



# City of Grand Island

Tuesday, October 24, 2017

Council Session

## Item G-18

**#2017-303 - Approving Subrogation Reimbursement with Blue Cross Blue Shield of Nebraska**

Staff Contact: Aaron Schmid, Human Resources Director

# **Council Agenda Memo**

**From:** Aaron Schmid, Human Resources Director

**Meeting:** October 24, 2017

**Subject:** Consideration of Approving Subrogation Reimbursement with Blue Cross Blue Shield of Nebraska

**Presenter(s):** Aaron Schmid, Human Resources Director

## **Background**

A City of Grand Island employee was involved in a personal vehicle accident. When situations like this occur, it is customary to subrogate the claim between the auto insurance carried and health insurance carrier. To date, the City of Grand Island employee benefit plan ("Plan") and Blue Cross and Blue Shield of Nebraska ("BCBSNE") have paid a combined total of \$191,821.78 in medical expenses on claims related to this accident. The specific stop loss is \$150,000; therefore, BCBSNE paid all claims above and beyond the \$150,000 stop loss limit.

## **Discussion**

The employee's attorney refunded the Plan \$24,190.53, based on a July telephone conversation that the attorney had with a subrogation specialist at BCBSNE. At the time of the conversation, the subrogation specialist failed to recognize that a claim in the amount of \$113,214.87 had been processed by BCBSNE on July 18, 2017. Had the claim been identified, the Plan's total lien amount at the time of the conversation would have been \$141,754.89.

Pursuant to the made whole doctrine in *Blue Cross and Blue Shield of Nebraska, Inc. v. Dailey*, an insurer cannot recover under subrogation unless the insured has been made whole. 268 Neb. 733 (2004). Due to the application of *Dailey* to the Plan, the most that the Plan would have recovered, without pursuing litigation, is 50% of its lien amount at the time of settlement (i.e., \$70,877.45).

Therefore, because of the error, BCBSNE will compensate the Plan in an amount equal to \$46,687.00 (i.e., \$70,877.45 less the \$24,190.53 already recovered by the Plan) in full and final resolution of this issue.

## **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

## **Recommendation**

City Administration recommends that the Council approve BCBSNE to compensate the Plan in the amount of \$46,687.00.

## **Sample Motion**

Move to approve BCBSNE to compensate the Plan in the amount of \$46,687.00.

RESOLUTION 2017-303

WHEREAS, the City Of Grand Island (City) has an administrative services agreement with Blue Cross and Blue Shield of Nebraska (BCBSNE) for payment of employee health care expenses and provision of stop loss insurance (the “Plan”); and

WHEREAS, BCBSNE subrogates health care claims paid on behalf of the City; and

WHEREAS, at the time of the conversation with an injured city employee’s attorney, a BCBSNE employee failed to recognize that a claim in the amount of \$113,214.87 had been processed by BCBSNE on July 18, 2017. Had the claim been identified, the Plan’s total lien amount at the time of the conversation would have been \$141,754.89; and

WHEREAS, pursuant to the made whole doctrine in *Blue Cross and Blue Shield of Nebraska, Inc. v. Dailey*, 268 Neb. 733 (2004), an insurer cannot recover under subrogation unless the insured has been made whole; and

WHEREAS, due to the application of Dailey to the Plan, the most that the Plan would have recovered, without pursuing litigation, is 50% of its lien amount at the time of settlement (i.e., \$70,877.45); and

WHEREAS, because of its error, BCBSNE offered to compensate the Plan in an amount equal to \$46,687.00 (i.e., \$70,877.45 less the \$24,190.53 already recovered by the Plan) in full and final resolution of this issue.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that BCBSNE’s offer to compensate the City Plan in the amount of \$46,687.00 is approved and the Mayor is hereby authorized to execute the agreement by and between the City of Grand Island and Blue Cross and Blue Shield of Nebraska.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, on October 24, 2017.

\_\_\_\_\_  
Jeremy L. Jensen, Mayor

Attest:

\_\_\_\_\_  
RaNae Edwards, City Clerk

Approved as to Form	☐ _____
October 20, 2017	☐ City Attorney