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Did Blues bully cost-saving firm in Michigan? Therapy program fight raises red flags about giant's reach

By ALISON YOUNG
USA TODAY

Blue Cross Blue Shield of Michigan -- a nonprofit created to keep health costs affordable -- has tried to derail physical therapy programs designed to save auto giants Ford and Chrysler millions of dollars annually, according to a review of hundreds of pages of e-mails and internal documents produced in a lawsuit against Blue Cross.

Blue Cross, the state's largest health insurer, strongly denies the allegations.

Yet an Oakland County jury disagreed this summer, finding the insurer wrongfully interfered with physical therapy firm TheraMatrix's efforts to create a program for Chrysler. TheraMatrix was awarded \$4.5 million. Blue Cross has appealed.

Now, antitrust investigators at the Michigan Attorney General's Office and the U.S. Justice Department are reviewing records in the case, along with other practices by the Blues. Competitors say Blue Cross is so powerful that it negotiates deals with hospitals others don't get -- driving up health costs to customers insured by other companies.

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Together, these issues have put Michigan in a national spotlight.

The tale of Pontiac-based TheraMatrix's efforts to carve out a cost-saving physical therapy program for some of the nation's largest employers raises larger questions about whether relationships between insurers and hospitals are inflating the cost of health care and stifling competition critical to controlling costs under the nation's new health law.

"It's really an exposure of the entire health care situation in this state," said Robert Whitton, TheraMatrix's CEO.

Inside a \$4.5M court award

As health care costs soared nationwide, a small Michigan firm gave Ford a proposal to cut its physical therapy costs. The automaker signed up for an instate pilot program, which was so successful Ford expanded it last year to cover about 390,000 employees, retirees and their families nationwide.

Yet the cost-saving program created by Pontiac-based TheraMatrix has come under attack from Blue Cross Blue Shield of Michigan.

Court records allege Blue Cross used its position as the state's dominant insurer to try to crush TheraMatrix as it worked also to sign up Chrysler and General Motors. A USA Today review of hundreds of pages of e-mails and internal documents that are part of a lawsuit TheraMatrix filed against Blue Cross indicates that TheraMatrix's

efforts to carve out a niche market in managing outpatient physical therapy costs was seen as a threat by officials at Blue Cross and by some Michigan hospitals.

"They tried to destroy us," said Robert Whitton, a physical therapist who founded TheraMatrix in 1981. TheraMatrix has cut Ford's physical therapy costs by about half, Whitton says, saving millions of dollars annually. Under Blue Cross, Ford's costs averaged \$745,000 a month just in Michigan, he said. "We shouldn't have been in this position for creating a program that helped save health care costs."

A different picture

Blue Cross denies trying to hurt TheraMatrix's business.

"The picture that they're trying to paint is the big whatever giant with a chainsaw in his hand coming down on the little guy," said Jeffrey Rumley, Blue Cross' general counsel. "I just don't buy into that too easily."

Court records depict Blue Cross -- a nonprofit created under Michigan law to provide affordable health care -- as working with a major hospital to stop expansion of TheraMatrix's program. They also reveal that Blue Cross barred TheraMatrix from the insurer's medical provider network, which covers most Michigan patients.

An Oakland County jury awarded TheraMatrix \$4.5 million in July, finding that Blue Cross breached an agreement with TheraMatrix to process claims for its Ford program, then wrongfully interfered with TheraMatrix's efforts to launch a Chrysler program. Blue Cross has appealed.

Last month, the U.S. Justice Department sued Michigan's Blue Cross, accusing the insurer of a different kind of anticompetitive behavior: paying hospitals higher prices for medical care in exchange for a promise they would charge competing insurers as much as 40% more than they charge Blue Cross. Blue Cross says the suit is without merit.

A battle over business

TheraMatrix's battles with Blue Cross go back to 2005. That's when Ford decided to try to save money by carving out physical therapy benefits from an employee health plan administered by Blue Cross. That February, Ford hired TheraMatrix to manage that aspect for its Michigan employees.

At the time, physical therapy spending for all Michigan Blue Cross customers was increasing by almost 17% a year, an internal Blue Cross report shows.

TheraMatrix saved Ford money by creating a network of physical therapists willing to accept \$68 per visit -- significantly less than what Ford had been paying under Blue Cross. TheraMatrix also reviews treatment plans so patients don't get too many or too few visits.

But the project nearly was derailed when Blue Cross said it couldn't process claims for TheraMatrix, records show. About the same time, TheraMatrix alleges, Blue Cross decided to create its own discount physical therapy network.

Ford kept TheraMatrix; the program began in August 2005.

Michigan hospitals, which provide outpatient physical therapy, weren't happy about the lost business, records indicate.

A string of urgent e-mails

By early 2006, Chrysler, which also used Blue Cross to administer its health plan, was looking to hire TheraMatrix. This set off a series of urgent e-mails among top Blue Cross executives, court records show.

David Kee, head of Blue Cross' Chrysler account, warned: "we need to do something fast and dramatic." His strategy included showing that Chrysler could lose its hospital discounts if it went with TheraMatrix. "I think a carefully worded document, perhaps from the hospitals themselves, could be valuable," he wrote.

About a week later, e-mails show, such a letter was being offered by Beaumont Hospitals Vice President Mark Johnson -- who had been a Blue Cross vice president before joining the metro Detroit hospital system in 2004.

Blue Cross Vice President Kim Sorget said in reply that Kee could "use the letter as leverage with his customer to not proceed with the carve out."

In August, after the TheraMatrix trial, Blue Cross rehired Johnson as a vice president. Blue Cross said Johnson, Kee and Sorget were unavailable for comment.

Beaumont spokesman Mike Killian said the hospital system had a financial duty as a nonprofit to stop honoring the discounts if necessary. When Ford went with TheraMatrix, it cost Beaumont \$400,000 a year, Johnson testified at trial. Beaumont facilities would have lost \$2 million a year if Chrysler and GM had followed suit, he said.

In spring 2006, Chrysler and the UAW agreed TheraMatrix would start managing physical therapy for the automaker around July 1.

Two weeks later, Blue Cross kicked TheraMatrix out of the insurer's provider network, which meant a huge loss of patients and doctor referrals.

"It was devastating," said TheraMatrix President Bob Read. Blue Cross controls more than 60% of Michigan's insurance market, covering nine times as many people as its closest competitor.

Blue Cross refused for more than a year to let TheraMatrix back into its provider network, and the Chrysler program became critical to TheraMatrix's survival, Whitton said.

Beaumont Hospitals gave Blue Cross the letter about potentially canceling discounts for Chrysler and Ford on June 26, 2006.

The next month, Chrysler decided not to go forward with the program. Chrysler spokesman Michael Palese said the company had no comment.

Blue Cross, in court records, contends TheraMatrix hasn't proven the insurer's actions influenced Chrysler's decision.

Blue Cross let TheraMatrix back into its provider network in August 2007, but a year later was again threatening to kick it out. The offense: TheraMatrix was discussing a potential program with GM, a letter sent to TheraMatrix shows.

Whitton said that's when TheraMatrix sued Blue Cross.

Neither Chrysler nor GM went ahead with a TheraMatrix program.

The U.S. Justice Department also is reviewing records, a June e-mail to TheraMatrix shows.

Both agencies said they can neither confirm nor deny any possible investigation.