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WellCare political muscle at issue

By Mike Wells

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WellCare Health Plans became one of the biggest political contributors in Florida between 2004 and 2007, using a web of companies and employees to shower the state Republican Party and GOP candidates with campaign cash.



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But Tampa attorney Barry Cohen says WellCare did more than line pockets to keep political favor. Cohen, who represents a whistleblower in a federal lawsuit against WellCare, said today the contributions were pennies on the dollar compared to the money the HMO saved in Medicaid fines --- and the profits it made.

In an unusual legal move, Cohen now wants one of the recipients of the campaign cash, Attorney General Bill McCollum, disqualified from helping decide how much WellCare should have to pay to settle the whistleblower case, which alleges widespread Medicaid fraud.

Cohen's court filing, however, isn't just a salvo at McCollum, so much as at a political process that Cohen called "legal bribery" disguised as campaign contributions. Along with targeting the attorney general, he questions the actions of lawmakers and the appointment of a former WellCare board member as secretary of the state Agency for Health Care Administration.

As an example of the allegations, Cohen contends that a WellCare lobbyist, Marc Ryan, knew months in advance that the Legislature in 2007 was going to try to dump the state's "80/20" rule, which is designed to make sure that enough money goes to behavioral-health services. HMOs have to repay the state if 80 percent of the behavioral-health money they receive doesn't go to services.

Achieving the repeal would have allowed WellCare to avoid paying back \$23 million to AHCA, Cohen alleges. Though it was passed by legislators, the bill to kill the "80/20" rule was vetoed by Governor Charlie Crist.

Cohen represents former WellCare accountant Sean Hellein in a whistleblower case filed in 2006. Hellein worked undercover for the FBI for more than a year by wearing a wire to record conversations and meetings before agents raided WellCare's Tampa headquarters in 2007.

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The attorney, who held a news conference today in his Tampa office, said he is most concerned about getting the Florida Supreme Court to disqualify McCollum from signing off on a recently proposed \$137.5 million preliminary settlement agreement between WellCare and government investigators.

That proposed fine is less than a third of the \$400 million Hellein alleges WellCare stole from Florida Medicaid. If he is correct, the government could legally require repayment not only of that money, but also extra penalties.

Hellein and Cohen have a financial interest in the final settlement amount: As the plaintiff, Hellein stands to receive about 25 percent of whatever WellCare pays the government.

Ryan Wiggins, a spokeswoman for McCollum, said Tuesday the attorney general's office will wait for further direction from the court before responding to Cohen's petition --- reiterating a stance the office took Monday when Health News Florida first reported on the issue.

But state Republican Party spokesman Dan Conston refuted claims that any contribution made to the party or one of its candidates could influence them to turn a blind eye to illegal acts, such as Medicaid fraud.

WellCare spokeswoman Amy Knapp would not directly comment on Cohen's petition, but instead pointed to the company's asserted dedication to patients and transparency in its political donations.

"We are firmly committed to strict compliance with the letter and the spirit of the laws and regulations governing political activities," said Knapp, whose company has jettisoned the top executives who were in charge during the time of the heavy campaign contributions and alleged fraud.

Cohen said WellCare and related entities contributed \$2.6 million to the state Republican Party and individual Republican candidates between 2004 and 2007. The company also paid a \$120,000 fine last year to the state Elections Commission to settle a probe into possible improper contributions.

The attorney claims that contributions were made in anticipation of GOP lawmakers voting to repeal the 80/20 rule. He also contends that WellCare contributions resulted in impotent investigations by McCollum's office into the state's Medicaid fraud problems.

Cohen said WellCare and related entities contributed a total of \$9,000 to McCollum's campaign for attorney general in 2006. But he also contends that the Republican Party got money from WellCare that was, in turn, funneled to McCollum's campaign.

Conston, the party spokesman, called that allegation "absurd."

"We do not earmark contributions," he said.

The documents Cohen filed with the Supreme Court this week also contain allegations involving the Legislature and AHCA.

Shortly after McCollum was elected attorney general in November 2006, a WellCare board member, Dr. Andrew Agwunobi, was appointed by then Governor-elect Crist to serve as AHCA secretary.

Agwunobi first became a WellCare director in June 2006. Upon doing so, the doctor was awarded 12,500 shares of stock, which he subsequently sold for \$995,000 when he resigned from the board six months later to take the AHCA appointment, Cohen said.

Cohen noted that Hellein filed his federal lawsuit alleging fraud at WellCare about six months prior to Agwunobi's state appointment.

"It is unfathomable that Dr. Agwunobi could fairly preside over a multi-million dollar suit against his former employer or be asked to act fairly in regulating WellCare on an on-going basis considering his recent receipt of \$1 million from the sale of the stock he received as a result of his six months of service on the WellCare Board," Cohen said in the documents.

Hellein, who attended today's news conference, described what he said was a "symbiotic relationship" between the company and government officials.

"The politicians need the money, and the corporations know they can buy them off," he said.

--Mike Wells, an independent journalist in Tampa, can be reached at mike@wellswritten.com