



Broward County

Legislation Text

File #: 19-420, Version: 1

Broward County Commission Regular Meeting

Director's Name: George Tablack

Department: Finance and Administrative Services **Division:** Human Resources

Information

Requested Action

MOTION TO APPROVE Settlement Agreement with OptumRx PBM of Wisconsin, LLC (f/k/a Catamaran PBM Services, LLC, as assignee of Catamaran PBM of Illinois II, Inc.), and any affiliated entities resolving issues related to the independent audit conducted in 2017 and audit validation in 2019, and authorize the Mayor to execute same.

Why Action is Necessary

Pursuant to Section 1-51.3 of the Broward County Code of Ordinances, Board authority is required to approve settlement proposals in excess of \$50,000.

What Action Accomplishes

Approves settlement agreement with OptumRx resolving issues related to the independent audit conducted in 2017 and audit validation in 2019 and authorizes the Mayor to execute the settlement agreement.

Is this Action Goal Related

No

Previous Action Taken

None.

Summary Explanation/Background

THE COUNTY AUDITOR'S OFFICE, THE COUNTY ATTORNEY'S OFFICE, AND THE FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT/HUMAN RESOURCES DIVISION RECOMMEND APPROVAL OF THE ABOVE MOTION.

Broward County contracted with Catamaran PBM Services, LLC, as assignee of Catamaran PBM of Illinois II, Inc. ("Catamaran"), to provide pharmacy benefit management services for the County for plan years 2013 through 2015. OptumRx PBM of Wisconsin, LLC ("OptumRx"), acquired Catamaran in late 2015. Consistent with the terms of the contract, the County Auditor engaged an independent auditor to conduct an audit to determine the overall accuracy of Catamaran's claims payments and administration for plan years 2013 through 2015. On January 9, 2018 (Item No. 20), the Board, after its review and consideration of the independent auditor's report, directed County staff to continue pursuing the matter with OptumRx and report back to the Board periodically.

The County and OptumRx signed a tolling agreement, dated January 4, 2018, that preserved any

and all claims the County may have had against Catamaran or OptumRx as of December 8, 2017. The County and OptumRx also executed an interim agreement to permit an independent third-party auditor, RSM US LLP (formerly known as McGladrey, LLP), to validate whether all rebates received by Catamaran, OptumRx, or their respective subsidiaries had been properly paid to the County as required under the County's contract for the 2013 through 2015 years. That independent review was completed in May 2019, and RSM submitted a summary report of its findings indicating that more than \$500,000 in rebate amounts had been received by Catamaran/OptumRx but not paid to the County. It should be noted that OptumRx placed certain scope limitations on the third-party auditor's review, which resulted in the auditor's inability to verify certain material information and issue more definite findings regarding potential underpayments to the County by Catamaran and/or OptumRx. In response to the third-party audit validation, OptumRx stated that the rebate amounts withheld constituted "reasonable administrative fees" permitted under the contract and no further payments or interest was necessary. Subsequent to RSM's summary report, OptumRx notified the County that certain information was not disclosed to RSM relating to additional rebate amounts received, but not paid to the County, and that RSM will be updating its report to include more than \$150,000 in additional rebate amounts received by Catamaran and/or OptumRx, but not paid to the County for the applicable plan years. The updated report was received by the County on June 17, 2019.

On June 11, 2019 (Item No. 70), the Board authorized the County Attorney's Office to commence litigation against OptumRx and its affiliates if a negotiated resolution could not be timely achieved.

The County Auditor's Office, the County Attorney's Office and the Finance and Administrative Services Department (FASD)/Human Resources Division have worked closely to resolve the outstanding issues of underpayment of rebates to the County, recalculation of performance guarantees based on formulary placement and incorrect administrative fees for clinical management services during the audit period. Including the claimed unpaid rebates, other amounts owed for overpayment on certain prescriptions, the costs of the 2017 audit, and claimed interest from 2013 to the present (which totaled in excess of \$225,000); the total amount that could have been claimed was approximately \$1,100,000.

Settlement discussions with OptumRx have successfully resulted in a negotiated settlement with OptumRx in the amount of \$883,772, subject to Board approval. Attachment 1 is the negotiated settlement which is submitted for Board approval with the recommendation of the County Auditor's Office, the County Attorney's Office and FASD/Human Resources Division.

If approved by the Board, this item would finalize and close out the independent audit of the County's self-insured pharmacy plan for Plan Years 2013 through 2015.

Source of Additional Information

Kevin Kelleher, Deputy CFO, (954) 357-7132

Fiscal Impact

Fiscal Impact/Cost Summary

Within 30 days following full execution of this settlement agreement, the County would receive a one-time credit in the amount of \$883,772 from OptumRx to be used against future pharmacy costs.