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## Judge rules against Blue Cross on rate hikes

Top regulator has final say; insurer says fight not over

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In a victory for consumers, a Lansing administrative law judge ruled Wednesday that Blue Cross Blue Shield of Michigan has not made the case to raise rates for individuals who buy their own health insurance.

The ruling by David Lick, if upheld by Michigan's Office of Financial and Insurance Services, could lead to smaller rate hikes than the 24% to 42% increases sought by Blue Cross for about 22,000 consumers, said Joe Aoun, the Ann Arbor attorney for the Livonia couple who filed the rate hike challenge in 2006.

It also may have broader implications for businesses and the 4.6 million Michiganders with Blue Cross coverage, given Lick's comments that he found Blue Cross' \$2.4 billion in reserves excessive, Aoun said.

Blue Cross spokeswoman Helen Stojic said Wednesday the ruling "is part of a bigger process" and "not a final judgment."

Citing a 1980 state law governing Blue Cross, Lick's decision said that Blue Cross money and property "shall be acquired, held and disposed of only for the lawful purposes of the corporation and for the benefit of the subscribers of the corporation as a whole."

Lick called the Blue Cross' surplus "very high by any standard," a fact "to be considered whether or not the rates should be modified accordingly. ... People and subscribers should receive the entire benefit of the power and financial position" of Blue Cross, Lick's statement said.

Blue Cross continues to lose money on the individual policies, Stojic said. "This has gone on for longer than a year," Stojic said. "No other insurance company has to go through this exceedingly long process to make their rates reflective of the medical costs of insurance."

Blue Cross reserves, as the surplus is also called, fall within the maximum of what Michigan allows, and are needed for possible emergency use, Stojic said.

Aoun and Blue Cross have 30 days to send Lick any written objections to his findings. The final decision on the rate hikes will be made by Ken Ross, director of the Office of Financial and Insurance Regulation. Jason Moon, spokesman for Ross, said that, at most, consumers will see a rollback in the rate hikes Blue Cross is seeking.

Aoun applauded Lick's decision.

He "never lost sight of the fact that Blue Cross has a duty to make coverage affordable and that, as a nonprofit, it is accountable for how it uses its surplus. Instead of reaching its hands into the

people's pockets and trying to raise rates another 24%, Blue Cross is expected to use its surplus -- which was found to be excessive -- to lower premiums."

Blue Cross, the state's nonprofit insurer of last resort, must seek state approval for rate hikes, unlike commercial insurers. It filed a petition in October 2006 to raise rates for seven of 12 individual insurance policies by 25% to 42%.

In April 2007, former insurance commissioner Linda Watters approved interim rate hikes of 10% to 19%, pending a final decision by her office. They took effect last June 1 and run through May 31.

For Ron and Ghada Abraham, the Livonia couple who challenged their rising Blue Cross premium, the increase would have brought their premium to \$568.63 a month, up from \$458.79 a month in 2006, for a plan that provides little beyond catastrophic coverage for serious health problems.

"In the end, not just me, but thousands of people who pay for the health care, could win," Ron Abraham said Wednesday. "Just because they are the big boy on the block doesn't mean that sometimes the little guy can't prove a point. They started making the rules as they went. They have not been doing their duty as a nonprofit."

Key highlights of Lick's ruling found:

- That Blue Cross should use its earnings and surplus to help expand access to health care to the 1 in 4 people in Michigan who are uninsured or who have Medicaid insurance.
- Aoun's arguments that Blue Cross administrative costs are too high are persuasive, Lick said. A Blue Cross estimate that administrative costs will grow to 5% annually should be reduced to 3%, Lick said.
- Blue Cross should not assess a 1% charge to individual customers to subsidize Supplemental Medicare and group conversion policies for people who once had workplace coverage.

Blue Cross, meantime, is seeking legislation to change how it prices and manages individual insurance policies.

Bills it promotes, which passed the House last October, would eliminate challenges like these, as well as those by Michigan's attorney general, and let Blue Cross immediately raise rates, subject to subsequent review by the state's insurance office.

An eight-person work group from the House and Senate is trying to resolve differences between the House bills and provisions passed by the Senate May 1.

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