

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.

NOTICE OF FILING OF
DOCUMENT CONSTITUTING
AGENCY ACTION

Pursuant to the Tribunal's February 16 notice, Blue Cross NC files a copy of the Document Constituting Agency Action that caused the filing of the Petition. This document is attached as Exhibit A.

This the 20th day of March, 2023.

ROBINSON, BRADSHAW & HINSON, P.A.

/s/ Stephen D. Feldman
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on the following through the OAH electronic filing system at the electronic mailing addresses shown below:

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This 20th day of March, 2023.

/s/ Stephen D. Feldman
Stephen D. Feldman

EXHIBIT A



January 20, 2023

Delivered via U.S. certified mail and electronic mail

Mr. Matthew Sawchak (msawchak@robinsonbradshaw.com)
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434 Fayetteville Street, Suite 1600
Raleigh, North Carolina 27601

**RE: Response to Blue Cross Blue Shield of North Carolina's Request for Protest
Meeting on Request for Proposal #270-20220830TPAS**

Dear Mr. Sawchak:

On January 12, 2023, the North Carolina State Health Plan for Teachers and State Employees ("Plan") received your letter delivered on behalf of your client Blue Cross Blue Shield of North Carolina ("BCBS") and titled "Blue Cross Blue Shield of North Carolina's Request for Protest Meeting on Request for Proposal #270-20220830TPAS" ("Protest Letter"). This response is intended to answer that request pursuant to § 15 of Attachment B of the Request for Proposal ("RFP") #270-20220830TPAS ("Third-Party Administrative Services RFP" or "TPA RFP"). The service period for this new third-party administrative services contract begins two years from now.

After carefully reviewing the reasons and requests stated in your Protest Letter, I have determined that your positions are without merit and am therefore denying your requests.

THE NORTH CAROLINA STATE HEALTH PLAN

The North Carolina Department of State Treasurer ("DST") is an agency of the State of North Carolina, led by the State Treasurer of North Carolina ("Treasurer"). The Plan, a division of DST, is a benefit program of the State of North Carolina that provides healthcare benefits to eligible North Carolina teachers, active State employees, retired teachers and State employees, and their dependents in accordance with applicable federal and state law and the Plan's regulations and policies. Established by N.C. Gen. Stat. § 135-48.20, the Board of Trustees for the Plan ("Board"), entrusted with fiduciary responsibilities, decides key matters and assists the Treasurer and the Plan. The Board is a bipartisan body that includes trustees representing key segments of the population the Plan serves, including active State employees, teachers, and retired State employees.

Due to rapidly increasing healthcare costs, funding that has not increased at the same rate, and the aging and declining health of the Plan member pool (due in part to the inability to



attract young and healthy dependents into the Plan because of high family premiums), the Plan is facing a \$4.2 billion budget gap over the next five years. This is an existential threat to the Plan.

This budget shortfall is in addition to the liability the Plan faces for future healthcare needs, which the Treasurer and the Board have been working to address for the last six years. The Treasurer and the Board have made it the Plan's explicit policy to cap or reduce the Plan's costs and implement strategic initiatives that will enable the Plan to lower dependent premiums to attract younger, healthier members to the Plan. The Plan has implemented finance-improving measures across the Plan's entire area of operations, including implementation of modest premiums for members who had been paying nothing for their coverage, improved cost savings from the 2023–2025 Pharmacy Benefit Manager contract, and significant cost savings from the 2021–2023 Medicare Advantage contract, to name a few.

Despite the Plan's ongoing efforts, healthcare costs continue to rise, and the budget shortfall persists, threatening the financial sustainability of the Plan for its current and future members, as well as the ability of the Plan to comply with N.C. Gen. Stat. § 135-48.1 *et seq.* and other applicable laws.

As a part of the high priority of reducing costs, the Treasurer and the Board have also made seeking transparency in healthcare costs a priority of the Plan. The ultimate goal for the transparency of healthcare costs is improved healthcare outcomes for Plan members at lower costs. To that end, the Plan implemented the Clear Pricing Project ("CPP"), partnering with thousands of healthcare providers to promote affordable, quality care and to increase transparency, predictability, and value for Plan members, in addition to reducing costs to the Plan.

Lastly, consistent with the Plan's authorizing statutes, the Treasurer set a priority for the Plan to update, improve, and streamline its Request for Proposals procurement process. In the past, the Plan's procurement process was overly laborious and time-consuming, producing reams of documentation without discernible improvement in the performance of the Plan's vendors.

RFP #270-20220830TPAS, the TPA RFP, was the second RFP to be revised and operated according to this modernization strategy, but the first RFP qualifying under N.C. Gen. Stat. § 135-48.34 as exempt from the requirements of Article 3 of Chapter 143. Modernization of the RFP process and the TPA RFP included these objectives:

- 1) Ensure that vendors are able and willing to work with the Plan to meet the priorities and requirements of the Plan and the RFP without qualification.



- 2) Avoid “micromanaging” every possible detail from the outset to provide the Plan flexibility and adaptability; instead, use Administrative Decision Memos and Business Requirements Documents to implement initiatives as needed.
- 3) Refine the scope of work to focus on the Plan’s key, non-negotiable items and move those items to the Minimum Requirements portion of the RFP.
- 4) Increase the overall objective analysis of RFPs by moving away, as much as reasonably possible, from subjective parsing of vendors’ own descriptions of their capabilities.
- 5) Revise the scoring methodology to ensure fair and objective scoring, efficient analysis by the Evaluation Committee, clarity for the Board, the decision-maker, and alignment with the Plan’s priorities.

To achieve these objectives in the TPA RFP, the Plan exercised its judgment to structure the RFP in the following ways: limiting vendor responses to the scope of work requirements presented in Attachments K and L to “Confirm” or “Does Not Confirm”; equally weighting each technical requirement; scoring technical requirements as either zero or one; and revising the cost analysis to reflect the importance the Plan places on the three components—six points for Network Pricing, two points for Administrative Fees, and two points for Pricing Guarantees.

In addition, the Plan structured the TPA RFP to support and clarify the Board’s decision-making role, which is established in N.C. Gen. Stat. § 135-48.33(a). The Treasurer and the Plan do not view the Board as a mere “rubber stamp,” so the Plan took steps to enable careful, thoughtful evaluation, deliberation, and full participation by the Board. One result was that, rather than being screened out by the Evaluation Committee, all three vendor proposals were presented to the Board for their review. It was *the Board* that then voted, unanimously, to award to Aetna Life Insurance Company (“Aetna”) the new third-party administrative services contract, which will begin two years from now.

The determining priorities mentioned above governed the Plan’s judgments and the structure and evaluation of the TPA RFP.

PROCESS FOR REQUEST FOR PROPOSAL #270-20220830TPAS

The modernized TPA RFP was made publicly available via the Interactive Purchasing System, the State’s online contracting portal, on August 30, 2022. By its terms, the TPA RFP mandated that “[t]he State shall conduct a comprehensive, fair, and impartial evaluation of the proposals.” The TPA RFP process consisted of two main stages: first, interested vendors submitted responses to the “Minimum Requirements Proposal” portion; after establishing their ability to meet the Plan’s minimum requirements, vendors then submitted responses to the Technical Proposal and Cost Proposal portions of the TPA RFP.



As with all of the Plan's RFPs, this was a voluntary process, and no vendor was mandated by contract or law to participate. Before any vendor submissions were made, the Plan held a conference call with interested vendors on September 1, 2022, regarding the TPA RFP structure and process. BCBS, Aetna, Cigna Insurance Company, and UMR, Inc., participated in that call. The Plan then issued Addendum #1 to the TPA RFP on September 16, 2022, responding to questions submitted by these interested vendors and making changes to several areas of the TPA RFP. Three of the interested vendors—BCBS, Aetna, and UMR, Inc.—submitted responses in the first stage of the process, the Minimum Requirements Proposal, by the deadline on September 26, 2022.

The Minimum Requirements Proposal, the components of which were defined in Section 2.7.1 of the TPA RFP, ensured each vendor could meet basic operational prerequisites to perform TPA services. The TPA Minimum Requirements Table included in TPA RFP Section 5.1 elicited key information from each vendor, such as: experience with large, self-funded clients, data security practices, financial health and stability, and demonstrated compliance with federal health information privacy law and regulations.

Vendors were also required to complete "Attachment K: Minimum Requirements Response" as the form for submitting responses to TPA RFP Sections 5.1.1 through 5.1.11. As noted above, the responses to the items listed in Attachment K were required to be either "Confirm" or "Does Not Confirm." In addition to the modernization objectives mentioned above, the purpose of requiring vendors to specifically confirm their ability to meet the wide variety of the Plan's minimum requirements was to preclude equivocation by vendors, discussed further below. As specific terms of the third-party administrative services contract, responses that were incomplete or did not comply with these requirements were subject to rejection.

In accordance with the terms of the TPA RFP, the Evaluation Committee then considered each vendor's comprehensive Minimum Requirements Proposal response with the assistance of subject matter experts in data security, finance, and federal health information privacy law. After the Evaluation Committee determined that each vendor met the Plan's minimum requirements stated in the TPA RFP, the vendors were given access to the worksheets and data files necessary to complete the second stage, responding to the Technical and Cost Proposals. Again, the vendors had the opportunity to ask questions relating to the RFP, specifically the technical and cost components. The Plan issued Addendum #2 to the TPA RFP on October 14, 2022, responding to all questions submitted by the three vendors.

The contents of the Technical and Cost Proposals were set forth in TPA RFP Section 2.7.2. Notably, the Technical Proposal consisted of 310 requirements divided into eleven main categories addressing matters ranging from member enrollment to plan design to finance and banking and more. Vendors were required to complete and submit "Attachment L: Technical Requirements Response," which again requested vendors to simply confirm their ability to meet the Plan's stated requirements. Again, the purpose of requiring clarity and



accuracy from all interested vendors was to reduce subjective interpretations on the part of Plan staff and to avoid negation or qualification of an ability to meet a Plan technical requirement through an explanatory description.

“Attachment A: Pricing” of the RFP comprised the Cost Proposal, which was scored based on three primary components: Network Pricing, Administrative Fees, and Network Pricing Guarantees. To complete the Network Pricing exercise, each vendor was given access to some actual Plan claims data and then asked to reprice the claims according to the vendor’s expected network discounts. This enabled the Plan to understand the financial value of each vendor’s network while also implicitly demonstrating the breadth of that network. The Administrative Fees component represented the cost charged to the Plan by the vendor for performance under the TPA RFP, and the Network Pricing Guarantees component was where each vendor could offer compensation back to the Plan if their network fails to deliver promised discounts (particularly due to rises in healthcare costs). The Cost Proposal itself consisted of ten total points a vendor could score: six points for its Network Pricing, two points for its Administrative Fees, and two points for its Network Pricing Guarantees. The Evaluation Committee, with assistance from its actuarial and health benefits consultant, The Segal Company (“Segal”), evaluated each vendor’s Proposal responses and scored them according to the terms of the TPA RFP.

As set out in the TPA RFP, the requirements in the Technical Proposal constituted half of each vendor’s score and those in the Cost Proposal constituted the other half. For the Technical Proposal component, vendors were ranked based on the total points earned out of the 310 available. The vendor earning the fewest points out of the total 310 received the rank of one. The vendor earning the most points out of the total 310 received the highest rank. To avoid subjectivity or favoritism, the TPA RFP specified that if two vendors earned the same number of points by meeting the requirements in the Technical Proposal, they would be equally ranked. In its response to the Technical Proposal’s requirements, BCBS failed to confirm its ability to meet seven of the Plan’s listed items, while the other vendors confirmed their ability to meet all 310. Thus, BCBS’ proposal earned the fewest points and received the rank of one.

The scoring and ranking methodology for the Cost Proposal was similar and also explained in the TPA RFP. Vendors were ranked based on the total Cost Proposal points earned out of the 10 available. The vendor earning the fewest points out of the total 10 received the rank of one, and the vendor earning the most points out of the total 10 received the highest rank. As with the Technical Proposal, multiple vendors earning the same Cost Proposal score were equally ranked. BCBS’ Cost Proposal response received eight points, which tied with another vendor for the most and so received the (highest) rank of three.

After reviewing the responses to the requirements of the Technical and Cost Proposals and combining the rankings, BCBS earned a final score of four, while the other two vendors earned scores of six and four. Thus, the Evaluation Committee presented all three vendors to the Plan’s Board for their consideration with a recommendation to award the third-party



administrative services contract to the vendor with the highest point total. During its meeting on December 14, 2022, the Board unanimously voted to award this contract to Aetna.

BCBS' CLAIM OF ARBITRARINESS LACKS MERIT

In the Protest Letter, you claim that the TPA RFP and its award to a vendor other than BCBS was “arbitrary,” “illogical,” and “capricious.” Therefore, you request that the award of the TPA RFP to Aetna should be rescinded and instead awarded to BCBS or that a new RFP process should be conducted. Your assertions are addressed in turn below.

Fundamentally, your assertion that the TPA RFP and its award were arbitrary is not supported by the facts and is, therefore, without merit.

A. Differences between the 2022 TPA RFP and prior RFPs

First, you incorrectly equate the mere existence of differences between the recently completed TPA RFP process and prior RFPs with unreasonableness and unfairness. In reality, the differences between the 2022 TPA RFP and prior RFPs were based on choices that were made logically in furtherance of the Plan’s fiduciary responsibilities and priorities.

For example, you complain that the scoring of the Cost Proposal was based on a 10-point scale instead of a 10,000-point scale. This complaint is meaningless, however, because BCBS’ bid was in no way adversely affected. How can BCBS now complain that the scoring of the Cost Proposal was incorrect or unfair if they received the highest ranking?

As another example, you complain that the 2022 TPA RFP eliminated the preference stated in prior RFPs for a vendor “with resources in North Carolina.” Protest Letter, p. 7. Again, this is meaningless. First, the Plan appropriately deemed this additional preference unnecessary, because any vendor confirming its ability to meet requirements in the Minimum Requirements and Technical Proposal portions is attesting to its “resources in North Carolina.” Second, in keeping with the Treasurer’s, the Board’s, and the Plan’s concerns about the consolidation, monopolistic behavior, and lack of transparency in the healthcare industry, such a preference was deemed inappropriate, anti-competitive, and detrimental to the proper exercise of fiduciary responsibilities.

The truth is that the Plan has been continuously refining and improving its RFP process over multiple years, the TPA RFP process conducted in 2019 improved upon prior RFPs, and the recently completed TPA RFP process continued that improvement in ways that will benefit the Plan’s members and Plan administration for years to come.

To be clear, you do not include these complaints about the differences between the 2022 TPA RFP and prior RFPs as a basis for BCBS’ protest of the award (so they will not be



evaluated as such). Apparently, these concerns are raised simply to cast doubt on the validity of the current RFP and the Plan's priorities and objectives, discussed above. Regardless, such post-award concerns by BCBS about the differences between RFP processes essentially amount to a complaint that the Plan failed to design its RFP process to favor BCBS, the incumbent.

B. Evaluation and weighting of the TPA RFP requirements

A second issue you raised reveals an incorrect belief that if a requirement of the TPA RFP, whether in the Minimum Requirements, the Technical Proposal, or the Cost Proposal, did not match BCBS' own priorities then there must not exist a fair, good faith, and reasoned decision by the Plan regarding that requirement. Specifically, you complain about the TPA RFP's scoring methodology in at least two ways: (1) that the Plan did not weight the requirements stated in the TPA RFP how BCBS thinks it should and (2) that the Plan did not permit BCBS to fully explain why it could not meet certain requirements.

1. BCBS' complaint about how the Plan weighted its requirements

Regarding the first complaint, the Plan is tasked with fairly, and in good faith, structuring and reviewing the RFP process and the TPA RFP to achieve its given objectives and priorities in service of the best interests of the Plan's members, to whom the Treasurer, the Board, and Plan staff owe a fiduciary duty. In exercising its duty, the Plan is not mandated to operate according to a particular vendor's internal mechanisms, procedures, and priorities. Instead, Plan staff carefully discerned and articulated requirements in the TPA RFP that we believe will best benefit the Plan's members.

In your Protest Letter you state that "the Plan could not make a reliable and informed decision" by choosing to equally weight the 310 items in the Technical Proposal and limiting vendors to confirming their ability to meet the requirements. Protest Letter, p. 10. In reality, these requirements, although presented slightly differently in the latest TPA RFP, are virtually unchanged from prior RFPs.

You have implied that the Plan's approach to the 2022 TPA RFP—such as what mandatory data, assurances, and requirements the Plan included or removed, how the Plan determined to score particular items, and the priority and weight that the Plan decided to place on specific requirements—was not reasonable. Actually, the Plan's decisions on structure, process, and award were logically connected to better achieving the objectives governing the Plan through this TPA RFP.

For example, the Plan decided to increase the weight for the score of the Cost Proposal to better align the scoring of the TPA RFP with the Plan's priority of reducing costs. In addition, within the Cost Proposal, Network Pricing was given the largest score because it reflects the highest cost to the Plan—in billions of dollars—while the Administrative Fee

and the Network Pricing Guarantees reflect smaller amounts of money—in hundreds of millions or millions of dollars.

2. BCBS' complaint about not being able to explain its answers

Regarding the complaint that the Plan did not provide BCBS an opportunity to explain its answers, it is true that the Plan decided to limit vendor answers to simple confirmations of ability to meet the Plan's requirements. This choice was made to align the Plan's RFP process, and specifically this TPA RFP process, with the goals of increasing objectivity in the analysis and ensuring that vendors are able and willing to work with the Plan to meet the TPA RFP requirements without qualification. The Plan's decisions on refining and restructuring its RFP process were based on a logical connection with the Plan's overarching objectives.

In addition, the effort to modernize the TPA RFP was specifically intended to eliminate explanations by bidding vendors that obscure and obstruct more than they reveal and clarify. For example, in the RFP for third-party administrative services issued in 2019, BCBS first stated "CONFIRMED in part, NOT CONFIRMED in part" to the Plan's requirement that its third-party administrator would "pay all claims, including non-network claims based on assignment of benefits." Requirement 5.2.12.2.b.i, 2019 TPA RFP. Later, in its explanation, BCBS described its limitations regarding this Plan requirement with this statement:

We do not confirm that we will pay all out-of-network claims based on assignment of benefits. In situations where we can negotiate a lower reimbursement in exchange for reimbursing the provider directly, we will do so. For all other out-of-network claims, we will reimburse the member directly. We have found that this policy is critical to our provider contracting ability and, ultimately, saves money for the Plan.

Requirement 5.2.12.2.b.iv, 2019 TPA RFP. Notwithstanding the reasons BCBS gave for how they wanted to handle claims payments, the fact is that the Plan has logical, considered reasons for its requirements, and asking vendors to clearly confirm their ability to meet such requirements is imminently reasonable. Avoiding equivocating explanations with the recently completed TPA RFP was *not* a failure to "proper[ly] exercise . . . its diligence," nor was the Plan's approach "illogical and arbitrary." Protest Letter, p. 10, 14. Instead, the Plan made a reasonable, careful effort to reduce the need for painstaking parsing in its evaluation of vendors' responses.

C. BCBS' problem with what "[t]he RFP does not explain"

The Plan first officially informed BCBS of its intent to issue the TPA RFP on June 15, 2022. The Plan then issued the TPA RFP on August 30, 2022. On September 1, 2022, BCBS participated in the Plan's call regarding the TPA RFP, where the Plan provided information



and answered vendor questions. The deadline to submit a response to the Minimum Requirements Proposal was September 26, 2022.

You complain in various places in your Protest Letter that the TPA RFP “does not explain” the scoring of the Cost Proposal and that “[t]he Plan has offered no justification” with respect to its weighting of the requirements in the Technical Proposal. Protest Letter, p. 5, 8–9.

But BCBS had ample opportunity to examine the Plan’s TPA RFP and its structure, process, and scoring prior to submitting its responses to the various Proposals. Like other vendors, BCBS was at liberty to ask questions, seek clarification, and request changes. BCBS did not raise *any* of the issues discussed in your Protest Letter during that time. By taking part in the TPA RFP, BCBS specifically and freely agreed to the TPA RFP and its structure, process, and scoring. Only now, after the Board has voted to award to Aetna the third-party administrative services contract beginning in 2025, is BCBS complaining about the TPA RFP’s structure, process, and scoring.

If BCBS had real concerns about the TPA RFP, and not fabricated ones, it had a responsibility to raise them during the process when it had multiple opportunities to do so. Raising these issues at this point is akin to Captain Renault’s faux shock in the movie *Casablanca*—you argue that you are surprised that the TPA RFP was structured and scored exactly as delineated in the TPA RFP.

D. Thoroughness and care exercised by the Plan

It is lawful, proper, and necessary for the Plan, the Treasurer, and the Board to implement a RFP to obtain more favorable terms for the Plan’s members and to align vendor relationships to better achieve the Plan’s strategic priorities.

Any implication that the Plan’s TPA RFP was not performed in good faith and in a fair manner does not align with the process as it actually occurred. The TPA RFP Evaluation Committee was commissioned to objectively review and score each proposal in accordance with the pre-developed criteria in the TPA RFP and to make a recommendation and presentation to the Board based on fair and ethical review practices. Those pre-developed criteria were created to achieve the objectives given to the Plan, already discussed above.

You assert that, in its pursuit of the Plan’s objectives, the Plan did not obtain sufficient information to make a reasonable decision, creating the false impression that the TPA RFP, its development, and its review were a cursory affair that only relied upon scant facts and a lack of knowledge, that “the Plan took a complex decision ... and tried to turn it into a checklist.” Protest Letter, p. 14. This dramatic language does not describe the Plan’s recently completed TPA RFP process.

In reality, the detailed, 209-page initial TPA RFP required vendors to provide substantial data to the Plan for review and a multitude of binding contractual assents (without qualification) to the Plan's essential requirements for its next third-party administrator. Specifically, the TPA RFP required submission of many mandatory items, such as (i) vendor network minimum requirements, (ii) an accessibility report of the vendor's proposed provider network, (iii) a summary of participants with and without access to network providers and facilities within established mileage parameters, and (iv) a list of each vendor's entire proposed provider network. Each vendor's proposed network was also tested through the claims repricing exercise of the Cost Proposal, described above. These and other items were requested, evaluated, and scored in accordance with the Plan's objectives to ensure that the Plan had the knowledge and assurances that its priorities and objectives would be met.

Finally, while we appreciate BCBS' stated concern regarding the disruptions that a change in third-party administrator may cause to the Plan's members, this is also something that the Treasurer, the Board, and the Plan have already carefully considered. Minimizing such disruptions is one reason why we are grateful for BCBS President and CEO Tunde Sotunde's repeated assurances of support and faithful work through the remainder of the current contract to State Treasurer Dale Folwell. In addition, this is why it matters so much to the Plan's members that the new third-party administrative services agreement will not begin for another two years: disruptions to members will be reduced by the Plan having adequate time for its implementation process. But the mere avoidance of disruption would mean that the Plan should never issue a new RFP for any services, and this would not be in keeping with the duties owed to the Plan's many members and other taxpayer like them.

CONCLUSION

Your Protest Letter also mentioned the two public records requests related to the TPA RFP submitted by BCBS on December 15 and 20, 2022. As BCBS is already aware, the deadline for all vendors to submit redacted versions of their materials just passed last week, on Monday, January 9, 2023. Thus, despite the apparent length of time since BCBS' public records requests, there have only been *seven* business days since the vendor submission deadline passed.

In addition, the Plan would not normally release procurement-related materials until after that procurement's "silent period" is lifted, which the Plan was forced to extend to cover responses to vendors' protest letters, including BCBS' own. Plan staff are still compiling the materials submitted by participating vendors, materials amounting to thousands of pages per vendor, even with the Plan's improved RFP process. Then, Plan staff must review and confirm the redactions to avoid sharing vendors' trade secret and confidential information. BCBS is already fully aware that fulfillment of these regular post-procurement public record requests usually takes multiple weeks, sometimes longer.



In this response to your Protest Letter, I have avoided an in-depth discussion of the implications of your statements about Aetna, that it was “motivated . . . to superficially ‘confirm’ its ability to meet each requirement *regardless* of its current capabilities or any limits on [its] ability to satisfy the requirement in the future.” Protest Letter, p. 10 (emphasis in original). If Aetna was untruthful when it confirmed its ability to meet all the Plan’s requirements, then the Plan will discover this during the next two years of implementation and during the term of the third-party administrative services contract. The Plan will then have contractual remedies to obtain and fiduciary responsibilities to uphold.

Regardless, a neutral examination of the facts shows that the Plan’s recently completed TPA RFP and its structure, process, scoring, and award were conducted carefully, professionally, in good faith, in a fair and reasonable manner, and in the best interest of the Plan’s members consistent with the Plan’s fiduciary responsibilities. Following its objectives, the Plan carefully considered the critical facts and arrived at decisions regarding RFP structure, process, scoring, and award that were logically connected with those objectives.

Your claim that the TPA RFP was arbitrary is without merit, and a meeting to further discuss BCBS’ protest of the award would serve no purpose. I understand BCBS’ disappointment at the award of the TPA RFP to Aetna and that this is not the outcome they desired; however, I am constrained to consider the facts and law as they exist.

I nonetheless desire to thank BCBS for their participation in the TPA RFP process—each bidder increases competition, which moves the Plan closer to achieving its overall goals of reducing the Plan’s costs, improving the Plan’s solvency, and lowering dependent premiums, all to maintain the Plan’s sustainability for this and the next generation of those who teach, protect, or otherwise serve. I have appreciated this opportunity to engage in a factual, thoughtful, and transparent review of the Plan’s contracting process for the third-party administrative services contract going into effect two years from now, and I welcome BCBS’ future bids on RFPs.

Sincerely,



Sam Watts
Interim Executive Administrator
North Carolina State Health Plan