Transcript

July 6, 2011

Good afternoon everybody, Attorney General Martha Coakley, with me is our Bureau Chief from our Business and Labor Bureau, which oversees the Division of Public Charities, Jed Nosal. Jed is the signatory on the report which we issued today, so let me give you the context of that report. In March of this year, Blue Cross Blue Shield of Massachusetts reported that the former president and CEO Cleve Killingsworth had received a severance package of approximately $4.2 million in the year 2010. That was just the severance clause, he had a much larger compensation package, but let me focus on the severance piece for now.

We began an investigation into the circumstances by which Blue Cross as a public charity had become obligated to pay such a large severance package to Killingsworth, who as I noted earlier, was an extremely well compensated executive. The investigation focused on the terms of the contract, his compensation as well as the severance clause, and the factors that had been considered by the board, both in entering into the contract and overseeing it as well as what ended in his termination, his leaving Blue Cross Blue Shield in March of 2010.

We also looked at contracts of comparable, both insurance companies and large providers in Massachusetts, just to put this in context, understanding that we have always said, we understand that these large providers, insurance companies compete on a national level for talent so we thought it was important to look at other similarly situated providers of insurance and of health care had done with their compensation and their executives.

A report reveals the concerns that we found on the terms of his severance and what those factors were considered by the board and the factors relating to the health care marketplace in Massachusetts. So, first and probably most concerning, our investigation showed and in our report we reveal that the severance terms of Cleve Killingsworth amounting to, as a practical matter, a lifetime contract with Blue Cross Blue Shield. Let me explain that. His contract consisted of one year renewable terms, but this contract included this severance term that he was guaranteed to receive two years severance, which is the equivalent of $4.2 million and includes multipliers within it to reach that amount. If he were removed for anything other than willful misconduct, that is a very his standard, it is a term in the employment field, but unless he was found responsible for willful misconduct, it was going to be very difficult for Blue Cross Blue Shield to replace him.

While his severance clause was one of the most generous of those that we reviewed, we discovered that the kind of language used in this does exist in most of the other contracts that we reviewed and we do, as this report and other conditions in the report that we are suggesting to not just other health care providers or insurance companies, but all not for profits going forward, at what the consequences are of these compensation contracts and their severance clauses. Finding the language as similar, however, we found that this was at the upper end in terms of the richness of the compensation of the severance clause or Cleve Killingsworth.

We found that those clauses were highly problematic because we believe that at that stage it made it very difficult for the board to provide new leadership, in the instance that they decided that they needed to do it, as they did in March 2010, without making that payment of $4.2 million. In other words, to ever effectuate a change in leadership, for whatever reason, outside the finding of willful misconduct, it would cost $4.2 million.

Beyond the severance clause, we found that Mr. Killingsworth served on 14 other boards, in addition to his full-time service as CEO of Blue Cross. That work included three boards of for-profit companies for which he was compensated for his work and suggested that both because of the compensation involved, the time involved, did the board have appropriate oversight over his time and his dedication to Blue Cross Blue Shield. In other words, the board's mission is to always make sure that their loyalty is to Blue Cross Blue Shield, their job was to make sure that their CEO at the time and the time available and the interest available for the board that he was compensated for primarily, which is Blue Cross Blue Shield.

We found in the report that we believe the board fell short in having a thorough review process to actually and appropriately evaluate his performance each year and that secondly the board fell short in its own breadth of experience among board members to be able to effectively evaluate Cleve Killingsworth. Having said that, given the contract and the severance clause, the virtual certainty that if Blue Cross Blue Shield ever needed new leadership, it was going to cost $4.2 million.

Based upon this investigation, we announce the following actions today. And we are pleased to report that the Blue Cross Board has voted to rebate that entire amount, the $4.2 million to Blue Cross Blue Shield customers. Our office did not believe and still believes that customers, the consumers of the insurance products should not have to foot the bill for such an exorbitant severance that had been negotiated and restricted the board in terms of acting in the best interest of the charity. We do believe today that by the board's action has done the appropriate thing in rebating the entire amount of the severance clause to its customers. Secondly, the board has agreed to review and implement an improved succession plan to make sure that going forward, the board of directors will include a board with the experience and skills that will be able to serve in the best interests of Blue Cross Blue Shield. And thirdly, as a result of this investigation and our report today, going forward we're requiring all charities to publicly disclose the full contract terms for senior executives, for their CEOs, including severance packages, and to fully explain the rationale for such protections or severance clauses that are afforded to those executives. We anticipate that for public charities going forward, we think it will address the issue of disclosure, we suggest that it will then require boards to make the appropriate determinations, and again, boards have great leeway and discretion in order to do the best for the charities that they serve, but that public disclosure piece going forward we think will address the issues that we found problematic as the issues that we found dealing with Cleve Killingsworth as CEO.

I do today want to acknowledge the important work being done today by the new CEO of Blue Cross Blue Shield, Andrew Dreyfus, he and his team have worked cooperatively with us on this investigation as well as on this report. I believe again that the board has acted appropriately by rebating amounts to the customers and we note in the report that many of the issues with the Killingsworth contract, with the richness of the compensation and the richness of the compensation clause are not at issue with the Dreyfus contract. Those we believe have been addressed. We believe also that Blue Cross Blue Shield has acted appropriately in separating, as they had in the past, the roles of the CEO and the board chair and we believe that as we move forward the example that I believe Blue Cross Blue Shield has set today and the standards that we have set going forward for disclosure will help all of us here in Massachusetts to continue to do the very important work that we are doing in terms of keeping health care costs down. I'll take questions if anybody has any.