

# 10 DCs, 7 Patients Sue Blue Cross and Chiro Choice in North Dakota

PLAINTIFFS ALLEGE MONOPOLISTIC CONTROL AND DENIAL OF LEGITIMATE CLAIMS

Editorial Staff

North Dakota Chiropractic Association Supports Existing Claims Review Process

Ten doctors of chiropractic and seven chiropractic patients filed suit June 20, 2001 in the U.S. District Court in Bismarck, North Dakota, against Blue Cross/Blue Shield and its independent review consultant, Chiro Choice, a preferred provider organization owned by three chiropractors.

According to the complaint, Chiro Choice began contracting with Blue Cross "in approximately 1990 or 1991." The three principal owners of Chiro Choice are DCs Michael Jacklitch, Michael Remmick, and Kent Yohe (henceforth "JRY"). Dr. Jacklitch was given authority to review Blue Cross claims submitted by chiropractors. If Dr. Jacklitch denied a claim, a chiropractor could appeal to a three-person peer review panel, which consisted of Dr. Jacklitch's Chiro Choice co-owners Remmick and Yohe, plus "one additional member."

The plaintiffs assert that the Chiro Choice defendants "possess monopolistic control over which chiropractors' claims are paid and which are denied in North Dakota." The plaintiffs further allege that the defendants Blue Cross and Chiro Choice have "conspired to wrongfully deny legitimate claims for chiropractic services with the express purposes of financial gain and reinforcing their monopolistic control over third-party reimbursement for chiropractic services in North Dakota."

The complaint asserts that Blue Cross, with the "active participation" of JRY, "imposed excessive and unreasonable, unpublished documentation requirements on the plaintiffs and other chiropractors," and prevented "certain plaintiffs from attaining membership in the defendants' PPO ... consistently rejecting claims submitted by plaintiffs and plaintiffs' patients to defendant Blue Cross."

The suit also alleges the "increased rejections of claims after insureds' deductible were met," and that the defendants actively encouraged the plaintiffs' patients to leave their care and switch to other chiropractors.

There are seven counts to the complaint:

- group boycott: that the defendants conspired to illegally boycott the plaintiffs from full participation in the state's health care (in violation of Section 1 of the Sherman Act);
- unreasonable restraint of trade;
- unlawful monopolization;

- RICO counts (Racketeer Influenced and Corrupt Organizations Act);
- unfair insurance practices (Blue Cross);
- breach of contract (Blue Cross);
- bad faith (Blue Cross).

#### Reaction from the North Dakota Chiropractic Association

Jeffrey Galt,DC, president of the North Dakota Chiropractic Association, noted that only five of the 200 doctors of the association are plaintiffs in the lawsuit. "The NDCA is not involved in or supportive of the lawsuit," Dr. Galt stated, noting that the NDCA helped develop the claims review and peer review used at Blue Cross Blue Shield of North Dakota; that the NDCA annually elects committee members and recommends to Blue Cross Blue Shield of North Dakota who should sit on the peer review and claims review committees; and that the association has a liaison who monitors peer review and reports to the NDCA Board.

"The North Dakota Chiropractic Association supports the process as it has functioned since its conception, and has had few or no findings of impropriety over the last 12 years," Dr. Galt concluded.

The plaintiffs seek a jury trial on "all claims triable to a jury."

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