

STATE OF MISSISSIPPI

Office of the Governor



EXECUTIVE ORDER 1327

WHEREAS, on or about June 25, 2013, Blue Cross & Blue Shield of Mississippi (“BCBS”), a licensed Mississippi health insurance company that serves nearly one million Mississippians, announced that it was terminating its contracts with ten Mississippi hospitals, thereby excluding the hospitals from the BCBS network of providers. Those hospitals are Natchez Community Hospital, Northwest Mississippi Regional Medical Center (Clarksdale), Biloxi Regional Medical Center, Madison River Oaks Medical Center (Canton), Gilmore Memorial Regional Medical Center (Amory), Tri-Lakes Medical Center (Batesville), Central Mississippi Medical Center (Jackson), Crossgates River Oaks Hospital (Brandon), River Oaks Hospital (Flowood), and Woman’s Hospital (Flowood) (hereinafter, collectively, the “affected hospitals”). The apparent reason for the terminations, which took effect at the end of August 2013, was the hospitals’ decision to file a lawsuit against BCBS approximately one week earlier. That lawsuit, which involves a dispute over payments under the parties’ former contracts, remains pending in Circuit Court and is unaffected by this Executive Order; and

WHEREAS, tens of thousands of Mississippians, many of whom are enrolled in BCBS plans, have come to depend on these hospitals and their associated physicians, nurses, and other professional staff for critical medical care; and

WHEREAS, BCBS is the dominant private insurer in the State of Mississippi in the large group, small group, and individual insurance markets, with at least one independent analysis concluding that it possesses market shares of 81%, 73%, and 57% in those respective markets, outpacing its closest competitor by a wide margin in each case; in addition, BCBS is the third-party administrator for the State and School Employees Health Insurance Plan, which covers over 200,000 employees and dependents; and

WHEREAS, in issuing this Executive Order, I considered testimony from the August 16, 2013 Joint Legislative Hearing before the House and Senate Insurance Committees, including:

- Dr. Chris Glick is a highly respected neonatologist with more than thirty years of experience. She practices not only at affected hospitals in the Jackson area but also at other hospitals that remain in the BCBS network. Dr. Glick testified about a number of specialized services that River Oaks Hospital and Woman’s Hospital provide for premature, high-risk babies and new mothers that, in her view, cannot be replicated at other hospitals in the area. *See* Joint Leg. Hearing Tr. 22–28. She testified that the affected hospitals’ exclusion from the BCBS network will “reduce the level of care and quality of care that [her] patients will receive.” *Id.* at 26. Dr. Glick also concluded, based on available data, that other hospitals in the Jackson area simply “don’t have room for all the babies” born at the local affected

- Dr. Joe Bailey is a leading gastroenterologist at Gilmore Memorial Regional Medical Center in Amory who has practiced in northeast Mississippi for thirty-six years. He is also the founder of a nationally recognized, 100% volunteer clinic that has provided free medical and dental care to over 10,000 Mississippians. Dr. Bailey explained that many of his BCBS patients are “postponing their care,” hoping that they can see him whenever his hospital’s dispute with BCBS “is resolved.” *Id.* at 33. “And, in the meantime, they don’t get screenings and they don’t investigate new symptoms. *Some of these people are going to get sick and some of them may die because Blue Cross made a business decision.*” *Ibid.* (emphasis added). Dr. Bailey testified that his specialty is already “woefully under-serviced in northeast Mississippi.” *Ibid.* Therefore, if his existing patients cannot see him, it will take them “months to get an appointment and many of them simply will not go.” *Ibid.* He further testified that 383 companies in and around Amory are insured by BCBS and that “the hospital ... may very well have to close” if it continues to be excluded from the network. *Id.* at 34.
- Dr. Shani Meck is a highly regarded OB / GYN whose office is located at River Oaks Hospital in Flowood. She estimated that 50% of her patients have BCBS insurance and, as a result, she will have to move their deliveries from River Oaks to other area hospitals. *Id.* at 41–42. However, like Dr. Glick, she testified that “there are not enough beds” at other hospitals, and she explained the facts on which she based her conclusion. *Id.* at 42. In fact, she stated that another (still in-network) hospital had recently warned her that its maternity ward was “busting at the seams.” *Id.* at 43. She said, “We are going to end up laboring patients in rooms that are not meant for laboring. *It’s going to be a mess.*” *Id.* at 45 (emphasis added). She also testified that the hospitals’ exclusion would undermine “continuity of care” by unnecessarily requiring patients to deliver babies with unfamiliar doctors at unfamiliar hospitals. *Id.* at 44.
- Dr. Michael Havens is a physician at Tri-Lakes Medical Center in Batesville, a hospital that he and four other local physicians led out of bankruptcy just four years ago. *Id.* at 47. Dr. Havens also testified that the dispute between BCBS and his hospital is “greatly impacting the welfare of the citizens of this state” and is a threat to his hospital’s ability to survive. *Id.* at 47–49.

WHEREAS, I have also considered that one of the affected hospitals, the Central Mississippi Medical Center in Jackson, is the home of the State’s only inpatient Burn Center and during the most recent regular legislative session, the care and treatment provided at the Burn Center was deemed sufficiently important to the State’s healthcare system that both houses of the Legislature overwhelmingly passed and I signed into law a bill designed specifically to facilitate reimbursement for such treatment, Senate Bill 2780 (2013 Regular Session); and

WHEREAS, I have also considered the fact that some of the affected hospitals are located in cities in which there is no other hospital, such as Clarksdale, Amory, Canton, and Batesville; and

WHEREAS, I have also considered that five of the hospitals are located in the Jackson metropolitan area, and while there are certainly other hospitals in the area, I am unconvinced that the remaining hospitals can provide adequate services to all of their existing patients and the influx of new patients that would result from the permanent exclusion of the affected hospitals from the BCBS network; and

WHEREAS, it appears that BCBS payments represent a significant percentage of the affected hospitals’ total revenues—even greater than the total payments these hospitals receive under the

