

Publications

Blue Cross Blue Shield Settlement

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Employee Benefits and Executive Compensation

Labor and Employment

CLIENT ALERT | 5.3.2021

If your company had an administrative services agreement with a Blue Cross Blue Shield (BCBS) licensee in the past six years or a health insurance policy with a BCBS licensee in the past 13 years, your company may benefit from the settlement of a court case, In re: Blue Cross Blue Shield Antitrust Litigation MDL 2406, N.D. Ala. Master File No. 2:13-cv-20000-RDP. The plaintiffs in the case alleged that the BCBS licensees violated antitrust laws by limiting competition and the BCBS defendants denied the allegations. The settlement ends the case without a court decision on the antitrust issue.

The terms of the settlement provide two types of relief, monetary relief and Second Blue Bids.

Monetary relief

The settlement fund is, in the aggregate, \$1.9 billion. Your company has the opportunity to share in the settlement fund if your company had (1) an administrative services agreement with a BCBS licensee between September 1, 2015 and October 16, 2020, or (2) a group health policy between July 7, 2008 and October 16, 2020. Approximately 6.5% of the fund (\$123.5 million) is allocated to class members with self-insured plans and 93.5% of the fund (\$1.78 billion) is allocated to class members with insured plans. Individual employees who were covered by group health plans administered or insured by a BCBS licensee during the relevant period are also class members and have the opportunity to file their own claims. Go to <https://www.bcbssettlement.com/> for details on the default allocation formula, the option to submit an alternative formula, and instructions on filing a claim. Please let us know if you have questions about the formula, filing a claim, or the potential application of ERISA to settlement proceeds.

The deadline for filing a claim is November 5, 2021.

Second Blue Bids

The class eligible for a Second Blue Bid is limited to companies with 5,000 or more employees that have been designated as Qualified National Accounts. The settlement website includes a lookup tool at <https://www.bcbssettlement.com/secondbluebid> where you can check whether a company has been designated as a Qualified National Account. The list will be updated after two years.

In the past, only one BCBS licensee would respond to a company's RFP for administrative services, meaning a second BCBS licensee would not compete against the first BCBS licensee for the business. The settlement includes a process by which a company that has been designated as a Qualified National Account may request a bid from a second BCBS licensee (i.e., a Second Blue Bid) in addition to an initial proposal from the first BCBS licensee.

Second Blue Bids will not be available until April 1, 2022 (and possibly later).