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Lawsuit accuses Blue Cross and Blue Shield parent of funneling profit to execs

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2:06 PM CDT, May 22, 2014

The parent company of Blue Cross and Blue Shield of Illinois has been hoarding excess profits and using that money in part to enrich its executives, a class action lawsuit filed in Cook County Circuit Court alleges.

Health Care Service Corp., a nonprofit mutual insurance company that operates Blue Cross and Blue Shield plans in Illinois, Texas, Oklahoma, New Mexico and Montana, is accused of breaching its contracts with members by accumulating excess profits of about $4.9 billion. Instead of disbursing that money to its health insurance members either through a paid dividend, reduced prescription drug costs or lower premiums, the company paid out nearly $100 million in bonuses to its top 10 executives from 2011 to 2013, according to the suit.

The complaint was filed Monday by Babbitt Municipalities Inc., a Chicago-based benefits administration company that conducts business as Group Benefits Associates and works primarily with labor unions. It seeks certification as a class action that would include all policyholders in HCSC's fully insured business, which totaled about 8.5 million members as of Dec. 31.

Lauren Perlstein, a Health Care Service spokeswoman, declined to comment on the case, saying the company is "in the process of analyzing the pending litigation."

Health Care Service booked net income of at least $1 billion in each 2010, 2011 and 2012. In its last full fiscal year, 2013, the company posted income of $684.3 million.

The suit alleges that Health Care Service accumulated $10.3 billion in its capital reserve as of Dec. 31, nearly double the amount it should have had on hand at that time. The company needed only $5.4 billion on hand, the equivalent to about three months of claims expenses, according to the suit.

Instead, the company accumulated an additional $4.9 billion, which "obliterates its purpose as a nonprofit mutual corporation and exceeds the bounds of proper business judgment," the suit says. In effect, Health Care Service is conducting its operations as a for-profit enterprise that provides no "substantial mutual benefit to its members," according to the suit.

“The point we’re trying to make is that even under the most generous scenario, the most they can keep is three months (of claims expenses), and they’re keeping almost double that,” said Jay Edelson of Edelson PC, the Chicago law firm representing Babbitt. “We think it’s clearly against the law.”

Edelson, which has grown to one of the largest consumer class-action firms in the U.S., has filed class action suits against hundreds of companies, including Amazon, Apple, Google, Facebook, Groupon, Sears, GrubHub and Sony. Jay Edelson has won settlements worth more than $1 billion, according to an August 2013 Chicago Magazine profile.

Instead of sitting on its accumulated cash, Health Care Service should be using it to improve its services, pay dividends to its members, lower prescription drug prices or reduce premiums, Edelson said.

“They’re sitting on billions and billions of dollars. They’re running themselves as a for-profit company, and it’s really disgraceful,” he said.

A spokesman for the National Association of Mutual Insurance Companies, a trade group, referred to an association document that details previous court rulings in favor of insurers. Those cases include a 1909 U.S. Supreme Court ruling that said in part that there is no ground for the contention that a policy holder of a mutual insurer has any right “to compel the distribution of the surplus fund.”