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3 **Title: BCBSM Breach of Contract**  
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5 **Introduced by: Ali Moiin, MD, for the Wayne County Delegation**  
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7 **Original Author: Joseph J. Weiss, MD**  
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9 **Referred to: Reference Committee A**  
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11 **House Action: Disapproved**  
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14 **Whereas, in contracts with Blue Cross Blue Shield of Michigan (BCBSM),**  
15 **Michigan physicians have agreed that “portions of the compensation may be**  
16 **withheld and used by BCBSM to fund incentive, gainsharing and quality**  
17 **improvement programs”<sup>1</sup>, and**  
18

19 **Whereas, BCBSM now withholds 4.7 percent of approved payments, and**  
20 **asserts that the withholds generates \$100 million that goes to physicians as**  
21 **bonus for improved performance<sup>2</sup>, and**  
22

23 **Whereas, BCBSM has never permitted public accounting to verify that the**  
24 **money taken from physicians has been returned to them for better care as the**  
25 **BCBSM contract specified, and**  
26

27 **Whereas, BCBSM has never proved or allowed an outside party to**  
28 **confirm that the \$100 million for physicians represents the totality of funds**  
29 **generated by the 4.7 percent withhold; therefore be it**  
30

31 **RESOLVED: That MSMS, on behalf of its physician membership, sue**  
32 **Blue Cross Blue Shield of Michigan (BCBSM) for breach of contract as BCBSM**  
33 **has never proved that money withheld to fund incentive, gainsharing and**  
34 **quality improvement programs goes to improving health care and practice; and**  
35 **be it further**  
36

37 **RESOLVED: That if MSMS cannot sue BCBSM for breach of contract for**  
38 **never proving that money withheld to fund incentive, gainsharing and quality**  
39 **improvement programs goes to improving health care and practice, that MSMS**  
40 **delineate how physicians can do so.**  
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43 **WAYS AND MEANS COMMITTEE FISCAL NOTE: \$200,000 - \$500,000 for legal**  
44 **counsel fees.**

<sup>1</sup> BCBSM Medicare Advantage PPO Agreement Practitioner Attachment

<sup>2</sup> Share DA: Health Affairs 31:1993-2001