

Insurance Commissioner OKs Blue Cross acquisition

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By Jay Greene

Insurance Commissioner Ken Ross believes it is well within state laws for Blue Cross Blue Shield of Michigan to have purchased a California-based for-profit insurance company for \$125 million in 2007.

But Attorney General Mike Cox is still investigating allegations that Blue Cross violated state laws by acquiring CompWest Insurance Co. and several other insurance companies for its Accident Fund Insurance Co. of America, a workers' compensation insurer.

Cox was unavailable for comment on the status of his investigation. Rusty Hills, his communications director, said Cox has been gathering documents and performing a legal analysis of the transactions. There is no timeline to complete the investigation, he said.

In a May 22 letter to Rep. Virgil Smith, D-Detroit, Ross said state law governing Blue Cross "explicitly permits (the insurer) to engage in other financial transactions with the Accident Fund."

Smith, chair of the House Insurance Committee, asked Ross in a May 19 letter for a ruling on the Blue Cross acquisitions due to concerns raised by Cox about their legality.

Ross said the Office of Financial Insurance Regulation has consistently interpreted state law — specifically Public Act 350 — "broadly to permit (Blue Cross) to operate the Accident Fund in a manner consistent with a routine parent/subsidiary relationship."

Under state law approved in 1993 when the state sold Accident Fund to the Blues for \$262 million, Accident Fund is limited to workers' compensation insurance and employer's liability insurance.

A 1999 amendment also allows Accident Fund to sell limited types of disability insurance to replace lost wages.

While OFIR previously has approved technical agreements associated with the CompWest acquisition, Ross appears for the first time to have formally approved in writing the actual asset transfer that led to the purchase of CompWest, according to documents OFIR provided to Crain's.

In his letter, Smith asked Ross if the \$125 million transfer from Blue Cross to the Accident Fund complies with state law, specifically Section 207(1)(X)(vi) of PA 350.

Ross replied: "The answer is yes."

But Kurt Gallinger, a spokes-man for a group of insurers opposing legislation that would allow the Accident Fund to expand into other lines of insurance, said Ross is wrong in his analysis because it is narrowly focused.

For example, Gallinger said another section of state law — Section 207(1)(o) of PA 350 — prohibits Blue Cross from "owning or controlling 10 percent or more of the voting securities of for-profit insurers" unless the insurer that is acquired is only authorized to sell disability insurance. This section was amended in 2003.

Disability insurance does not include workers' compensation insurance, Gallinger said. CompWest is one of four workers' compensation companies that Accident Fund has acquired since 2005.

"Blue Cross now controls multiple for-profit stock companies in Michigan, Wisconsin and California," Gallinger said in a June 4 letter to Smith.

Gallinger said the 2007 acquisition of CompWest is the latest example of Blue Cross' multiple violations of state laws.

"If the Legislature chooses to proceed toward the enactment of the proposed expansions, it would be rewarding apparent lawlessness and sanctioning the continued diversion of subscriber funds and the attendant escalation of subscriber fees,"

wrote Gallinger, who also is vice president with Amerisure Insurance Co., a Farmington Hills-based property and casualty insurer.

Helen Stojic, Blue Cross' media relations director, said Blue Cross has followed state law in acquiring the insurance companies for Accident Fund. She said the profits from Accident Fund are used to lower health care subscriber premiums.

“We are not going to respond to the ranting of a registered opposition lobbyist after the insurance commissioner has rendered an opinion that the transaction is proper,” Stojic said.

Since 2003, Blue Cross has increased premium rates 79 percent for individual policies and 92 percent for group policies, Gallinger said.

“Proposed expansions by (Blue Cross) are anti-market and anti-consumer,” Gallinger said. “They would serve only to expand a monopoly, reduce competition and increase consumer burdens.”

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