

1999 SENATE HUMAN SERVICES

SB 2295

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2295

Senate Human Services Committee

Conference Committee

Hearing Date FEBRUARY 9, 1999

Tape Number	Side A	Side B	Meter #
1	X		
Committee Clerk Signature <i>Paul Golodogichuk</i>			

Minutes:

The committee was called to order.

The hearing was opened on SB2295.

DAN ULMER, BC/BS, explained the bill in place of SENATOR STENEHJEM. Medicare is a large piece of our business. In the bill before the last legislature the term 'stock insurance' company was used. That was the only way that HCFA would allow us to make such an incorporation. BC/BS is processing 50 million claims in Medicare a year. Over half of our staff are Medicare employees. The conversion act gave us permission to form a downstream insurance company; that was the only option that we had. Now this letter says that we can now form a GPA or 3rd party administrator. BC would be the sole owner of this downstream stock company. It is a management issue. The dilemma of forming a downstream stock insurance company would be fairly large. We get paid so much per claim. It would be very difficult to

form an insurance company. SENATOR KILZER: With the word insurance in there does it have anything to do with the insurance department? MR. ULMER: Yes, if we were to form an insurance company we would have to be regulated by insurance department and comply with all the regulations. SENATOR KILZER: How often does the Medicare contract come up? Would there ever be a bidding for the Medicare contract for ND? MIKE HAMMERLICK, BC/BS: We are the subcontractor under the BC/BS Association; the fiscal intermediary. Contracts are perpetual; they are cost contracts so they are not bid. The Federal Government tells you what the costs are going to be, called allowable costs, but in terms of coming up for bids, neither the part A - Hospital side nor part B. SENATOR LEE asked how many states they serve? MR. ULMER replied 11 states.

No opposition

The hearing was closed on SB2295.

Discussion followed the hearing. SENATOR LEE moved a DO PASS on SB2295. Seconded by SENATOR FISCHER . Discussion The Insurance Department was asked to come to the committee. The motion was withdrawn.

CHRIS EDISON, Insurance Department, HCLA has taken insurance out of requirements. They would not have to be licensed by state. This is a change in requirements by the health care financing administration for the structure for health care companies that administer Medicare claims. The company does not have to be licensed in ND. What their plans are I'm not sure.

SENATOR LEE: You have no concerns about BC/BS going profit. MR. EDISON, No.

SENATOR DEMERS Does this take you out of any Medicare oversight. MR. EDISON: The administration of Medicare claims doesn't involve us at all. If they should set up an insurance

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Senate Human Services Committee

Bill/Resolution Number SB2295

Hearing Date FEBRUARY 9, 1999

company, they would be regulated by requirements, but we wouldn't regulate those activities anyway. If they start bleeding assets out of BC/BS of ND and into this other company in a way that would reduce ability to fulfill their charitable duties to the citizens of ND. The state would and should have ability to stop any nonsense that would go on. SENATOR KILZER: On Medicare, do insurance companies control those premium rates? MR EDISON: When it comes to Medicare the Federal has jurisdiction over it. Medicare Supplement, the Insurance Department has jurisdiction in compliance with Federal law. We have jurisdiction over approval of forms, approval of rates, and over marketing activities of any company that is selling Medicare Supplement in the state. That would not change with this bill.

SENATOR LEE moved a DO PASS. SENATOR FISCHER seconded it. Roll call vote carried 6-0-0. SENATOR LEE will carry the bill.

Date: 2/9/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO SB 2295

Senate HUMAN SERVICES COMMITTEE Committee

- Subcommittee on _____
or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Lee Seconded By Sen Fischer

Senators	Yes	No	Senators	Yes	No
Senator Thane					
Senator Kilzer					
Senator Fischer					
Senator Lee					
Senator DeMers					
Senator Mutzenberger					

Total _____ (yes) _____ (no)

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 2/9/99 2
Roll Call Vote #: _____

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2295

Senate HUMAN SERVICES COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Lee Seconded By Sen Fischer

Senators	Yes	No	Senators	Yes	No
Senator Thane	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Lee	✓				
Senator DeMers	✓				
Senator Mutzenberger	✓				

Total 6 (yes) 0 (no)

Absent 0

Floor Assignment Sen Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 9, 1999 1:26 p.m.

Module No: SR-26-2341
Carrier: Fischer
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2295: Human Services Committee (Sen. Thane, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2295 was placed on the
Eleventh order on the calendar.

1999 HOUSE HUMAN SERVICES

SB 2295

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2295

House Human Services Committee

Conference Committee

Hearing Date March 1, 1999

Tape Number	Side A	Side B	Meter #
2		x	2.8-6.8
Committee Clerk Signature <i>Wayne B. Pfander</i>			

Minutes:

DAN ULMER testifies: (Testimony attached.)

Rep. BRUCE ECKRE : The eleven states that you currently serve can come and go? DAN

ULMER: Generally, once the bid is achieved it usually stays as long as you remain in good standing.

OPPOSITION

Hearing closed on SB 2295

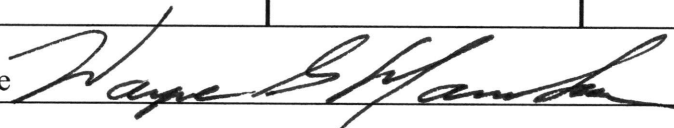
1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2295

House Human Services Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1		x	19.2-24.7
Committee Clerk Signature 			

Minutes:

Committee Discussion:

Rep. TODD PORTER moved DO PASS

Rep. BLAIR THORESON seconded.

Discussion:

Rep. SALLY SANDVIG raised some concerns about the profits that would come to the company and what would these profits. It would seem that these profits should be used to decrease the premiums of the policy holders. Rep. CLARA SUE PRICE pointed out that this was not an insurance company. This was a processing center that happened to be owned by an insurance company and the profits were only for the processing of claims.

Question Called. Passed 13-1-1.

CARRIER: Rep. BLAIR THORESON

Date: 3-2-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2295

House Human Services Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Porter Seconded By Thoreson

Representatives	Yes	No	Representatives	Yes	No
Clara Sue Price - Chairwoman	✓		Bruce A. Eckre	✓	
Robin Weisz - Vice Chairman	✓		Ralph Metcalf	✓	
William R. Devlin	✓		Carol A. Niemeier	✓	
Pat Galvin	✓		Wanda Rose		
Dale L. Henegar	✓		Sally M. Sandvig		✓
Roxanne Jensen	✓				
Amy N. Kliniske	✓				
Chet Pollert	✓				
Todd Porter	✓				
Blair Thoreson	✓				

Total Yes 13 No 1
Absent 1

Floor Assignment Thoreson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 2, 1999 12:39 p.m.

Module No: HR-37-3843
Carrier: B. Thoreson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2295: Human Services Committee (Rep. Price, Chairman) recommends DO PASS
(13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). SB 2295 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

SB 2295

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January 26, 1999

Michael F. Hamerlik, Esq.
Senior Vice President, Corporate Services
Blue Cross Blue Shield of North Dakota
4510 13th Avenue S.W.
Fargo, ND 58121-0001

Dear Mr. Hamerlik:

This is to advise you that the Health Care Financing Administration ("HCFA") has recently had the opportunity to reexamine its position that in order to qualify as a Medicare carrier, according to the definition contained at 42 U.S.C. § 1395u(f), the organization holding a contract with HCFA would need to be restricted to an insurance company.

For many years HCFA has taken the position that the statutory definition of a carrier could not be satisfied by any entity other than a traditional insurance company. However, based on arguments that we recently advanced during the course of submitting a request to transfer the Medicare carrier contract that was held by a Medicare carrier to a wholly-owned subsidiary that was not an insurance company, HCFA agreed that the definition of a Medicare carrier need not be interpreted so restrictively. In the particular situation described above, the subsidiary was licensed as a Third Party Administrator ("TPA"). HCFA agreed that the TPA, in paying Medicare claims and making determinations of medical necessity, was "lawfully engaged" in reimbursing the cost of health services to the extent required by the Medicare statute.

HCFA's decision to reconsider its restrictive interpretation of the Medicare carrier definition is also consistent with the new Medicare Integrity Program ("MIP") legislation that is codified at 42 U.S.C. § 1395ddd. Under MIP, HCFA has

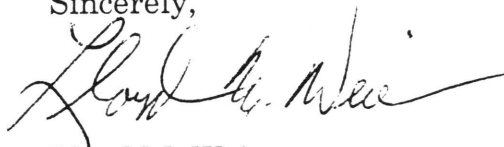
Michael F. Hamerlik, Esq.
January 26, 1999
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CROWELL & MORING LLP

authority to competitively enter into contracts for certain fraud detection activities that have traditionally been performed by Medicare carriers. Any type of entity can potentially qualify as a MIP contractor. In fact, for conflict of interest reasons, the ability to compete in the Medicare marketplace would likely be enhanced if a subsidiary organization were not restricted to an insurance company.

Please let us know if you have any questions concerning this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lloyd M. Weinerman".

Lloyd M. Weinerman

SB2295

Senate bill 2295 was put in at the request of BCBSND in order to better manage its Medicare claims processing business. Presently BCBSND processes 50,000,000 Medicare Part B claims per year for eleven states (Alaska, Hawaii, Washington, Oregon, Nevada, Arizona, Colorado, Wyoming, South Dakota, Iowa, and North Dakota).

Last session the legislature allowed BCBSND to become a nonprofit mutual insurance company. During those deliberations the session also allowed BCBSND to “form a stock insurance company for the purpose of administering Medicare.” At that point in time HCFA (the federal agency in charge of Medicare contractors) had informed BCBSND that it needed to establish an insurance entity to administer claims.

Since then BCBSND has been informed (see attached letter)that an entity doesn't need to be an insurance company and can be a TPA (third party administrator, still licensed and regulated by the Insurance Commissioner). Therefore 2295 was introduced to allow the formation of a stock Medicare TPA.

A TPA isn't required meet the same solvency guidelines, nor does it collect premiums or have the same obligations that a full blown insurance company does. Rather, a TPA administers claims under the rules established by whomever/ whatever group it contracts with...in this case the health care finance administration (HCFA). Thus, the company would have to meet HCFA's guidelines as well as the Insurance Commissioners, yet it won't have to meet all the requirements and costs involved in obtaining a certificate of authority that a free standing insurance company would have to meet.

The company will be a solely owned downstream subsidiary of BCBSND for the sole function of administering medicare claims....thus we respectfully request passage of 2295...thanks.