

Blue Cross settlement may set industry precedent

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By [Julie Appleby](#), USA TODAY

Blue Cross of California — under scrutiny for retroactively canceling health insurance policies leaving patients with unpaid medical bills — has agreed to a class-action settlement that would sharply alter its practice and could set a precedent for other insurers.

At issue is an infrequently used but longstanding industry practice: canceling coverage after patients make costly claims, if insurers find mistakes or omissions on application forms completed by policyholders. The practice, called "rescission," affects people who buy their own insurance, not those covered under group plans, such as job-based coverage.

The proposed settlement, which must be approved by the courts, comes amid increased scrutiny of the practice, particularly in California. State regulators there are reviewing many insurers and have issued fines against two: Blue Cross, which is a subsidiary of WellPoint (WLP); and Kaiser Permanente.

In the proposed settlement, presented in Los Angeles County Superior Court on Friday, Blue Cross agreed not to retroactively cancel coverage unless policyholders "intentionally misrepresented" information on their applications.

That differs from the stance that Blue Cross and other insurers have taken. They have argued that laws allow them to cancel policies even if applicants had made honest mistakes or unknowingly left out information from their applications. USA TODAY wrote about the issue in a [Jan. 29 cover story](#).

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Unlike group health insurance offered by employers, where everyone is automatically covered, applicants for individual insurance are each scrutinized by insurers. The insurers decide whether to offer coverage based on application forms that commonly ask for up to 10 years' worth of medical history, including doctor office visits, diagnoses and test results.

An attorney representing the approximately 6,000 Blue Cross policyholders in the class-action lawsuit says the proposal goes a long way toward protecting patients. "They won't have their health policies rescinded after they receive preauthorized treatment unless Blue Cross can prove they actually willfully and intentionally misrepresented something on their application," says William Shernoff. "That's very hard to prove."

In March, the California Department of Managed Health Care fined Blue Cross \$1 million, saying a review of 90 canceled policies found that the insurer had failed to conduct thorough pre-enrollment investigations on 39 of them and found none in which the insurer had proved the applicant was intentionally deceptive. Blue Cross is contesting that fine.

Blue Cross spokeswoman Shannon Troughton said in a statement that the insurer denies all allegations of wrongdoing and is settling the class-action case to avoid the costs of prolonged litigation.

Since January 2003, Blue Cross has rescinded less than 1% of new enrollments, she said. That's about 1,000 policies a year. "Rescissions are rare and difficult for all involved, but are a necessary part of the underwriting process to safeguard against fraud and misrepresentation," Troughton wrote.