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Lisa Girion

Doctors seek to sue Blue Cross

The California Medical Assn. wants to join patients in a dispute over canceled policies.

California's largest physician organization on Tuesday asked to join patients in a class-action lawsuit alleging that Blue Cross illegally dumps policyholders after authorizing expensive medical treatment and then refuses to pay the bills.

The request by the California Medical Assn. came a week after the state's hospitals filed a motion to join their own classaction suit with the patients' case in Los Angeles County Superior Court. If the association and the hospitals are allowed to intervene in the suit, patients would gain two powerful allies in their dispute with Blue Cross of California, the state's largest health insurer.

The company has been in confidential mediation with patients' lawyers for months, and in November state regulators sent representatives to the talks in what was seen as an effort to persuade Blue Cross to change its practices.

Blue Cross' parent, WellPoint Inc. of Indianapolis, declined to comment Tuesday. In the past, the company has said that it follows the law and that it cancels a small portion of its individual policies.

The medical association, which represents more than 30,000 physicians, calls the cancellations illegal, unfair and routine. The organization also says the cancellations hurt patients, physicians and hospitals as well as taxpayers, who end up footing the bill for medical care for patients who lose private coverage.

The cancellations being challenged are of policies that individuals buy because they are self-employed or work for employers that do not provide medical benefits.

"If the patients aren't getting the insurance they paid for, then we have to stand with them," said Karen Nikos, a spokeswoman for the medical association in Sacramento.

William Shernoff, a Claremont lawyer who represents many policyholders, said he was encouraged that the physician group wanted to join the suit.

"The insurance companies have created this problem," he said. "They have put the squeeze on everybody: the patients, the hospitals, the doctors. Everybody suffers while they make gigantic profits."

The association's bid to join the suit is the latest development in an escalating dispute over the problems of cancellations examined in a series of articles in the Los Angeles Times. Regulators have launched investigations into the cancellation practices of Blue Cross and other health plans and are considering new rules to protect policyholders.

Consumer advocates say the issue could help shape a debate over how to expand health coverage in California — a debate that Gov. Arnold Schwarzenegger is preparing to enter with his own proposal next month.

The dispute centers on this question: Under what circumstances may an insurer revoke individual coverage once it has been issued?

Unlike group coverage, individual insurance is subject to medical underwriting. That means insurers can choose whether to cover an applicant based on his or her medical condition and history, information acquired largely from a questionnaire filled out by the applicant.

Insurers maintain that they have the right to cancel after issuing coverage and even after approving treatment if important information is incorrect or left off an application — regardless of whether the person sought to deceive the company, made an honest mistake or was confused. The insurers say their ability to cancel policies deters fraud and holds down the cost of individual coverage.

Consumer advocates, lawyers for policyholders, and state regulators contend that the practice makes a mockery of insurance and is illegal. They say insurers are ignoring a 1993 state law that prohibits the cancellation of health insurance unless a company can prove "willful misrepresentation."

The controversy began with a raft of suits in the spring in which policyholders alleged that Blue Cross and other health plans illegally revoked their coverage as a way to avoid paying expensive claims after they got sick.

The plaintiffs included the family of a 6-year-old Murrieta girl whom Blue Cross dropped while she was being treated for a life-threatening tumor in her jaw. Also among the plaintiffs was a Riverside couple who were forced to put their home up for sale to pay medical bills.

In October, Blue Cross settled, for undisclosed amounts, both claims and those of about 70 other patients.

Blue Cross also faces at least three class-action suits: two on behalf of patients and one on behalf of hospitals. They all seek to force the company to stop canceling policies unless it can show that an applicant intended to deceive the company to obtain coverage in the first place.

The doctors' claims are similar to those of the hospitals. They say state law requires insurers to pay for medical care that the companies authorize — whether or not coverage is later revoked.

The medical association said that in most cases Blue Cross acknowledged that the patients were policyholders in good standing and that it had authorized the treatment.

When coverage is canceled, patients are stuck with bills they often cannot afford and so providers go unpaid, the association said. The patients often are unable to obtain coverage from other health plans and end up on Medi-Cal, the group said.

The Department of Managed Health Care is drafting a rule designed to clarify the laws to make it harder for health insurers to drop policyholders after they become ill. Cindy Ehnes, the department's director, announced last week that she would hold the first public hearing on the issue Jan. 29 in Los Angeles.

In September, the agency issued its first sanction in a cancellation, fining Blue Cross \$200,000 after finding that it illegally revoked the policy of a Southern California woman.