

Detroit News editorial

Editorial: Lawsuit raises tough questions about Blue Cross tactics

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The lawsuit by the U.S. Justice Department and state Attorney General Mike Cox against Blue Cross Blue Shield of Michigan contends that the nonprofit health insurance giant has used its dominance to outmaneuver its rivals. If that's the case, that's unhealthy for the health insurance market and unfair to all insurance customers.

The department and attorney general still have to prove their case in court. Blue Cross Blue Shield denies the charges. But the suit brings up questions that grow out of the company's dominance in the Michigan market.

Blue Cross has about 55 percent of Michigan's private-paid health insurance market, nine times the share of its closest competitor. It reported \$10 billion in revenue last year. Allegations in the lawsuit grew out of a previous skirmish. In May, the Justice Department and Cox forced the insurer to back out of its intention to acquire a Lansing-based health plan, a deal they said would have locked up 90 percent of that area's commercial health insurance market.

Government lawyers now claim Blue Cross has muscled more than half of Michigan's acute care hospitals into hiking prices they charge its competitors through contracts that mandate lower prices for Blue Cross than for any other private insurer.

The deals require hospitals to give Blue Cross discounts that result in a differential of as much as 40 percent between the prices it is charged and the prices given its competitors, according to the government.

Cox charges that Blue Cross not only is pricing its rivals out of the market, but jacking up health insurance premiums paid by all Michigan consumers. Blue Cross raised its rates 250 percent between 1999 and 2004 in the Marquette area, where it enjoys a 65-percent market share, he asserts.

Officials at Blue Cross answer that they are doing what any good business would do — bargaining hard to get the lowest rates. Discounts they have negotiated are saving customers a total of \$13 billion per year, they say. Their response doesn't directly respond to the accusation that it is using its market dominance to obtain these discounts.

Cases like this usually are settled out of court. The settlement must strike a balance that promotes fair competition in the marketplace while still allowing Blue Cross to negotiate good deals for its customers.

Blue Cross has enjoyed a tax-advantaged nonprofit status under special rules created by lawmakers that require it to accept all applicants for coverage regardless of their health.

That status will become less unique now that new federal health care laws prohibit all insurers from turning away applicants based on pre-existing health conditions. The lawsuit might well prompt state elected officials to revisit the arrangement.