

# EMPLOYEE BENEFITS UPDATE

## Blue Cross Blue Shield Settle Antitrust Lawsuit

4 -Minute Read

In October 2020, the national Blue Cross Blue Shield (BCBS) healthcare association entered into a tentative settlement in a class action lawsuit that alleged violation of federal antitrust laws. The settlement will result in the dismissal of the case and a finding of no liability against BCBS for the claims, which BCBS continues to reject in their statement regarding the litigation.

The settlement provides that BCBS will make operational changes, as well as payments to class members involved in the case from a \$2.67 billion dollar fund.

Individual subscribers and employer policy holders have started receiving communications from the Settlement Administrator – **JND Legal Administration**.

Here's what employers need to know.

### Summary

Policy subscribers alleged that the Blue Cross Blue Shield Association violated several provisions of the Sherman Antitrust Act by entering into an unlawful agreement that interfered with competition in the healthcare market by:

1. Limiting subscriber choice by allocating geographic territories among members.
2. Placing unfair business and competition rules on Blue member plans.
3. Restricting sales of Blue plans to non-BCBSA members.
4. Agreeing to other constraints of fair competition.

The subscribers alleged that these anti-competitive practices led to inflated premiums and sought monetary damages as well as changes in business practices (injunctive relief).

### The Settlement

After nearly five years of negotiation, the parties agreed to a proposed settlement of \$2.67 billion payable to qualified policyholders and employees of insured groups (including self-funded plans) covered by a Blue-branded policy between **February 2008 and October 2020**. This may include medical, pharmacy, and dental and vision services, regardless of whether the individual contributed to the cost of coverage.

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## Settlement Classes

Class members who submit valid claims may receive a cash payment from the Settlement Fund (after attorney fees and expenses) and are referred to as the Damages Class.

## The Value of Monetary Awards

Individual payment amounts are difficult to determine at this time and will depend on several factors such as the numbers of claims filed, the premiums paid during the class period, and whether the health plan was fully insured or self-funded. It is anticipated that individual claims payments will be relatively small.

## Key Dates

**Spring 2021:** Notices to Individuals and Employers

**July 28, 2021:** Deadline to Object to Settlement

**July 28, 2021:** Opt-Out Deadline (Damages Class Only)

**October 20, 2021:** Fairness Court Hearing

**November 5, 2021:** Claims Filing Deadline (Damages Class Only)

## Action Items

There is no immediate action to be taken by individuals or employer groups until receipt of an official notice from the Settlement Administrator. That notice may come by way of email or postcard. Once official notice is received, the recipient must determine if they will opt out, object, or file a claim for payment. If you do nothing, you will remain a member of the Settlement Class and will be bound to the terms of the Settlement but will not receive a payment.

The easiest way to file a claim is through the [Online Portal](#) at the BCBS Settlement Website.

To file a claim, **an employer** will need the following information:

- The Unique ID contained in the email or postcard received
- Demographic information
- Name of Blue-branded entity (i.e. Blue Cross of California)
- Group #, coverage start and end dates
- Information regarding premiums charged to employees if choosing the Alternative Option

Premium information is not required if choosing the Default Method (refer to the [BCBS Settlement Website](#) for further information for employers).

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To file a claim, **an employee** will need the following information:

- The Unique ID contained in the email or postcard received
- Demographic information
- Name of Blue-branded entity (i.e. Blue Cross of California)
- Group #, Subscriber ID #, coverage start and end dates

## Additional Information

The Court has appointed JND Legal Administration to administer settlement claims. Information regarding claims processing and additional details can be found as follows:

- Settlement website: [www.bcbssettlement.com](http://www.bcbssettlement.com)
- Toll Free Phone Number: 888-681-1142
- Email: [info@BCBSsettlement.com](mailto:info@BCBSsettlement.com)
- FAQs: [www.bcbssettlement.com/faq](http://www.bcbssettlement.com/faq)
- Claim Forms and Court Documents: [www.bcbssettlement.com/documents](http://www.bcbssettlement.com/documents)