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FORMER MEMBERS SUE BLUE CROSS

The state's largest health insurer systematically — and illegally — cancels coverage retroactively for people who need expensive care, 10 former Blue Cross members claimed in lawsuits filed Monday.

The suits, filed simultaneously in Los Angeles, Orange, Riverside and San Bernardino counties, allege that Blue Cross of California and Blue Cross Life & Health operate a "retroactive review department" devoted to finding ways the company can escape its obligations to members who become seriously sick.

"Blue Cross' conduct is particularly reprehensible because it was part of a repeated corporate practice and not an isolated occurrence," according to the suits. The former members seek compensation, damages and court orders prohibiting the alleged practice.

Blue Cross, which is owned by Indianapolis-based insurance giant WellPoint Inc., declined to comment on the suits.

Christopher Ohman, president and chief executive of the California Assn. of Health Plans, a trade group, said he could not address the suits directly, but he said that if health plans weren't vigilant in watching for fraud, rates would go up for everyone.

Assessing the accuracy of applications "is part of daily operations of all plans," he said.

Although similar complaints have targeted health insurers for years, the suits may be the first to accuse Blue Cross of having a system to improperly dump patients once they become too costly, said William Shernoff, a Claremont attorney representing the patients.

Shernoff, who helped pioneer bad-faith cases against other types of insurers, said he previously litigated such complaints against Blue Cross and other health insurers one by one. He said his goal in filing the 10 suits Monday was to trigger reforms in the laws governing health plans.

"The intent of these cases is to stop this widespread, unlawful practice that is hurting not only the patients but is hurting the hospitals and the doctors," Shernoff said. "I want to shut that down."

Shernoff said the alleged practice was devastating for patients.

Christie Bewley of Whittier said Blue Cross dumped her after her physician discovered she had ovarian cysts. According to the suit, she has been unable to afford to obtain a diagnosis since losing her coverage.

Blue Cross also allegedly canceled coverage for Laura Khatchikian of Los Angeles when she became pregnant with twins — more than a year after she began paying monthly premiums.

State regulators say that although a handful of such cases brought up in the courts are under investigation, "we have not seen this type of problem" called in by consumers seeking help, said Amy Dobberteen, chief of enforcement for the Department of Managed Health Care.

The suits involve health policies purchased by individuals, not group or employer-sponsored coverage. To obtain such policies, applicants must fill out a health-history questionnaire.

According to the suits, each patient filled out the application honestly, was accepted for coverage and paid premiums for months before being diagnosed with a serious condition of which the patient was previously unaware.

Blue Cross authorized treatment, the patients allege, only to rescind coverage months later, leaving them with medical bills — some exceeding \$100,000. In some cases, the patients allege, they have been unable to receive follow-up treatment since losing coverage.

The patients contend that the insurer violated state laws that prohibit carriers from canceling coverage retroactively without evidence that a member intentionally lied or omitted pertinent medical history.

In each case, the suits allege, Blue Cross didn't look into the member's medical history until an expensive claim came in. Then, the plaintiffs contend, Blue Cross extensively scrutinized their records looking for something that had not been disclosed and seized on whatever discrepancies they found to justify revocation of the policy, even if the inconsistencies were inadvertent or irrelevant to the claim.

Yenny Shu of Los Angeles, for instance, says her coverage was canceled after she was diagnosed with breast cancer at 46. In its letter rescinding her coverage, Blue Cross allegedly told her that she failed to disclose her exposure to the hepatitis B virus when she was a child.

Other patients say they had, in fact, disclosed the information Blue Cross accused them of omitting.

Dawn Foiles of Riverside, for instance, says Blue Cross dropped her after she had back surgery to replace a disc. Blue Cross, according to the suit, rescinded her coverage because she purportedly failed to disclose a history of back problems and previous surgery.

But Foiles said she had listed a 1997 herniated disc operation on the insurance application in 2003.

The suits also target Blue Cross' health-history questionnaire, alleging that it is designed to trap innocent applicants into making a mistake that the company can use later to justify a rescission.

"If you never file a claim, they are happy to take your money," attorney Shernoff said. "It's only when you file a claim" that Blue Cross scours years of medical records to find discrepancies with the application.

He has spent decades suing insurance companies over alleged acts of bad faith.

In 2004, working with plaintiffs' lawyer Mark Geragos, Shernoff won a \$20-million settlement from New York Life Insurance Co. for heirs of Armenian genocide victims who accused the company of failing to honor valid claims.