

# Detroit Free Press

---

## Blue Cross hid charges to county, suit claims Oakland was billed at least \$16.9 million extra, it says

7/05/2008

**By Patricia Anstett**

**Free Press Medical Writer**

In a case watched with keen interest by local governments, Oakland County says in a lawsuit against Blue Cross Blue Shield of Michigan that the insurer fraudulently billed the county at least \$16.9 million in extra, hidden charges to administer health benefits since 1994.

The county said that, unknown to its officials, Blue Cross added the costs on top of an annual administrative fee it charges the county to manage health benefits for 5,000 active and retired Oakland County employees.

As health costs rise -- Oakland pays \$50 million a year in medical claims -- counties are looking for ways to hold down health expenses, which ultimately are paid by taxpayers.

Blue Cross spokeswoman Helen Stojic said the insurer denies the allegations and insists it has been up front about the costs.

"Your story could say, 'Blue Cross says Oakland County doesn't know how to read its contract,' " Stojic said.

"They are arguing their case in the media," she said. "We're convinced we stand on solid ground."

Blue Cross saved the county \$170 million since 2001 in doctor and hospital discounts, Stojic said.

"There are no secret fees, and it's disingenuous to say there are," she said.

Last year, the county paid Blue Cross \$1.7 million for administrative fees.

But from 2000 through August 2007 -- the period for which Blue Cross provided the county with a precise breakdown -- Oakland County paid an additional \$11.2 million to Blue Cross, according to figures from the insurer now part of the court record.

The figure includes \$5.5 million for contributions to Blue Cross' rainy-day surplus -- a reserve fund now at \$2.4 billion -- and \$2.7 million to subsidize Blue Cross' individual health insurance products, according to documents in the case before Oakland County Circuit Judge Daniel P. O'Brien.

Last month, with some new information from Blue Cross, Oakland County revised its estimates of how much it has paid Blue Cross in access fees since 1994 to come up with the \$16.9-million estimate, according to Keith Lermينياux, deputy corporation counsel for Oakland County.

O'Brien has set an Oct. 13 trial date.

In March, he fined Blue Cross \$3,000 for withholding information it stamped as classified, even though many of the 25,000 pages of information it gave to Oakland County were as basic as a map of the county's complex in Pontiac, Lermينياux said.

### Multiple lawsuits

The case is among the most closely watched lawsuits against Blue Cross of Michigan.

Another will be the challenge filed Wednesday by Michigan Attorney General Mike Cox in Ingham County Circuit Court against the insurer, saying it gave \$125 million from its surplus fund to its for-profit subsidiary, the Accident Fund, to buy a California insurance company for \$127 million.

The Oakland County case and a similar lawsuit filed in January by the Road Commission for Oakland County against Blue Cross, also pending before O'Brien, are among a growing number of lawsuits filed against insurers by companies with self-funded insurance plans.

These are health plans created by an employer, usually one with at least 350 employees or retirees, in which a company pays for its own medical claims but lets an outside firm, either an insurer or independent third party, handle day-to-day management of medical claims.

These arrangements are important business to Blue Cross, bringing in more than half of its \$19.4 billion in consolidated revenue in 2007, a figure that includes claims paid for self-funded plans like Oakland County's, Stojic said.

They are known as Administrative Services Only contracts among commercial insurers and an Administrative Services Contract within Blue Cross. These plans are growing as employers look to reduce costs.

Many companies and governmental agencies have self-funded plans covering all or some of their employees or retirees, including the State of Michigan and Wayne, Macomb and Washtenaw county governments, administered by Blue Cross.

"We are monitoring it and reviewing our own past contracts to see if there's anything we need to look at closer," said Phil Frame, spokesman for Macomb County government.

Dennis Niemiec, spokesman for Wayne County, said the county reviewed its fees recently, "found no issue pertinent to Wayne County" and is close to signing a new contract with Blue Cross.

The complaints

Oakland County filed a breach-of-contract suit last October against Blue Cross but amended the complaint June 6 to add fraud charges.

The county's attorneys obtained documents that, they say, show that Blue Cross trained its sales staff in 1993 to hide the extra money it tacked on to the county's bill.

In one 1993 memo to help train Blue Cross sales staff, the company said that changes in access fees "no longer will be visible to the customer." The memo also urged staff to "avoid the terms 'shift', 'reallocate' and 'transfer' when communicating this new pricing arrangement to accounts and marketing."

"They admitted in depositions they never gave us any financial information to tell us what they were charging us," Lermينياux said. "There was no way we could figure it out."

Blue Cross uses such obtuse language in its contracts to mention access fees that it defies explanation, according to William Horton, a Troy attorney.

His firm, Giarmarco, Mullins & Horton PC, has been retained by both the Oakland County government and road commission for their lawsuits.

Contract language "takes bullets to get through it," Horton said.

He added that firms that operate in other states with self-funded Blue Cross plans, such as General Motors Corp., do not pay access fees; only plans in Michigan do, a charge Blue Cross declined to comment on.

Stojic said in a series of interviews and e-mail statements last week that:

- State law allows Blue Cross to charge so-called non-group subsidies to its other customers and that contributions to the company's reserves are needed to ensure funds are available for emergencies. "They are asking the court to be excluded from helping individual people, including Oakland County residents, buy health insurance."
- A clerical error caused the mislabeling of documents as confidential.
- Blue Cross discussed "pricing arrangements" with Oakland County and "subsequent documents, including the contract and other documents, put them on notice that fees were included."

Asked about efforts to make self-funded contracts clearer and more precise about fees, Stojic said: "Our approach has been on the total value we bring in access, quality and cost."

Contact PATRICIA ANSTETT at [panstett@freepress.com](mailto:panstett@freepress.com).