Carolina,  
North Carolina Department of Insurance, (Docket Number 1121)

Gentlemen:

N.C.G.S. § 114-2.5 requires that not less than thirty (30) days prior to disbursement of funds received by the State or State agency pursuant to a settlement agreement or final orders of judgment of the case where the amount of funds exceed \$75,000, the Attorney General shall report to the Joint Committee on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety on the payments received by the State. Pursuant to that statute, I am writing to report as follows:

On September 11, 2003, the North Carolina Department of Insurance issued a "Notice of Administrative Hearing" for the purpose of determining whether Blue Cross and Blue Shield of North Carolina had committed violations of N.C. GEN. STAT. § 58-3-190 in its processing of emergency room claims. The Notice also had the purpose of determining whether the Department of Insurance should impose monetary penalties on Blue Cross and Blue Shield of North Carolina pursuant to N.C. GEN. STAT. § 58-2-70.

Under the terms of a Consent Order executed on December 18, 2003, Blue Cross and Blue Shield of North Carolina admitted that for five years after the effective date of N.C. GEN. STAT. § 58-3-190, it violated that statute by underpaying or denying emergency

claims through failure to utilize the “prudent layperson” standard required by the statute. As a result, approximately 146,000 insured emergency claims were either denied or underpaid.

Blue Cross and Blue Shield of North Carolina agreed to pay a civil penalty of one million eight hundred twenty-five thousand dollars (\$1,825,000.00) to the North Carolina Department of Insurance in settlement of potential penalties which could be assessed as a result of these violations. The penalty was calculated by applying a penalty of \$1,000.00 per day for the five-year period Blue Cross and Blue Shield of North Carolina violated N.C. GEN. STAT. § 58-3-190.

In accordance with N.C. GEN. STAT. § 58-2-70, the civil penalty paid by Blue Cross and Blue Shield of North Carolina will be remitted by the Department of Insurance to the Civil Penalty and Forfeiture Fund.

We will be happy to respond to any additional questions you may have in regard to this settlement. Please feel free to contact me at (919) 716-0042. With warm regards, I am

Very truly yours,

Julia White  
Chief of Staff

JW/sf

cc: Nels Roseland, Chief Fiscal Officer, NC DOJ  
Chloe Gossage, Fiscal Research Division, NCGA  
Greg McLeod, Legislative Counsel, NC DOJ