



Breaking News: APA Practice Organization Becomes Involved in Class Action Litigation

By Legal and Regulatory Affairs Staff

May 28, 2009 — The New Jersey Psychological Association (NJPA) is poised to become a named plaintiff in nationwide class action litigation against Aetna. The APA Practice Organization (APAPO) is working closely with outside counsel and NJPA to provide extensive legal, policy, communications and other support for this legal action.

The litigation includes several different lawsuits in which plaintiff-consumers and providers allege that Aetna, CIGNA, WellPoint and other large health insurers used a flawed database by Ingenix, a subsidiary of United HealthCare, to suppress the "usual, customary and reasonable" (UCR) rates utilized to pay for out-of-network services.

The APAPO will follow the teamwork model that the organization employed, in collaboration with the Florida Psychological Association, in the successful Florida managed care class action and in earlier lawsuits against managed care companies.

NJPA will be added as a plaintiff when the court allows an amended complaint to be filed (expected in late June). The amended complaint will be on behalf of a nationwide class of psychologists and other health care professionals – including physicians, podiatrists and chiropractors – who were affected by use of the Ingenix database.

The complaint will seek damages under the Employee Retirement Income Security Act (ERISA), the federal anti-racketeering law known as RICO and antitrust law for past underpayments dating back to January 2005. Further, plaintiffs will seek changes to make Aetna's out-of-network rate setting fairer and more transparent.

In February, medical associations and a class of physicians filed the original case against several Aetna companies. The lawsuit is being heard in the U.S. District Court in Newark, New Jersey.

The latest legal action brings professional psychology's managed care litigation strategy full circle. In 1996, the APA Practice Directorate worked with NJPA on the first major lawsuit in the litigation strategy targeting managed care abuses: NJPA was the lead plaintiff alleging "no cause" terminations by MCC, now part of CIGNA. The directorate also supported a California Psychological Association suit against Aetna alleging false advertising.

Later, the APA Practice Organization teamed with the Virginia Academy of Clinical Psychologists in years of litigation against CareFirst BCBS, alleging an improper rate cut and the use of "phantom panels." The APAPO then assisted the Florida Psychological Association when it filed suit against more than 60 companies in Florida managed care class action litigation, alleging that the defendants reduced payments to psychologists by manipulating CPT codes.

All of these collaborations led to successful settlements – most recently, the \$15 million settlements in the Florida class action.

Learn about important developments in the UCR litigation in future issues of this e-newsletter.