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Lisa Girion

Scrutiny of Sick Patients Is Detailed

Blue Cross cancels any policies with inconsistencies even if errors were inadvertent, according to an employee deposition.

A California Blue Cross employee testified in secret last year that the state's largest health-plan company routinely canceled policies of sick members after looking for inconsistencies — not fraud — in their applications.

Experts say, however, that state law allows only deliberate omissions or misstatements as grounds for canceling health coverage.

The testimony, given in a lawsuit against Blue Cross, also indicated that those reviews were triggered by claims for treatment of certain illnesses.

The suit is one of many filed recently by a Claremont lawyer representing policyholders who say the company seized on inadvertent errors and omissions in applications to justify dumping them after receiving claims, leaving them with big medical bills and no health coverage.

Two state regulatory agencies also are investigating the allegations, which involve individual policies, not those issued through employers or other groups.

Blue Cross parent WellPoint Inc. of Indianapolis, the nation's largest health benefits company, denies any wrongdoing.

"We do not rescind coverage based on someone having a diagnosis or receiving services," spokesman Robert Alaniz said. "We rescind based on misrepresentations in an application that we discover. We believe that we are acting appropriately and consistent with our legal obligations to our members."

Alaniz declined to discuss the testimony of four Blue Cross employees who were deposed in the case.

The company persuaded a Los Angeles County judge to seal several documents, including the depositions, arguing that they included proprietary information about the way it conducts business.

Portions of the employees' testimony, however, are included in the public court file. Along with other documents, they offer a glimpse into the work of a four-person unit that, employees testified, reviews as many as 1,500 policies a week and cancels those whose holders misstated or omitted facts found in medical records — inadvertently or otherwise.

In one exchange, plaintiffs' attorney William M. Shernoff of Claremont asked if, under Blue Cross procedures, it mattered "whether the nondisclosure was inadvertent or willful."

Cynthia Rosenfeld — identified only as the employee most knowledgeable about the cancellations — replied,

"We just look at whether the condition was disclosed on the application."

"Period, correct?" Shernoff asked.

"Correct."

A second employee, Sheila Millan, testified that the reviews were triggered by claims made for treatment for certain illnesses, such as hypertension, diabetes and cardiovascular disease.

"When a claim comes in and there is a certain diagnosis, that would pretty much [consign] them to be reviewed for a possible preexisting condition," Millan testified. "There is a list."

The complete list of diagnoses was sealed and the company declined to make a copy available. But according to portions included in the public file, the list includes diseases of the jaw, disorders of the breast, endometriosis and disorders of the female genital tract.

Blue Cross declined to provide copies of reports sealed in court records that indicate how many policies it cancels retroactively each month.

A legal expert said the practices portrayed in the testimony were troubling.

"That just strikes me as so unfair and inequitable," said Bryan Liang, a physician and lawyer who teaches at UC San Diego's medical school and California Western School of Law in San Diego.

"If I were the attorney general, I'd want to look closely into this to find out what they are doing," he said.

Once a policy is issued, Liang said, insurers by law "have to show actually willful acts of omission on the part of the applicant" to cancel coverage.

Plaintiffs' attorney Shernoff has filed policyholder suits for years. But he said he had no proof that the cancellations were anything more than isolated problems until the employees deposed last summer described how the reviews worked and revealed that the company kept monthly reports of its cancellation activity.

"That's when it became clear that this was systematic and widespread," Shernoff said.

With that in mind, he began collecting cancellation complaints against Blue Cross. He filed 10 of them together last month.

The plaintiffs in the suits say they were issued individual policies and paid monthly premiums. In most cases, Blue Cross authorized payment after it received claims for treatment. But, the plaintiffs say, some months later, the company canceled their policies and declined to pay the bills, saying the individuals had omitted pertinent information from applications.

"Blue Cross is playing judge and jury," Shernoff said. "There is no independent review of this. It's just like you are out of luck."

The state departments of insurance and managed healthcare have opened investigations of the allegations in the lawsuits.

Spokesman Alaniz said WellPoint was cooperating with the government investigations.