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Op-Ed Contributor

Bust the Health Care Trusts

By ROBERT B. REICH

Berkeley, Calif.

MY health insurer here in California is Anthem Blue Cross. So far, my group policy hasn't been affected by Anthem's planned rate increase of as much as 39 percent for its customers with individual policies — but the trend worries me, as it should everyone. Rates are soaring all over the country. Insurers have been seeking to raise premiums 24 percent in Connecticut, 23 percent in Maine, 20 percent in Oregon and a wallet-popping 56 percent in Michigan. How can insurers raise prices as much as they want without fear of losing customers?

Astonishingly, the health insurance industry is exempt from federal antitrust laws, which is why a handful of insurers have become so dominant in their markets that their customers simply have nowhere else to go. But that protection could soon end: President Obama on Tuesday announced his support of a House bill that would repeal health insurers' antitrust exemption, and Speaker Nancy Pelosi signaled that she would put it toward an immediate vote.

This is promising news. Forcing insurers to compete for our business would do at least as much good as [the president's proposal](#) to give the federal government, working with the states, [the power to deny or roll back excessive premiums](#). The fact is that half of the states already have the power to approve rates and they don't seem to be holding insurers back much.

Health insurers like Anthem claim they have to raise rates (as well as co-payments and deductibles) because of the economic downturn. Employers are reducing coverage and cutting payrolls. As a result, more people are buying individual policies, but they tend to be older and sicker. Younger and healthier Americans are simply going without insurance, and thus not subsidizing their costlier fellow policy-holders.

This can't be the whole story, because big health insurers are making boatloads of money. America's five largest health insurers made a total profit of \$12.2 billion last year; that was 56 percent higher than in 2008, [according to a report from Health Care for America Now](#).

It's not as if health insurers have been inventing jazzy software or making jet airplanes. Basically, they just collect money from employers and individuals and give the money to providers. In most markets, consumers wouldn't pay this much for so little. We'd find a competitor that charged less and delivered more. What's stopping us? Not enough choice.

More than 90 percent of insurance markets in more than 300 metropolitan areas are "highly concentrated," as defined by the Federal Trade Commission, according to the American Medical Association. [A 2008 survey by the Government Accountability Office](#) found the five largest providers of small group insurance controlled 75 percent or more of the market in 34 states, and 90 percent or more in 23 of those states, a significant increase in concentration since the G.A.O.'s 2002 survey.

Anthem's parent is WellPoint, one of the largest publicly traded health insurers in America, which runs Blue Cross and Blue Shield plans in 14 states and Unicare plans in several others. WellPoint, through Anthem, is the largest for-profit health insurer here in California, as it is in Maine, where it controls 78 percent of the market. In Missouri, WellPoint owns 68 percent of

the market; in its home state, Indiana, 60 percent. With 35 million customers, WellPoint counts one out of every nine Americans as a member of one of its plans.

Antitrust laws are supposed to prevent this kind of market power. So why are giant health insurers like WellPoint exempt? Chalk it up to an anomaly that began seven decades ago in the quaint old world of regional, nonprofit Blues. They were created in part by hospitals to spread the costs of expensive new equipment and facilities over many policy holders. Collaboration was the point, not competition. The 1945 McCarran-Ferguson Act made it official, exempting insurers from antitrust scrutiny and giving states the power to regulate them, although not necessarily any power to regulate rates.

The system worked fairly well until about two decades ago when insurers began morphing into publicly held, for-profit cash machines. A new breed of medical entrepreneur saw opportunities to profit from a rapidly aging population eager to get every new drug and technology that might extend their lives, and a government committed to doling out hundreds of billions of dollars in Medicare and Medicaid.

With size has come not only market power but political clout. Big for-profit insurers deploy enough campaign money and lobbyists to get their way with state legislators and insurance commissioners. A proposal last year to allow California's Department of Insurance to regulate rates, for example, died in committee. These companies have even been known to press states to limit how many other health insurers they license.

And when they can't get their way, insurers go to court. In Maine — one state that aggressively regulates rates — WellPoint's Anthem subsidiary has sued the insurance superintendent for reducing its requested rate increase.

Political clout can be especially advantageous at the federal level, as the big Wall Street banks have so brazenly demonstrated. Over the past two and a half years, WellPoint's employees and associates have contributed more than \$922,000 to federal political campaigns, and the company has spent \$7.8 million lobbying Washington policymakers, according to the Center for Responsive Politics. It should not be surprising that WellPoint was one of the leading opponents of the public insurance option, which would have subjected it to competition even where it had sewn up the market.

Antitrust is no substitute for broader health care reform, but it's an important prerequisite. If a handful of giant health insurers are allowed to dominate the industry, many of the other aspects of reform (establishing insurance exchanges, requiring people to have insurance, even allowing consumers to buy insurance across state lines) won't bring down the price of insurance.

Regardless of what happens at the White House's health care meeting on Thursday, we've got to make sure health insurers compete for every one of our dollars. First chance I get I'm going to find another health insurer here in California — unless Anthem has such a lock on the market I can't find a better deal.

Robert B. Reich, a professor of public policy at the University of California, Berkeley, and a secretary of labor under President Bill Clinton, is the author of "Supercapitalism."

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