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Blue Shield of California is accused of overcharging HIPAA policyholders

A Los Angeles woman says in a lawsuit that the health plan exceeded the state's maximum rates for insurance sold to people who have lost their jobs or who have preexisting medical conditions.

By Duke Helfand, Los Angeles Times

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A Los Angeles woman says in a lawsuit that the health plan exceeded the state's maximum rates for insurance sold to people who have lost their jobs or who would otherwise be ineligible because of preexisting medical conditions.

A Los Angeles woman sued Blue Shield of California on Wednesday, accusing the nonprofit health plan of overcharging thousands of policyholders who bought safety-net insurance for people who were sick or jobless.

Amalia Lample said in her lawsuit that Blue Shield, the state's second-largest not-for-profit insurer, knowingly exceeded maximum insurance rates set by the state and falsely reported to regulators that the charges stayed within official guidelines.

Lample, 64, argued that she is owed \$4,475 in excess charges she paid from 2007 to 2009. She said that more than 6,000 Blue Shield policyholders with similar coverage also were overcharged since 2001.

"This is for justice. It's not only for the money," said Lample, who decided to file her lawsuit in Los Angeles County Superior Court after reading a story in The Times about Blue Shield's rates. "It's not right what they do."

Blue Shield spokesman Tom Epstein said the San Francisco company had no immediate comment on the lawsuit, which seeks class-action status.

Blue Shield denied two refund requests by Lample, who filed a complaint with the California Department of Managed Health Care. Regulators said they could not conclude that Blue Shield had violated state law.

But a department spokeswoman said Wednesday that the law's definition for calculating maximum rates was ambiguous, making it difficult to determine whether health plans were charging too much. The department is sponsoring a bill in the Legislature to "eliminate any question" on rates insurers can charge, said the spokeswoman, Lynne Randolph.

At issue is health coverage available through the federal Health Insurance Portability and Accountability Act, or HIPAA. Insurers are required by the federal law to sell insurance to people who have lost their jobs or who would otherwise be ineligible because of preexisting medical conditions.

HIPAA policyholders maintain that Blue Shield and one of its chief competitors, Anthem Blue Cross, have substantially overcharged subscribers for several years.

Blue Shield has long maintained that its HIPAA rates comply with state guidelines.

Anthem determined that it had overcharged customers between 2006 and 2009, and agreed to issue refunds. But one policyholder, Culver City attorney Les Greenberg, accused Anthem of returning only a fraction of what was due. Anthem had given Greenberg a \$12 refund. He took the company to Small Claims Court. A judge agreed in September, awarding Greenberg more than \$7,300.

Greenberg filed a lawsuit in December on behalf of another Anthem subscriber, saying the insurer owed additional refunds to more than 10,000 HIPAA policyholders.

Greenberg also is representing Lample in the lawsuit filed against Blue Shield on Wednesday.

"They have gone off on a lark of their own to overcharge their subscribers," he said of the two insurers. "I would call it egregious behavior."

duke.helfand@latimes.com

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