

STATE OF RHODE ISLAND
OFFICE OF THE HEALTH INSURANCE COMMISSIONER

In Re: Blue Cross Blue Shield of Rhode Island)
Rates Filed for 2026 Individual Market Plans)

OHIC-RH-2025-1

POST-HEARING MEMORANDUM OF THE ATTORNEY GENERAL

Blue Cross Blue Shield of Rhode Island (“BCBSRI”), a company with over a billion dollars in assets and over \$300 million in capital and surplus last year, is now seeking nearly a 30% rate increase on some 18,000 Rhode Islanders, arguing that such an increase is necessary for it to remain solvent. The Health Insurance Commissioner should deny BCBSRI’s requested rate for the following reasons: First, BCBSRI has failed to meet its burden to demonstrate the requested rates would provide affordable and accessible health insurance for Rhode Islanders.¹ The requested increase would amount to an estimated \$2,500 increase in annual individual premiums and nearly \$7,000 increase in annual household premiums, as compared to the prior year.² Such an increase, coming at a time of rising costs in many sectors of the economy, would likely render health insurance inaccessible to many Rhode Islanders. These affordability concerns are exacerbated by the anticipated loss of enhanced subsidies at the end of this year. Second, BCBSRI has not established that the proposed rate increase is consistent with the public interest. BCBSRI utilized several deficient assumptions in its rate filing that do not support its requested rate, and BCBS likewise failed to demonstrate that the requested rate increases will translate to improvements in access to care or quality of care. Third, the requested increase, if granted, will harm Rhode Island’s health care system by increasing the ranks of the uninsured, imposing systemic risks and uncompensated care costs on Rhode Island’s health care system. Last, BCBSRI’s proposed rates highlight several inherent limitations in Rhode Island’s rate review process, arising from our fragmented health care financing system, which impedes the State’s ability to assess the extent to which the requested rate places an undue burden on the population purchasing coverage on the Affordable Care Act (ACA) marketplace, as compared to other segments of the carrier’s market. We discuss these limitations below to promote an appropriately searching review of BCBSRI’s rate filing.

The Attorney General files this post-hearing submission in furtherance of his distinct role in the health insurance rate review process: to represent, protect and advocate for Rhode

¹ See R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).

² July 1, 2025, Hearing Transcript, Page 354.

Islanders who are and/or will be consumers of these insurance products.³ The Attorney General also files this submission in his role as the State's Health Care Advocate: to advocate for quality and affordable health care for all.⁴ As such, it is not the role of the Attorney General to simply advise whether the actuarial projections provided by an insurer can support requested rate increases; rather, it is incumbent upon the Attorney General to also determine whether such increases are warranted given the health care and economic landscape against which these increases are sought. This role includes addressing the shortcomings of the rate review process itself.

The Office of the Attorney General warned in last year's rate proceeding of the lurking danger associated with continued rate-increase requests.⁵ We alerted the Office of the Health Insurance Commissioner (OHIC) that, for plans sold in the individual marketplace, enhanced temporary subsidies provided by the American Rescue Plan Act (ARPA) in 2021 and extended by the Inflation Reduction Act (IRA) in 2022 have masked the actual pocketbook cost to the consumer.⁶ Consequently, these subsidies expanded the number of enrollees who could afford to buy marketplace coverage. Until now, most consumers have not had to bear the full costs of premiums set through this proceeding because many consumers received subsidies to finance the purchase of their insurance.

Now, absent further action by Congress, these subsidies will expire as of December 31, 2025, and consumers will have to contend with the full impact of the yearly premium increases that have accrued since 2021. Taking into account the requested increase, BCBSRI will have raised overall average weighted premiums by 54% since 2021.⁷ This figure represents a weighted average across plans, but it would equate to an increase of more than \$2,000 if applied to the State's benchmark plan. BCBSRI's rates are typically substantially higher than the benchmark plan, meaning BCBSRI's requested rate increase will likely be even more substantial for consumers. Thus, the rate increases that are proposed this year will be acutely felt by many individual consumers who have already seen steady increases in premiums over the past four years but are now affected by reduced subsidy levels. The Attorney General previously cautioned that "the day may come when consumers will be forced to bear substantially higher costs built up over this period when the true cost increases were not directly born by consumers."⁸ That

³ See R.I. Gen. Laws § 27-36-1.

⁴ See R.I. Gen. Laws § 42-9.1-2(5).

⁵ OHIC Exhibit 131c.

⁶ *Id.*

⁷ See <https://ohic.ri.gov/ohic-formandraterreview-olddocs.php> (cataloging prior rate approvals for plan years 2022-2025).

⁸ *Id.*

day has now come. Consumers need bold protection now more than ever, as the full weight of years of approved increases will be directly passed on to them.

BCBSRI's requested rates place an outsized burden on individual market plan consumers, comprising only about 18,000 Rhode Islanders, to shore up an under-resourced and underfunded health care system that is not delivering the access to care those consumers expect and deserve. Regardless of the actuarial evidence provided for these rate increases, they must be evaluated in the context of OHIC's overall mission: to protect health care access, affordability, and quality. The Attorney General urges OHIC to fulfill its mission by considering the true impact of these increases on consumers and the Rhode Island health care system alike. The requested rate increase should accordingly be rejected because it will undermine "the goal of quality and affordable health care for all"⁹

I. JURISDICTION AND STANDARD OF REVIEW

OHIC has jurisdiction over this matter pursuant to R.I. Gen. Laws §§ 27-18.2-1 et seq., 27-19-6, 27-20-6, 42-14-5(d) and 42-14.5-3(d). The hearing was conducted beginning on Monday, June 30, 2025, in accordance with the Administrative Procedures Act (R.I. Gen. Laws § 42-35-1) and in accordance with R.I. Gen. Laws §§ 27-19-6 and 27-20-6.

BCBSRI bears the burden of proof that its proposed rates are "consistent with the proper conduct of its business and with the interest of the public."¹⁰ There is an inherent tension within this standard, insofar as that which is consistent with BCBSRI's interest may not be consistent with the public's interest.¹¹ BCBSRI is further statutorily required to offer its Direct Pay members "affordable and accessible health insurance" and must further "employ pricing strategies that enhance the affordability of health care coverage."¹²

While BCBSRI has the burden of proof in this matter, the Commissioner shall discharge the duty of his office to protect consumers while simultaneously guarding the solvency of insurers.¹³ The ultimate responsibility for determining whether the proposed rates are fair, reasonable, not excessive, not unfairly discriminatory, and consistent with the interest of the public rests exclusively with the Commissioner.

⁹ See R.I. Gen. Laws § 42-9.1-2(5).

¹⁰ See R.I. Gen. Laws §§ 27-19-6; 27-20-6.

¹¹ See *Hosp. Serv. Corp. of Rhode Island v. West*, 308 A.2d 489, 495 (R.I. 1973) ("If the Legislature intended that proof of consistency with the proper conduct was to be synonymous with proof of consistency with the interest of the public [per R.I. Gen. Laws §§ 27-19-6 and 27-19-20], it would have said so.").

¹² R.I. Gen. Laws § 27-19.2-3(1).

¹³ See R.I. Gen. Laws § 42-14.5-2.

II. TRAVEL

On May 16, 2025, BCBSRI filed for approval of its plan year 2026 rates for its Direct Pay line of business. In its filing, BCBSRI requests an overall average weighted premium increase of 28.9%. On June 13, 2025, the Commissioner issued a Scheduling Order in this matter setting forth the various due dates for pre- and post- hearing submissions and setting this matter for public hearing. Prior to the pre-hearing submission and hearing, the Office of the Attorney General and OHIC were permitted to conduct discovery and serve information requests on BCBSRI.

The public hearing commenced at 9:00am on Monday June 30, 2025. At the commencement of the hearing, the Parties offered several stipulations, establishing that notice was adequate and that the Commissioner had jurisdiction to preside over the hearing.¹⁴ The parties agreed to stipulate that each proffered expert was an expert in their respective fields.¹⁵ The parties also stipulated which exhibits put forward by each party were to be admitted in full and identified several exhibits that were to be admitted for identification only.¹⁶ The record was left open to allow for admission of public comments, the next publication of CPI-U, the 2024 risk adjustment payments, post-hearing papers, and the Rhode Island General Assembly Budget for FY2026.¹⁷

Testimony of BCBSRI's and OHIC's witnesses concluded in the late afternoon on July 1, 2025. The first public comment session was held at 6:00 p.m. on Monday, June 30, 2025, and was concluded at 7:00 p.m. No members of the public appeared to provide comments. The second public comment session was held at 9:00 a.m. on Tuesday, July 1, 2025. Again, no members of the public appeared to provide comments. The Hearing recommenced with the Attorney General's expert testimony. The Hearing officially concluded at 1:47 p.m. on Tuesday, July 2, 2025. The public also had the opportunity to provide written comments on BCBSRI's proposed rate increase through July 24, 2025.

¹⁴ See June 30, 2025, Hearing Transcript, Page 6.

¹⁵ *Id.* at 7-8.

¹⁶ June 20, 2025, Hearing Transcript, Page 6-7.

¹⁷ *Id.* at 8-9.

III. ARGUMENT

A. BCBSRI FAILED TO ESTABLISH THAT ITS REQUESTED RATE INCREASE WOULD PROVIDE AFFORDABLE AND ACCESSIBLE HEALTH INSURANCE.

BCBSRI has proposed a nearly 30% premium rate hike on consumers. BCBSRI must demonstrate that the proposed increase is consistent with its statutory obligation to “provide affordable and accessible health insurance to insureds” and “employ pricing strategies that enhance the affordability of health care coverage.”¹⁸ BCBSRI has failed to meet this burden because the requested rate is unaffordable and would render health care coverage under BCBSRI’s individual market plans inaccessible to many Rhode Islanders. The expert testimony, expert reports, exhibits, and arguments made by this Office throughout the course of this proceeding clearly and consistently demonstrate that a nearly 30% increase in premiums will negatively impact BCBSRI’s members.¹⁹ When assessing these rates, the Attorney General urges the Commissioner to consider them within the context of their very real cost, and potential harm, to consumers.

The Attorney General in his role as insurance advocate for this proceeding introduced the testimony and expert report of Christopher Whaley, Ph.D. Dr. Whaley is a health economist and Associate Professor of Health Services and Policy Analysis at the Brown University School of Public Health. He testified in his personal capacity. Dr. Whaley’s research “focuses on U.S. health care markets and the impacts of health care spending on patient access to care and finances.”²⁰ He has published over 100 peer-reviewed publications on these topics.²¹

Dr. Whaley’s expert opinion is that “insurance rates in Rhode Island continue to substantially outpace wage growth, lessening the economic affordability of insurance in Rhode Island,”²² and that the BCBSRI’s proposal represents “a stark increase in insurance premiums that would have harmful impacts to Rhode Island consumers.”²³ The evidence presented by Dr. Whaley details the harms to consumers of health insurance premium increases and the danger to the broader health care system from these increases. Dr. Whaley also testified that “it is

¹⁸ See R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).

¹⁹ July 1, 2025, Hearing Transcript, Page 386; Consumer and Economic Impact Report, Page 11; July 1, 2025, Hearing Transcript, Page 359; Consumer and Economic Impact Report, Page 11; See also July 1, 2025, Hearing Transcript, Page 36; Consumer and Economic Impact Report, Page 8-9.

²⁰ AG Exhibit 1; July 1, 2025, Hearing Transcript, Page 340-345.

²¹ *Id.*

²² Consumer and Economic Impact Report, Page 3.

²³ July 1, 2025, Hearing Transcript, Page 355.

important to consider many of the underlying economic factors that are mentioned in actuarial reports,” in part because “economic analysis versus actuarial analysis can lead to different conclusions.”²⁴ To aid in the Commissioner’s deliberations, the Attorney General details below the evidence in the record that weighs against the requested rate.

1. Expert Witness Testimony Confirms the Proposed Rate’s Immediate Harm to Consumers.

As reflected in Dr. Whaley’s testimony, BCBSRI’s proposed rate increase would burden individuals with an estimated \$2,500 increase, and families with a nearly \$7,000 increase, in annual premiums.²⁵ Many households in the United States have less than \$400 in their checking accounts,²⁶ making sudden increases of this size impossible to accommodate on a household budget. This increase would equate to 5% of median individual incomes and 8% of median household incomes in Rhode Island.²⁷ Dr. Whaley testified that there will be many individuals and households that will be unable to absorb these premiums.²⁸ Taking into account the projected cost of an individual plan if the requested rate increase were granted, health expenses would account for approximately 24% of median income for individuals, while for households, they would equate to approximately 35% of median income for households.²⁹ At these proportions, health insurance costs are pulling even with the traditional affordability threshold for housing costs – 30% of income. BCBSRI provided no evidence to show how Rhode Islanders would be able to shoulder such drastic increases in cost.

These steep increases will force difficult tradeoffs for Rhode Islanders, particularly in a state where insurance coverage is mandated by law.³⁰ The penalty for individuals without insurance is generally 2.5% of their income or \$695, whichever is higher.³¹ The cost of noncompliance is lower than paying for BCBSRI’s increased premium rate, and consumers may choose what they perceive to be the more affordable option of just paying the tax penalty. When people cannot afford their health insurance, they lose access to health care. This loss of access is a real and substantial risk if the rate is approved as requested. Dr. Whaley testified to the large body of evidence demonstrating that when the costs of accessing health care services increase,

²⁴ July 1, 2025, Hearing Transcript, Page 393.

²⁵ July 1, 2025, Hearing Transcript, Page 354.

²⁶ July 1, 2025, Hearing Transcript, Page 386.

²⁷ Consumer and Economic Impact Report, Page 11.

²⁸ July 1, 2025, Hearing Transcript, Page 359.

²⁹ Consumer and Economic Impact Report, Page 11.

³⁰ R.I. Gen. Laws § 44-30-101(b) (“Every applicable individual must maintain minimum essential coverage for each month beginning after December 31, 2019.”).

³¹ R.I. Gen. Laws § 44-30-101(d).

or the costs of the services themselves increase, individuals are less likely to consume high value and appropriate types of care.³² BCBSRI's requested rate is also likely to reduce access to care because when insurance premiums increase and households can no longer afford coverage, it is likely that some will make the economic choice to forego health insurance.³³ According to Dr. Whaley, when consumers are asked to pay more for care, either as a result of being uninsured or selecting a less costly but less generous health plan, they must make hard choices about which services to receive and whether to fill their prescription medications.³⁴ For example, under this scenario, a consumer who no longer has full coverage for preventive care services will be less likely to receive those services.³⁵ After his review of the filing, Dr. Whaley testified that there might be a scenario where "individuals no longer get preventative primary care services. They no longer fill prescription drugs for chronic conditions."³⁶ This lack of access would "directly lead to harm in patient health[.]"³⁷

2. The Risk of Consumer Harm through Foregone Coverage and Care Will be Enhanced by Loss of Subsidies.

Increased premiums are not the only economic pressure Rhode Islanders will face in 2026 when it comes to buying health insurance. At the end of 2025, the Enhanced Premium Tax Credits ("EPTCs") will expire unless Congress extends them, which it recently declined to do when it passed H.R. 1.³⁸ EPTCs were an element of the 2021 American Rescue Plan, which aimed to expand access to and stabilize health insurance coverage.³⁹ The EPTCs temporarily allowed enrollees to purchase more affordable health insurance in the ACA marketplace. To illustrate the breadth of these subsidies, some lower-income enrollees enjoyed a net premium payment of zero; enrollees with higher incomes also had access to significant subsidies available for the first time.⁴⁰

The EPTCs "substantially improved the affordability of Marketplace premiums across all income categories."⁴¹ They placed direct and indirect downward pressure on premiums, which benefited all enrollees. With respect to the direct effect on premiums, these tax credits reduced

³² July 1, 2025, Hearing Transcript, Page 361.

³³ July 1, 2025, Hearing Transcript, Page 361.

³⁴ *Id.*

³⁵ *Id.*

³⁶ July 1, 2025, Hearing Transcript, Page 362.

³⁷ *Id.*

³⁸ Public Law No. 119-21.

³⁹ AG Exhibit 28 Page 1.

⁴⁰ *Id.*

⁴¹ *Id.* at 8.

the premiums paid by individuals within this market by applying a more generous subsidy schedule that lowers the amount of household income owed in premiums.⁴² With respect to the indirect effect on premiums, because EPTCs lowered the costs of obtaining coverage, they attracted more people and healthier people into the marketplace, which lowered the average health risk.⁴³ When a risk pool is healthier, the insurance carrier takes on less risk and thus can keep premiums lower.

This year, Rhode Islanders are faced with both double-digit increases in premiums and the elimination of federal assistance that helped consumers purchase already expensive health insurance. Marketplace shoppers are being placed in a nearly impossible situation, forced to choose either to purchase expensive coverage without enhanced subsidies or go uninsured. Although EPTCs do not alter cost-sharing expenses, which include deductibles and copays, they have allowed consumers to choose plans with more generous coverage with lower cost sharing obligations.⁴⁴ This has allowed for expanded access to care by decreasing the financial burden of accessing care. For a portion of low-income Rhode Islanders, 2026 will represent the first time in four years that they will have to pay for health insurance as they will no longer qualify for a net zero premium payment. Indeed, Dr. Whaley noted that “the loss of these credits will make purchasing insurance substantially more expensive” and that the combination of the requested increase and the elimination of the EPTCs will lead to a “drastic decrease in Rhode Island insurance affordability[.]”⁴⁵ This points to a third threat faced by Rhode Island consumers: many may be forced to choose plans with narrower benefits that impose heightened cost-sharing obligations.

If granted, the requested rate increases will force consumers to choose between going uninsured, drawing down their savings (if any), or spending less on other household necessities.⁴⁶ That is a harm to Rhode Island consumers, a harm the Commissioner must guard against. BCBSRI has received a 24% increase in premiums since 2020.⁴⁷ The requested rate would double that increase in one fourth of that time. Meanwhile, the median household income in Rhode Island increased by just 2.1%.⁴⁸ To avoid the negative impact to consumers resulting from the requested rate increase, OHIC should reject the requested rate increase.

⁴² *Id.*

⁴³ AG Exhibit 28, Page 8.

⁴⁴ AG Exhibit 28, Page 8.

⁴⁵ Consumer and Economic Impact Report, Page 8-9.

⁴⁶ July 1, 2025, Hearing Transcript, Page 355.

⁴⁷ Consumer and Economic Impact Report, Page 3.

⁴⁸ Consume and Economic Impact Report, Page 3; *See also* AG Exhibit 10.

B. BCBSRI'S RATE FILING RELIES ON QUESTIONABLE ASSUMPTIONS AND FAILED TO ESTABLISH THE REQUESTED RATE INCREASE IS CONSISTENT WITH THE PUBLIC INTEREST.

Based on the administrative record, BCBSRI failed to meet its burden to demonstrate that the requested rate increase is in the public interest. A key purpose of the rate filing process is to assess the sufficiency of the carrier's estimates of liabilities for the coming year; overestimates of liabilities can lead to potential windfalls to the insurer, at the expense of consumers. The public interest is not served by a requested rate increase that not only would harm consumers and the health care system but also lacks economic justification sufficient to support the request. With respect to BCBSRI's filing, there are several key metrics and inputs the Commissioner should consider as ripe for reduction as they are either speculative or fail to account for economically supported offsets.

1. Assumptions Regarding Tariff-Related Inflation and Cost Management Strategies

BCBSRI built in a 3% increase in Pharmacy cost trends to account for new tariffs.⁴⁹ But importantly, the record showed that many pharmaceutical products were to be exempted from U.S. tariffs.⁵⁰ Developments in tariff policy since the hearing continue to illustrate the high degree of uncertainty surrounding pharmaceutical tariffs. Therefore, as Dr. Whaley testified, assuming such an increase in costs where final tariff policy has not been established is quite uncertain because it is unclear the degree to which tariffs will actually impact insurance premiums.⁵¹ Moreover, there is no universal consensus on the issue of whether tariffs – whether enacted or not – may lead to increased pharmacy costs for insurers.⁵² The uncertainty around whether tariffs will lead to future increased pharmacy costs is an area the Attorney General's and OHIC's experts agree.⁵³ Therefore, based on the administrative record, it would be reasonable for OHIC to disregard incremental Pharmacy cost estimates associated with tariffs.⁵⁴

While BCBSRI introduced evidence of these uncertain tariffs to support their increased premiums to be charged to consumers, the carrier did not consider policies that could reduce premiums or the insurer's costs. For example, the federal government is considering implementing a Most Favored Nation drug negotiation policy.⁵⁵ This proposed policy would set

⁴⁹ BCBSRI Actuarial Memorandum- Individual Market Without Premium Tax Credits, Page 2.

⁵⁰ Consumer and Economic Impact Report, page 8; *See also* AG Exhibit 25.

⁵¹ July 1, 2025, Hearing Transcript, Page 374.

⁵² OHIC Exhibit 1B Page 19.

⁵³ OHIC Exhibit 1B Page 19; Consumer and Economic Impact Report, Page 8.

⁵⁴ OHIC Exhibit 1B Page 19; Consumer and Economic Impact Report, Page 8.

⁵⁵ Consumer and Economic Impact Report, Page 8.

a target for drug manufactures to price drugs at the lowest price available to a set of peer countries.⁵⁶ If this policy were implemented, as is currently planned, it would likely reduce drug prices and therefore insurers' costs and premiums.⁵⁷ Moreover, Dr. Whaley testified to how the Inflation Reduction Act drug price negotiations can place downward pressure on the costs of drugs in the commercial market.⁵⁸ He explained that if there is a price decrease in the Medicare market, this may be a leading indicator of price changes, and may demonstrate a willingness of the drug manufacturers to negotiate lower prices with commercial payors.⁵⁹ We urge the Commissioner to consider countervailing assumptions such as these and, at minimum, disregard the carrier's estimate of increased Pharmacy costs attributable to tariffs as speculative and harmful to consumers.

BCBSRI also claims that new tariffs could have large impacts on broader medical costs and utilization trends.⁶⁰ The payor assumed the Consumer Price Index (CPI) will be higher in September than in April to account for the impact of tariffs.⁶¹ As just noted, the landscape regarding tariffs remains highly uncertain.⁶² The current administration has levied some tariffs, but there have also been reversals and delays, which renders the overall impact of U.S. tariff policy unknown.⁶³ Although tariffs may increase the input costs providers and facilities bear in order to deliver care, the impact of that increase on premiums is less clear.⁶⁴ Payments for medical services are based on rates that are negotiated by the payor and not based directly on the input costs of providing care.⁶⁵ There are options available to payors, especially the largest commercial payor in the state, to mitigate costs.⁶⁶ Indeed, there are "a variety of ways insurers can reduce costs whether it is due to tariffs or other policies,"⁶⁷ such as shifting towards lower costs goods and services, negotiating different prices, shifting volume toward lower priced providers, or employing a reference-based pricing strategy to place caps on certain payments.⁶⁸

⁵⁶ AG Exhibit 26.

⁵⁷ Consumer and Economic Impact Report, Page 8.

⁵⁸ July 1, 2025, Hearing Transcript, Page 410.

⁵⁹ *Id.*

⁶⁰ BCBSRI Actuarial Memorandum- Individual Market Without Premium Tax Credits, Page 2.

⁶¹ *Id.*

⁶² *Id.*

⁶³ July 1, 2025, Hearing Transcript, Page 378.

⁶⁴ Consumer and Economic Impact, Report, Page 7-8.

⁶⁵ Consumer and Economic Impact, Report, Page 7.

⁶⁶ July 1, 2025, Hearing Transcript, Page 376.

⁶⁷ *Id.*

⁶⁸ July 1, 2025, Hearing Transcript, Page 375-276.

Dr. Whaley testified to these strategies to demonstrate that cost mitigation is a path for insurance companies to employ when faced with increased economic pressure due to tariffs.⁶⁹

2. Assumptions Regarding Overall Inflation

Not only can BCBSRI take steps to mitigate any tariff-related cost increases, but economy-wide inflation may not be representative of the inflation trends within the health and medical sector.⁷⁰ As Dr. Whaley testified, due to the role of insurance companies, technological innovation, and market competition, the directionality of pricing for particular health sector goods and services may exhibit different price trends.⁷¹ Medical inflation tracks the growth of prices for health care goods and services, which are the metrics most pertinent to what BCBSRI pays for on behalf of its enrollees.⁷² But medical inflation also accounts for insurance premiums, payments from insurers to providers, consumer out-of-pocket payments, and non-covered services and drugs.⁷³ Thus, CPI may not accurately measure medical inflation, or the inflation that tracks the goods and services covered by the rate at issue in this proceeding.⁷⁴ Insurance claims are “pretty close relations to claims expenses, which are captured in medical inflation.”⁷⁵ The proposed rate is a “substantial increase over medical inflation trends.”⁷⁶

Since 2020, BCBSRI has increased its premiums by 24%, while medical inflation has increased by just 8.4% in the same period.⁷⁷ The Attorney General understands that hospital unit costs are set at CPI-U plus 1%. However, that is one metric of many that determines a premium rate. BCBSRI should not be permitted to leverage assumptions about future increases in CPI for the broader market in order to reap the benefits of higher premium payments, as has been allowed in past years. This is especially inappropriate where there is already a more precise metric, medical inflation, that tracks the costs of the goods and services BCBSRI covers for its enrollees. Again, the Attorney General urges the Commissioner to reject BCBSRI’s justification for increasing any portion of its rate due to tariffs as speculative and inconsistent with the public interest.

⁶⁹ *Id.*

⁷⁰ July 15, 2025, Background on Medical Inflation.

⁷¹ *Id.*

⁷² *Id.*

⁷³ July 15, 2025, Background on Medical Inflation.

⁷⁴ *Id.*

⁷⁵ July 1, 2025, Hearing Transcript, Page 358.

⁷⁶ July 1, 2025, Hearing Transcript, Page 358.

⁷⁷ July 1, 2025, Hearing Transcript, Page 523.

3. Assumptions Regarding GLP-1 Usage

BCBSRI further attempted to justify its increase by citing increased prescription drug costs, including “increased utilization of the glucagon-like peptide-1 (GLP-1) drugs that [BCBSRI] began to see in 2023.”⁷⁸ However, this increased utilization actually is likely to place downward pressure, not upward pressure, on premiums. Research on these drugs, particularly when used to treat diabetes, demonstrates that improved adherence to treatment is linked to lower hospitalization rates and reduced overall medical spending.⁷⁹ The Attorney General does not dispute that the initial outlay on coverage of the new drugs may have been costly, but it is likely that those costs were primarily borne in plan years 2023-2025 as utilization increased. Consistent with Dr. Whaley’s report, based on this research demonstrating utilization decreases in the form of reduced hospitalization, it would not be unreasonable to project that BCBSRI will experience some cost reductions attributable to use of GLP-1s in plan year 2026.⁸⁰ Moreover, the costs of obtaining GLP-1s to treat diabetes, the only condition BCBSRI covers the drug for, have decreased in recent years. Since 2022, the net price of GLP-1s has decreased by 30%.⁸¹ Based on the record, BCBSRI did not consider these factors placing downward pressure on rates in its filing. Again, it is not in the public interest to only consider certain factors that increase rates, while failing to address factors that would tend to decrease prices. Thus, the Commissioner should disregard the portion of the filing that cites GLP-1 as a cost driver.

Consumers of health insurance have an interest in stable, predictable, affordable rates for high-quality, cost-efficient health insurance products.⁸² BCBSRI has failed to meet its burden of demonstrating that the requested rates are within the public’s interest. In light of the aforementioned considerations, the Attorney General urges the Commissioner to reject the requested increase.

C. THE PROPOSED RATE INCREASE WILL EXACERBATE THE SYSTEMIC RISK TO THE RHODE ISLAND HEALTH CARE SYSTEM, CONTRARY TO THE PUBLIC INTEREST.

These requested rates do not exist in a vacuum. The Rhode Island health care landscape is an interconnected system. When a subset of Rhode Islanders chooses to go uninsured because

⁷⁸ BCBSRI Actuarial Memorandum- Individual Market Without Premium Tax Credits, Page 8.

⁷⁹ Consumer and Economic Impact Report, Page 5; *see also* AG Exhibit 16; AG Exhibit 18.

⁸⁰ Consumer and Economic Impact Report, Page 5; *see also* AG Exhibit 16; AG Exhibit 18; AG Exhibit 19.

⁸¹ Consumer and Economic Impact Report, Page 5; July 1, 2025, Hearing Transcript Page 365; AG Exhibit 14.

⁸² 230-RICR-20-30-4.9 (A).

they can no longer afford coverage, that harm extends beyond just those individuals and places a burden on the care system as a whole. This impact also undermines the public interest,⁸³ and the Commissioner is charged with accounting for these systemic considerations when reviewing rate filings.⁸⁴ The Rhode Island health care system is already in crisis. While rates have increased year after year, those rising costs for consumers have not translated into improved access to and quality of care. The requested rate increase could have “detrimental impacts to Rhode Island providers and their financial stability, as well as the stability of Rhode Island health insurance markets.”⁸⁵ This is a harm the Commissioner must guard against when making his decision.

As discussed above, when faced with a stark premium increase, consumers may choose to forego health insurance coverage. But having no coverage does not eliminate the need for health care services. Under federal law, hospitals are required as a condition of Medicare participation to provide emergency stabilization or transfer services, regardless of ability to pay.⁸⁶ When those without insurance need health care, they will likely seek uncompensated care.⁸⁷ The Rhode Island health care delivery system is “an insurer of last resort,” and would experience an increase in uncompensated care costs if the proposed rate increase is granted.⁸⁸ Policy decisions that leave a portion of the low-income population without health insurance and lead hospitals to bear the financial costs of uncompensated care convert facilities into insurers, shifting risk from carriers to health care providers.⁸⁹ According to evidence in the record, hospitals will bear the burden of the increase uninsured rate to the tune of \$900 for each additional uninsured person per year.⁹⁰

The Rhode Island health care system is bracing for a drastic increase in its uninsured rate. In 2024, the uninsured rate in the State was just 2.2 percent.⁹¹ Unfortunately, given the recent passage of H.R. 1,⁹² that number is unlikely to hold and there will be immediate consequences for Rhode Island’s health care system. HealthSource Rhode Island performed a preliminary analysis on the impact of various policies in H.R. 1, which included the elimination of the EPTCs, elimination of the cost-sharing reduction appropriation provision, and the

⁸³ See R.I. Gen. Laws §§ 27-19-6; 27-20-6.

⁸⁴ 230-RICR-20-30-4.8.

⁸⁵ July 1, 2025, Hearing Transcript Page 426.

⁸⁶ See 42 U.S.C. § 1395dd.

⁸⁷ July 1, 2025, Hearing Transcript, Page 356.

⁸⁸ July 1, 2025, Hearing Transcript, Page 386.

⁸⁹ AG Exhibit 27 Page 4.

⁹⁰ AG Exhibit 27 Page 2.

⁹¹ AG Exhibit 4 Page 2.

⁹² Public Law No. 119-21.

initiation of the H.R.1's pre-enrollment verification provisions. Their analysis found that the elimination of the EPTCs alone would result in 13,000 Rhode Islanders losing health insurance in plan year 2026. Loss of EPTCs combined with the rest of the H.R. 1's provisions would result in roughly 18,500 Rhode Islanders losing health insurance.⁹³ This impact does not take into consideration the consumers who will leave the market as a result of the compounded impact of the increase in premiums. Given these changes, the state is facing a significant increase in its uninsured population and the loss of significant federal assistance. Taken in isolation, these two impacts alone are likely to have a destabilizing effect on the Rhode Island market. If one adds in the financial shock of BCBSRI's requested rate into that mix, it could potentially further threaten the stability of the insurance market and the broader Rhode Island health care system. In Rhode Island, providers have limited ability to recoup losses by shifting those costs to privately insured patients. Studies have found that not all uncompensated care can be passed through or defrayed across payor segments, and hospitals absorb approximately two-thirds of the costs of uncompensated care.⁹⁴

Rhode Island hospitals have long been in crisis and are not equipped to absorb an increase in uncompensated care costs. In 2017, Memorial Hospital closed after years of dealing with financial issues and a decline in patient base.⁹⁵ Care New England, the hospital's parent company, lost \$68 million the year prior to the closure.⁹⁶ Currently, two vital community hospitals, Roger Williams and Our Lady of Fatima, are in a precarious financial position. The parent company of those hospitals, Prospect Medical Holdings, filed for bankruptcy earlier this year.⁹⁷ The hospitals have been able to attract a buyer, in part because of support the Attorney General secured for the hospitals in its 2021 Healthcare Conversion Act decision. Health care systems and providers are feeling the pressures that arise from the State's failure to fix the fundamentals of our health care systems. It cannot be the sole obligation of individual health care consumers to pay more every year into a system that is failing. The system, in turn, cannot take on any more uncompensated care. Granting the proposed rate increase would exacerbate the current dire situation of health care in Rhode Island and ripple through the system.

⁹³ AG Exhibit 4 Page 2.

⁹⁴ AG Exhibit 27 Page 5.

⁹⁵ 10WJAR, "Many questions surround Memorial Hospitals closing in Pawtucket." Oct. 18, 2017, <https://turnto10.com/news/local/many-questions-surround-memorial-hospital-closing-in-pawtucket>

⁹⁶ *Id.*

⁹⁷ Rhode Island Current, "Prospect declared bankruptcy, says sale of Roger Williams hospitals will continue." Jan. 12, 2025. <https://rhodeislandcurrent.com/2025/01/12/prospect-declares-bankruptcy-says-sale-of-roger-williams-and-fatima-hospitals-will-continue/>

D. THE PROPOSED RATE INCREASE HIGHLIGHTS THE INHERENT LIMITATIONS OF THE RATE REVIEW PROCESS.

Rate review processes at the state level were established as an important check on private insurers' ability to increase premiums with impunity. OHIC's rate review process can and should serve a vital function, and we support any and all efforts to ensure that insurance premiums are closely scrutinized. Indeed, this process is among one of OHIC's "most profound responsibilities."⁹⁸ The process in Rhode Island, as Dr. Whaley testified to, has been "more effective than other states" in terms of placing downward pressure on premiums.⁹⁹

However, the process this year provides a clear example for why the rate review process is limited: OHIC and BCBSRI each provided actuarial testimony but neither focused on the affordability of premiums to consumers. Whether a rate is actuarially sound must not be the only line of inquiry.

Both BCBSRI and OHIC have obligations to Rhode Islanders to ensure affordable health insurance. As detailed above, BCBSRI has a statutory obligation to provide accessible and affordable health insurance.¹⁰⁰ Yet, BCBSRI put forth no evidence in their pleadings nor in their testimony during the rate hearing with respect to whether a nearly 30% increase would be affordable to its members. Given its statutory obligation to provide affordable health insurance, the failure to address affordability should concern the Commissioner and consumers alike.

Similarly, OHIC's regulations require it to protect the interests of consumers, and its own regulations state that consumers have an "interest in stable, predictable, affordable rates for high-quality, cost-efficient health insurance products."¹⁰¹ Yet, OHIC's pre-hearing filings and testimony were devoid of any discussion regarding consumer affordability. The only consumer-focused line of inquiry from OHIC was focused on whether or not BCBSRI – a company that had capital and surplus of over \$300 million in 2024 – could remain solvent if the rate requested was rejected or decreased substantially.¹⁰² While OHIC's regulations require it to guard the solvency of health insurers,¹⁰³ that consideration must be balanced against the exceedingly strong interests of consumers in being able to obtain affordable health coverage.

Non-profit carriers such as BCBSRI have been able to generate a large amount of revenue while access to care in Rhode Island has deteriorated. Dr. Whaley reviewed BCBSRI's

⁹⁸ June 30, 2025, Hearing Transcript, Page 4.

⁹⁹ July 1, 2025, Hearing Transcript, Page 538.

¹⁰⁰ See R.I. Gen. Laws §§ 27-19.2-3(1) and 27-19.2-10(3).

¹⁰¹ 230-RICR-20-30-4.9.

¹⁰² OHIC Exhibit 122c, Page 5.

¹⁰³ 230-RICR-20-30-4.4.

annual financial statement. He testified that total assets are around a billion dollars.¹⁰⁴ BCBSRI enjoys a wide, diversified set of assets, according to Dr. Whaley.¹⁰⁵ Dr. Whaley further testified that BCBSRI has relatively healthy holdings.¹⁰⁶ Given this testimony, the Attorney General is concerned that focusing too much on solvency – which insurers are predisposed to advocate around – excludes important consumer impacts that will be felt and risks giving insurers a windfall by overestimating their need for premium rate increases. If an insurer obtains a windfall, the only corrective mechanism built into the process arises from medical loss ratio (MLR) requirements. Such a narrow focus on solvency fails to place these rates within the proper context; consumers will have to pay these rates and pay for whatever incremental gain in solvency is possible. But, sometimes, the price is too high to pay for a decreased risk, especially when the risk is already at an acceptable level.

Whether these rates are affordable needs to be addressed by all parties, not just the Attorney General. We are concerned that these hearings have departed from their statutory grounding by focusing on just one aspect of their purpose. Solvency, much like actuarial calculations, should not be the singular focus of these rate hearings. The focus on solvency by BCBSRI and OHIC begs the question: Are consumers interests being protected if the regulator and regulated party agree that solvency is the only lens through which to assess consumer impact?

Equally important, in order for the rate review process to be effective, OHIC should establish a mechanism for ensuring that premium increases translate to improvements in access to care. While OHIC has taken important steps towards ensuring increased investment in high-value forms of care, such as primary care, we support further efforts to build similar considerations into the rate review process. We urge OHIC to consider the lack of evidence of specific improvements in access to and affordability of care when evaluating BCBSRI's requested rate increase.

IV. CONCLUSION

Throughout this proceeding, the Attorney General has sought to ensure that the voice of consumers is adequately represented. When the rate review process is reduced to a case of dueling actuaries in the face of double-digit premium growth, with no testimony elicited by OHIC's counsel as to the ultimate economic effect on Rhode Islanders, the consumer perspective

¹⁰⁴ July 1, 2025, Hearing Transcript, Page 358; OHIC Exhibit 122.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

risks being lost. The administrative record demonstrates why we should be skeptical of this outsized rate increase request.

We urge OHIC to reject the requested rate hike and instead adopt a wide, forward-looking, and long-term policy perspective that balances the highly technical actuarial evidence before it alongside the exceedingly important interests of consumers, the carrier's sophistication and ability to manage financial solvency across its various business lines, and the significant gaps in access that Rhode Islanders face.

Investment in the health care system is warranted, but it cannot be accomplished through raising premiums on a small fraction of Rhode Islanders. Accordingly, in light of the arguments above and the evidence introduced in the record, the Attorney General urges the Commissioner to reject the proposed rate increases.

Respectfully submitted,

**RHODE ISLAND OFFICE OF THE
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Certificate of Service

I hereby certify that on this 30th day of July 2025, the foregoing document and attachments were delivered via electronic mail to Health Insurance Commissioner Cory King (cory.king@ohic.ri.gov); Raymond A. Marcaccio, Esq., Legal Advisor to Commissioner King (ram@om-rilaw.com); Emily Maranjian, Executive Legal Counsel for OHIC (Emily.Maranjian@ohic.ri.gov); Jamie J. Bachant, Assistant General Counsel for Blue Cross Blue Shield of Rhode Island (Jamie.Bachant@bcsri.org); Jasmin Amaral, OHIC Docket Clerk, Office of the Health Insurance (Jasmin.Amaral@ohic.ri.gov)