November 14, 2006

City Sues to Block Linkup Between 2 Health Insurers

By RICHARD PÉREZ-PEÑA

New York Times

Waiting until nearly the last possible day, New York City sued yesterday to block the planned union of the HIP Health Plan of New York and GHI, charging that the combination would violate antitrust laws.

The fusion of the companies, creating the largest health insurer in the metropolitan region, with more than four million customers, is set to take effect tomorrow. The city will go to Federal District Court in Manhattan today, seeking an order to prevent that from happening.

Between them, the two companies control more than 90 percent of the health insurance market for municipal workers, city lawyers said. The fusion of GHI and HIP would create a near-monopoly, they said, with the power to raise the city's annual premiums by tens of millions of dollars.

"If HIP and GHI merge, there will be no competition between them," Michael A. Cardozo, the city's corporation counsel, or chief lawyer, said in a prepared statement. "The merged entity could raise prices substantially because the next competitor is still far more expensive."

But Eileen Margolin, senior vice president of GHI, said the fear is unfounded. She said the company's rate structure would not allow it to raise the premiums for city workers enrolled in its health maintenance organization without also raising them for other customers, a move that would drive away business.

In recent talks with the insurers, the city sought to put limits on future rate increases. Ms. Margolin said the companies believed they had allayed the city's fears.

The union of the two companies technically would not be a merger. They would jointly create a governing foundation to oversee both companies while each would operate separately and under its own name, at least at first.

The companies announced on Sept. 29, 2005, that their boards had approved a union. The plan was reviewed and approved by the United States Justice Department — which looked specifically at antitrust implications — and by the State Insurance Department, which approved the plan early last month.

The city had voiced some concerns to the Insurance Department, but did not begin serious talks with the companies until after the department gave its approval, said John R. Low-Beer, a senior lawyer in the affirmative-litigation division of the city's Law Department. Asked why the city did not object to the union earlier, he said, "It was far from clear that the merger would be approved by the Department of Insurance."

He said city officials thought there was time for more negotiation, but the companies insisted on carrying out their plan to combine tomorrow. "We don't see the magic in that date, or why they couldn't postpone it," Mr. Low-Beer said.

The deal has been under review by the office of Attorney General Eliot Spitzer, which has not announced any conclusion. The combination does not require the attorney general's approval, but he has the resources to go to court to try to stop it.

There has been a lot of consolidation in the health insurance industry in recent years, which consumer advocates have warned could reduce competition and raise premiums. Oxford Health Plans and Empire Blue Cross Blue Shield, two of the largest for-profit insurers in the region, were taken over by the two largest in the country, UnitedHealth Group and Wellpoint.

GHI and HIP occupy niches similar to each other, in the marketplace, and so are each other's primary competitors. They are the two largest remaining not-for-profit insurers in the region, and both are considered relatively low-cost insurers.

It is not clear whether the combined company would seek to convert to for-profit status, an idea that HIP had promoted but that GHI had shunned. If it became a for-profit company, it would issue stock, most of which would belong at first to the state, which would be expected to sell it. Unions representing municipal and health care workers have been jockeying for a piece of that hoped-for windfall from any stock sale, while state officials have speculated about how they would spend that any such money.