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The AIS Report

on Blue Cross and Blue Shield Plans

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United Wins State Contracts Over Blues; Neb. Blues Plan Issues Legal Challenge

Blues plans over the last few months have lost several longstanding contracts to cover state employees in their respective markets to UnitedHealth Group, a trend that points to United's cost-conscious business strategy, not to mention its advantage as a public company, health care observers contend.

States in their individual assessments say that United offers lower bids and would save them more money. Yet the Blues plans argue that this isn't the case and contend that United's benefits are limited and would not serve the best interests of customers in their respective states.

Reactions to the loss of these contracts have varied among the Blues plans. One of the plans, Blue Cross and Blue Shield of Nebraska, on April 4 filed a lawsuit to block that state's recent decision to award United a contract to cover employee health benefits. The Nebraska Blues plan, which has administered state employee benefits for 27 years, filed the suit after issuing an administrative protest in February. Scheduled to take effect July 1, the contract with United is worth approximately $180 million and will provide coverage for about 15,000 state employees, 30,000 in total when spouses and dependents are factored in, according to a recent *Healthcare Finance News* story.

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Regence PBM Deal With Catalyst Could Catalyze Other Blues Plans to Follow Suit

The decision last month by RegenceRx, the pharmacy benefit manager of The Regence Group, to outsource PBM services to Catalyst Health Solutions, Inc., could prompt other Blues plans that either have their own captive PBMs or are considering joining Prime Therapeutics, LLC, the Blues-owned PBM, to consider a smaller PBM like Catalyst, industry observers tell *The AIS Report*.

"If you look at Catalyst and you look at Prime, they are similar.…They use the same software system," for example, Michael Jacobs, national clinical practice leader at Buck Consultants, tells *The AIS Report*. "The difference is when you are dealing with Prime, you are now going to deal with 13 other Blues plans. Your control or influence over that PBM is limited."

He adds that when a Blues plan goes with a PBM other than Prime, which is owned by 13 Blue Cross and Blue Shield plans and offers services to a total of 19, the insurer gets an account team and better customization — and when dealing with a smaller PBM, it is considered a very important client.

However, Darren Eckberg, vice president of sales at Prime, says that there are plenty of advantages for Blues plans to select Prime as a PBM, including an integrated medical and pharmacy approach, a low net cost strategy and improved outcomes for members.

In response to comments that Prime is less nimble than other PBMs because it is jointly owned by Blues plans, Eckberg tells *The AIS Report*, " I think that's an interesting

According to Tomczyk, while Highmark historically has hired senior executives from within the company, Melani's sudden departure marks a different, unusual situation.

"I think the answer to this lies in a bunch of little questions," he says. "Who's going to lead them to the best result for UPMC? Who's going to lead them into exchanges and financial viability?"

The *Pittsburgh Post-Gazette* reported April 5 that the board has hired an executive recruiting company to find Melani's permanent replacement.

Another reason that Highmark might look outside, Tomczyk adds, is that the company operates backroom functions for other Blues plans. For example, under Highmark's recent affiliation with Blue Cross Blue Shield of Delaware, the Delaware Blues plan is paying $37 million to gain access to consolidate its computer systems with the Pennsylvania insurer's (*The AIS Report 1/12, p. 6*).

In the end, the hiring of a new CEO could end up benefiting consumers, according to David Gusmar, a principal with the broker Altany, Loynd & Lindquist LLC in Brackenridge, Pa. He tells *The AIS Report* that while Highmark used to be a company that was resting on its laurels, the insurer has taken a different approach, becoming more proactive and friendlier to brokers, which has translated into better products and services.

"If there's a silver lining…maybe they're going to focus more attention on competition," Gusmar says, noting that Highmark's decision to affiliate with WPAHS demonstrates its desire to become more competitive and give people more options.

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United Wins State Contracts

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Blue Cross Blue Shield of Texas lodged a similar protest when United was awarded a contract to run the health plan for the Employees Retirement System of Texas. In March, Austin-based Statesman.com reported that the plan had withdrawn its protest. The Blues plan offered no further comment to *The AIS Report*. The Texas Blues plan, which had served the state employees plan for three decades, said the new contract with United would drive up costs, according to the article.

Doniella Pliss, senior financial analyst at A.M. Best Co., says the contracts in Texas and Nebraska reflect United's overall strategy to expand government business. "Growth in their traditional commercial sector has been very stagnant over the last five years at least. And

United is a public company and has shareholders, so the company needs to demonstrate growth. One of the main areas for them to expand is government business and they've been very clear about that publicly," she says.

The Blues plans in Texas and Nebraska aren't the only ones that United has bested recently in bidding. TriWest Healthcare Alliance Corp., a coalition of several western state Blues plans, recently lost its longstanding military health system contract to United (see story, this page).

Carlos Castillo, director of Nebraska's Department of Administrative Services, tells *The AIS Report* that the state issued the award to United "because they had the lowest, most responsible bid." In the *Healthcare Finance News* story, Castillo explained that United would save the state a significant amount of money each year, "about 5%, $8 million a year on average. We also looked into comparing some of the programs each company could provide to us to help make a decision to switch."

However, in the April 4 complaint filed against the Department of Administrative Services in Lancaster County District Court, the Nebraska Blues plan alleged that the scoring evaluation the department's contractor, Aon Risk Solutions, used to support the contract award to United was erroneous, unfair, legally flawed, and "believed to be conducted in a manner contrary to industry standards, and in violation of the state's own relevant and applicable requirements" relating to the handling and consideration of its request for bids on the contract.

In previous correspondence to the state, the Blues plan's attorneys stated that United's employment of Mark Fahleson, state chairman of the Nebraska Republican Party, and his active participation in the bidding process, warranted forfeiture of the contract.

United did not respond to requests for comment by *The AIS Report*'s deadline.

Nebraska Blues officials maintain that switching to United means the state will incur an additional $10 million annually due to the limitations of the United provider network and other factors the state failed to consider. "In its proposal to the state, United excluded all health care claims in excess of $75,000 and mental health/substance abuse claims from its discount guarantees," according to the Nebraska Blues plan.

Brian Pickering, the Nebraska Blues plan's vice president of corporate communications, has indicated that the contract with United "will ultimately result in exporting jobs and tax revenue out of Nebraska."

Western Consortium of Blues Plans Protest Loss of Contract to United

A major military health care contract that TriWest Healthcare Alliance Corp. recently lost to UnitedHealth Group underscores the tight competition between plans to win these types of contracts, one health care observer says.

On March 16, the Department of Defense (DoD) awarded the TRICARE West Region contract to United's military subsidiary. The new contract will cover active-duty military personnel, retirees and dependents in 21 states, and is worth an estimated $20.5 billion. It includes a 10-month base period, five one-year option periods and a transition-out period.

For United, the contract comes nearly five years after it informally began looking into TRICARE. The news was a disappointing blow to TriWest — a consortium of western non-profit Blues plans that had previously held the contract for 16 years. TriWest was initially awarded the most recent contract in July 2009, but a lengthy protest process led by United resulted in a rebid of the T-3 contract in August 2011.

"It will be an honor to serve the West Region's TRICARE families. We look forward to commencing that work in April 2013," United spokesperson Matt Burns tells *The AIS Report*.

These companies "have been major competitors for decades, and I think they're always jostling one another for the relatively limited number of contracts within these [public-sector] markets. They're big contracts and they're well worth fighting for. And they spend a lot of money figuring out how to win them and how to operate them once they have," says Bill TenHoor, president of TenHoor & Associates, a strategic planning and market analysis firm based in Duxbury, Mass.

TenHoor says United is able to leverage its size and capability and knowledge of other markets to win these types of specialized government contracts. "They've always been very comfortable in the public-sector space as a general rule." In TriWest's case, the plan may have been a little too overconfident about this contract because they had it for a long time "and didn't keep their eye on the ball to the extent they needed to," TenHoor says.

TriWest spokesperson Scott Celley responds that "this is a best-value contract award. It's not all about the money.…The most important thing is that service members and families get the best quality for services you provide."

Pliss observes that United's ability to cut costs by investing in technological capabilities and streamline its administrative expenses has given it an edge in winning these types of government contracts. Compared to most Blues plans, United's costs are lower, giving them more wiggle room on contracts, she explains.

"Another thing to keep in mind is the difference between the ways the Blues operate overall than United," Pliss says.

United is a public company and has access to credit markets, in particular a low-cost bond market. It recently issued 10-year notes at a rate below 3% due to the fact that the market considers United to be very strong financially, she observes. This allows the plan "to give up a little — not necessarily on the profitability side — but [offers some] backup in case they need more money."

The Blues plans don't have this safety net, so to speak. While it's true that some of the Blues have limited access to credit markets and can issue bonds under certain circumstances in some states, "it's not to the extent the public companies can," she says. The Blues "can only rely on capital [that's] accumulated," meaning they have to be more profit-conscious than United, Pliss says.

"United has been profitable for years, but still with these particular contracts, maybe they can be a little bit more flexible," she adds.

Another health care observer says that United's acquisition of these contracts represents a much broader effort to expand its national footprint, not just in the under-65 population, but in Medicare and Medicaid as well.

"Their strategy is to become a bigger player, to leverage their position as a national firm across the board, similar to what Blue Cross has done with their association," Deb Mabari, CEO of Cody Consulting Services, Inc., a health care consulting firm in Tampa, Fla., tells *The AIS Report*. United's recent acquisition of two Florida-based, Medicare Advantage-focused plans — Preferred Care Partners and Medica HealthCare Plans — not to mention its acquisition of Baltimore MA plan XLHealth Corp., are evidence that the insurer is trying to broaden its national footprint.

"United is looking for ways to set themselves apart…possibly bidding lower to take a little less margin to find ways in which to gain economies of scale across the board and grab member share as they wait to see what happens with health care reform," she says. "The scope and scalability of their back office is going to end up in the long run creating a competitive advantage for them versus a local and state presence like the Blues have today."

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For now, the contract remains in place with TriWest, which filed its protest with the Government Accountability Office (GAO), Austin Camacho, chief of the benefit information and outreach branch for TRICARE Management Activity, tells *The AIS Report*. Camacho explains that GAO protests are normally adjudicated within 100 days and that all transition activities are on hold pending a decision.

While protests can affect timing of the transition to the new contract in the West Region, the United's start date under the new contract remains scheduled for April 1, 2013, he says.

According to TriWest's protest, DoD's decision to award the new contract to United was "flawed and unfair" for a multitude of reasons. In a prepared statement, David McIntyre, Jr., president and CEO of TriWest, asserted that United is a company "with a long history of performance problems and legal issues, and with no history of providing health care to the military."

TriWest cited other reasons why the government's decision was flawed:

◆ ***The government failed to conduct a sufficient and reasonable evaluation of United's proposal,*** the risks that it poses to military health care, and United's extensive track record of problems with consumers, providers, beneficiaries and government enforcement agencies.

◆ ***TriWest's price was significantly lower than United's.***

◆ ***Due to significant disruption, it will cost the government and taxpayers hundreds of millions of dollars simply to change contractors.***

◆ ***The government disregarded hundreds of millions of dollars in health care cost savings through discounts guaranteed by TriWest.***

◆ ***The government failed to adequately analyze the areas where transition risk might negatively impact beneficiaries and providers,*** and how to sufficiently avoid the negative past history of transitions from one TRICARE contractor to the next.

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