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The Reader's Page

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Managed-care companies shouldn't be exempt from FOI requirements

By Kevin Lembo

Connecticut spends approximately \$800 million in taxpayer money on the "Husky" health care program. This program is administered by private managed-care organizations that act in place of our government.

Recent litigation over the disclosure responsibilities of these businesses has brought up one fundamental question: Should their actions be shielded from public exposure? The answer to this question must be an emphatic "No."

To her credit, Gov. M. Jodi Rell made clear her commitment to require insurance companies participating in the Husky pro-

gram to abide by state Freedom of Information laws.

Unfortunately, legislation before the General Assembly seeks to rewrite the Freedom of Information Act solely to free managed-care companies from public accountability.

Under current law, managed-care organizations must disclose all documents "related to the performance of the governmental function." The Freedom of Information Commission has ruled that this includes documents that the managed-care organizations use in both their commercial and Connecticut Medicaid lines of business.

The new proposal so greatly narrows the scope of disclosure that all an insurance company would need to say is that they use a document in their commercial business as well and it would be free from disclosure. This type of provision basically allows managed-care companies to hide any sensitive documentation from

public view.

Neither the managed-care companies, nor any private entity performing a governmental function, should receive special exemptions under the Freedom of Information Act. Private companies are already free to negotiate an arrangement in their contracts with public agencies to determine how the contractors' concerns about potential claims of confidentiality will be handled. Let's face it: The managed-care firms are sophisticated parties and more than able to negotiate the right to proceed to court to protect their interests prior to the release of documents.

In fact, the state Department of Social Services had offered managed-care companies in the Husky program a contract amendment giving them the right to go to court to prevent disclosure of documents they assert are confidential or proprietary. Two signed the amendment, realizing that they had a choice: Contract with the state and be accountable, or lose the taxpayers' business.

Attempts to modify the FOI language are not only unnecessary, but actually give the managed-care companies a special and protected status under law with respect to hefty taxpayer expenditures under Husky.

The governor, the Department of Social Services, and many legislators are firmly committed to the current FOI obligation as a condition of any state contract under Husky. That commitment should be enough to end any effort to erode the public disclosure laws.

Contracting with the state is a business decision that comes with strings attached. If the business involves the performance of a governmental function, then freedom of information is part of the package. Take it — or leave it.

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