



**The State of New Hampshire
Insurance Department**

21 South Fruit Street, Suite 14
Concord, NH 03301
(603) 271-2261 Fax (603) 271-1406
TDD Access: Relay NH 1-800-735-2964

**Christopher R. Nicolopoulos
Commissioner**

**David J. Bettencourt
Deputy Commissioner**

October 1, 2021

VIA EMAIL, FIRST-CLASS & CERTIFIED MAIL: 7011 2000 0001 8842 7063
BlueCross BlueShield of Tennessee
1 Cameron Hill Circle
Chattanooga, TN 37402-0001

Re: Order to Show Cause & Notice of Hearing, Docket No.: INS No. 21-058-EP

Dear BlueCross BlueShield of Tennessee:

Enclosed please find an Order to Show Cause and Notice of Hearing issued by Commissioner Christopher Nicolopoulos.

A hearing in this matter has been scheduled on **November 8, 2021 at 1:00 PM** at the New Hampshire Insurance Department located at 21 South Fruit Street, Suite 14, Concord, NH. You may find directions and additional information on our website at <http://www.nh.gov/insurance>.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua S. Hilliard".

Joshua S. Hilliard, Esq.
Enforcement Counsel

**STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

**In Re: BlueCross BlueShield of Tennessee
Docket No.: Ins. No. 21-058-EP**

**ORDER TO SHOW CAUSE
AND
NOTICE OF HEARING**

The New Hampshire Insurance Department (“NHID”) orders BlueCross BlueShield of Tennessee (“Respondent”) to show cause why the New Hampshire Insurance Commissioner should not levy an administrative fine against it and/or order Respondent to cease and desist from offering health insurance in this state. In support of the Order to Show Cause and pursuant to RSA 541-A:31, RSA 400-A:17 *et seq.* and Ins Chapter 200, the NHID states as follows:

STATEMENT OF FACTS

1. Respondent is a Tennessee based insurance carrier who offers large group major medical health insurance coverage to at least one employer operating in New Hampshire.
2. B.C. is a New Hampshire resident who receives Respondent health insurance coverage through her employer; B.C.’s employer operates a physical work space in New Hampshire.
3. In 2020, B.C. sought out fertility treatment. B.C. has continued to receive fertility treatment through 2021. To date, B.C. has undergone treatment resulting in no less than 20 separate claims relating to fertility treatment.
4. Though required under New Hampshire law, Respondent denied coverage of those claims relating to medically necessary fertility treatments for B.C.
5. Throughout June and July of 2021, the NHID requested that Respondent reverse the denial for B.C.’s fertility treatment, noting that New Hampshire law requires that Respondent’s insurance plan provide coverage for medically necessary fertility treatment.
6. Respondent failed to accede to that request.

STATEMENT OF ISSUES

7. Whether Respondent violated NH RSA 400-A:15, by failing to provide coverage to consumer B.C. for medically necessary fertility treatment, in contravention of NH RSA 417-G:2.
8. Whether Respondent violated NH RSA 417:4, I (h) by refusing to cover medically necessary fertility treatment for B.C., though required to by law.
9. The NHID reserves the right to amend this statement of issues upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

INSURANCE LAWS VIOLATED BY RESPONDENT

10. The NHID maintains the Respondent violated the following New Hampshire insurance law statutes: NH RSA 400-A:15, NH RSA 417-G:2, and NH RSA 417:4, I (h).
11. The NHID reserves the right to amend this list of insurance laws violated by the Respondent upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

PENALTY REQUESTED

12. In the event that the Hearing Officer determines after an evidentiary hearing that the NHID sustained its burden of proof with respect to the allegations of fact and violations of law outlined above, the NHID requests that the Hearing Officer impose the following sanctions on the Respondent:
 - a. Order the Respondent to pay a penalty no less than \$52,500; and;
 - b. Order the Respondent to cease and desist from offering health insurance in this state.
13. The NHID reserves the right to amend penalty requested upon reasonable notice to the Commissioner (or his designated Representative) and the Respondent.

NOTICE OF HEARING

14. An adjudicatory proceeding shall be commenced for the purpose of resolving the issues articulated above pursuant to RSA 541-A:31, RSA 400-A:17, *et seq.*, and Ins 200. To the extent that the Department's rules do not address an issue of policy or procedures, the Department shall apply the N.H. Department of Justice Rules, Part 800.
15. The Respondent shall appear at Department on **November 8, 2021 from 1 PM to 3 PM**, at the Department's office located at 21 South Fruit Street, Suite 14, in Concord New Hampshire to participate in this adjudicatory proceeding and, if deemed appropriate, be subject to sanctions pursuant to RSA 400-A:15, III. Respondent's failure to appear at the time and place specified above may result in the hearing being held *in absentia* and sanctions may be imposed without further notice or an opportunity to be heard.
16. Steve M. Notinger, Esq. is appointed to act as Hearing Officer in this matter with all the authority within the scope of RSA 400-A:19 and Ins 203.01.
17. Linda Zalinskie shall serve as clerk to the Hearing Officer. The parties should direct all communications to Ms. Zalinskie, whose contact information is:

Linda Zalinskie, Clerk
New Hampshire Insurance Department
21 South Fruit Street, Suite 14
Concord, NH 03301
Tel: (603) 271-2261
Fax: (603)271-1406
Email: linda.m.zalinskie@ins.nh.gov

18. The Respondent has the right to be represented by a lawyer in this proceeding. However, the Respondent shall bear the cost of retaining said lawyer. Should the Respondent elect to retain a lawyer, his lawyer shall file a Notice of Appearance with Ms. Zalinskie, and said lawyer should do so at the earliest possible date. A copy of the NHID's Notice of Appearance form is enclosed with this Order.
19. Any party may request a transcript of the proceeding. The party requesting a transcript of the proceedings shall file a written request for a certified court reporter with the Hearing Officer at least 10 days prior to the scheduled

hearing date. The costs incurred for the services of a certified court reporter shall be borne by the requesting party.

20. Joshua Hilliard, Esq. shall serve as staff advocate representing the interests of the NHID.
21. All routine procedural inquiries may be made by contacting Linda Zalinskie, Hearing Clerk, New Hampshire Insurance Department, 21 South Fruit Street, Suite 14, Concord NH 03301, (603) 271-2261, but that all other communications with the Hearing Officer and the Commissioner shall be in writing and filed as provided above. *Ex parte* communications are forbidden by statute and the Department's regulations.
22. A copy of this hearing notice shall be served upon Respondent by certified mail addressed to the mailing address on file with New Hampshire Insurance Department. *See*, RSA 400-A:14.

It is **SO ORDERED**.

NEW HAMPSHIRE INSURANCE DEPARTMENT

Date: 10-1-2021



Christopher Nicolopoulos
Insurance Commissioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Order to Show Cause and Notice of Hearing was sent this date by first-class mail, postage prepaid, and by certified mail, return receipt requested to BlueCross BlueShield of Tennessee, 1 Cameron Hill Circle, Chattanooga, TN 37402-0001.

Date: 10/1/21



Joshua S. Hilliard, Esq.
Compliance & Enforcement Counsel

NEW HAMPSHIRE INSURANCE DEPARTMENT

ATTORNEY APPEARANCE or WITHDRAWAL

Docket No. (if known): _____

Respondent Name or Case Name: _____

APPEARANCE

Please **ENTER** my appearance as
Counsel for _____

I confirm that neither I nor any member of my
law firm have been retained by the Department
of Insurance or the Commissioner of Insurance.

WITHDRAWAL

Please **WITHDRAW** my appearance as
Counsel for _____

Notice of Withdrawal sent to my client on:
_____ at the following address:

I hereby certify that I provided a copy of this original request to the Department and a copy to all other known parties to this matter in accordance with Ins 204.09.

Signed: _____

Name: _____ **NH Bar #:** _____

Firm Name: _____ **Email:** *(see also below)* _____

Physical Address: _____

Mailing Address (if different): _____

Phone: _____

Email Consent: By checking this box, I consent to delivery by email in accordance with Ins 204.09(c). Please send communications and documents to the above email address.

Date: _____ **Signature:** _____

If you do not consent to delivery by email, all communications will be sent to you by personal delivery at your physical address or by United States Postal Service first class mail to your mailing address.