

BN WellPoint May Pay Up to \$308 Mln to Settle Lawsuit (Update4)  
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(Adds Humana statement in third to last paragraph.)

By Jeffrey St.Onge and Juliann Walsh

July 11 (Bloomberg) -- WellPoint Inc., the largest U.S. health insurance provider, agreed to pay as much as \$308 million to settle a lawsuit that claims more than 700,000 doctors were underpaid for treating patients.

The company will set up a \$135 million fund for doctors and give \$5 million to a foundation for improving health care, the doctors' attorneys and the company said today in separate statements. Indianapolis-based WellPoint also agreed to spend as much as \$110 million to reduce doctors' costs by changing claims-processing practices, and to pay as much as \$58 million in attorney fees, the company and the doctors' lawyers said.

The agreement is similar to earlier settlements by Aetna Inc., Cigna Corp., Prudential Financial Inc. and Health Net Inc., according to the doctors' lawyers. The U.S. Supreme Court refused in January to hear an appeal by WellPoint and others of a lower court decision allowing the suit to continue as a class action. Lawyers for doctors have been seeking billions of dollars in damages for claims dating to 1990.

'It makes a lot of sense for WellPoint to settle,' said Michael Obuchowski, who helps manage \$35 million at Altanes Investments LLC in New York, including shares of health insurance companies. 'Whenever there is a large class action lawsuit, there is increased risk in the minds of investors.'

#### Second-Quarter Cost

The settlement will result in a pretax cost of \$103 million, or 10 cents a share, in WellPoint's second-quarter results, the company said in its statement.

Shares of WellPoint rose 46 cents to \$71.21 at 4:18 p.m. in New York Stock Exchange composite trading. They have gained 63 percent in the past 12 months.

'We see this agreement as a very important step in further collaborating with physicians,' WellPoint Chief Executive Officer Larry C. Glasscock said today in a statement.

The doctors allege the insurance companies cut payments and were slow to pay claims. Some changes the company made to assist doctors with billing included posting a fee schedule on a Web site and a CD-ROM and tightening the deadlines for making payments, WellPoint spokesman James Kappel said today.

The accord is subject to approval by U.S. District Judge Federico Moreno in Miami. The settlement would extinguish WellPoint's liability for lawsuits filed by physicians and

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physician groups in the past 10 years, said the statement by lawyers representing the doctors.

``WellPoint obviously recognized that a costly trial of any of the disputed issues with physicians would not be in the interest of the company,'' said Archie Lamb, a lawyer for the doctors, in a telephone interview. ``The powers that be at WellPoint weighed the risk of settling versus going to trial and opted to settle.''

#### Other Defendants

The lawsuit also named UnitedHealth Group Inc., Humana Inc. and units of PacifiCare Health Systems Inc. The doctors accused the insurance providers of developing processing software that automatically ``downcodes'' claims submitted by doctors to reduce the reimbursement rate.

``We did not conspire,'' Minnetonka, Minnesota-based UnitedHealth spokesman John Penschorn said in an interview today. ``We have no interest in `settling' a purported claim when we in fact did nothing wrong. And we do not see how payment of millions of dollars to plaintiffs attorneys would in fact advance the affordability of health care.''

``It sounds like United wants a trial,'' Lamb said today. ``And, if it's a trial they want, it's a trial they will get.''

#### Humana Comment

Humana spokesman Tom Noland said the company continues ``to believe the suit lacks merit, and are proceeding with a vigorous defense.'' PacifiCare spokesman Dan Miller didn't return a voicemail.

Aetna and Cigna earlier agreed to pay a total of \$310 million to settle in the suit. Health Net agreed to a \$140 million settlement May 3.

Duane Cady, chairman of the American Medical Association's board of trustees said today the doctors' organization ``hopes that the remaining defendants in the lawsuit will also settle in order to move toward improved relations with physicians which have been seriously damaged by years of unfair business practices.''

--With reporting by Marni Kottle in San Francisco. Editors:  
Asseo, Wier, Gienger, Simison

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