Dynamic Chiropractic

State Farm Guilty of Discriminating against Chiropractors

COMPANY ORDERED TO REIMBURSE CHIROPRACTORS ON EQUAL BASIS

Editorial Staff

On Sept. 20, 1994, Judge John Ryan issued his ruling on State Farm's petition for judicial review. He found that State Farm had violated insurance equity laws and that their actions constituted unfair claims practices.

The history of this case dates back to Jan. 11, 1991, when the Indiana Commissioner of Insurance received a complaint from the Indiana State Chiropractic Association (ISCA) that State Farm was discriminating against chiropractors in paying claims. The Insurance Commissioner issued a warrant to a private firm to conduct a market examination of State Farm. The examination team consisted of an MD, a nurse, an actuary and an assistant.

The examiners initially tried to review files at the offices of Professional Evaluation Service (PES), a firm that reviewed most of State Farm's chiropractic claims, but PES refused to allow the examination team to review their files and threatened legal action to keep the team from reviewing them.

To obviate protracted litigation with PES, the examination team did not pursue its efforts to reviews files at PES, but did an on-site examination of State Farm's files. The examiners reviewed 482 claims randomly selected (by State Farm) in the categories of: fire/auto; PES; IME (independent medical examination); and health insurance.

The examiners found "virtually no evidence of non-chiropractic claims in the fire/auto sample being sent to outside review organizations, even though some of the non-chiropractic claims had practice patterns with high utilization of modalities and extended lengths of treatment." The claims for chiropractic services in the fire/auto sample were "sent to an outside review organization (usually PES) more frequently than claims for services performed by non-chiropractors."

The examiners also found "Examination of the PES sample showed no pattern indicating the use of predetermined utilization review criteria for chiropractic claims. Some of the claims in the PES sample were completely denied because of perceived lack of medical necessity of the treatment. On a pure dollar basis, State Farm paid only 41.4 percent of the billed charges for chiropractic claims audited in the PES sample. The claims considered in the IME sample (mainly non-chiropractic claims) showed a more modest reduction in payment (71.8 percent of the billed charges were paid) than the claims in the PES sample (41.4 percent of the billed charges were paid)."

In its Conclusions of Law, the court found:

> "For 1990 claims, State Farm did not reimburse chiropractors for their services on an equal basis with physicians and other health care providers and is, therefore, in violation of Indiana Code S 27-8-6-1.

"During 1990, State Farm failed to adopt and implement reasonable standards for the prompt investigation of claims for services performed by chiropractors and therefore committed an unfair claim settlement practices as described in Indiana Code S 274-1-4.5(3).

"State Farm did not attempt in good faith during 1990 to effectuate prompt, fair, and equitable settlements of claims in which liability had become reasonably clear when the claim involved services performed by chiropractors, and therefore committed an unfair claim settlement practice as described in Indiana code S 274-1-4.5(6).

"During 1990, State Farm failed to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies for services performed by chiropractors with such frequency as to indicate general practice.

"During 1990, State Farm committed or performed, with such frequency as to indicate general practice, unfair claim settlement practices as defined in Indiana Code SS 27-4-1-4.5(3) and 27-4-1-4.5(6), and therefore committed unfair methods of competition and unfair and deceptive acts and practices in the business of insurance in violation of Indiana Code S 27-4-1-3."

After hearings on Sept. 11, 1992 and Nov. 6, 1992, the Indiana insurance commissioner issued its Final Order on Feb. 7, 1994:

"State Farm is hereby ordered to immediately reimburse chiropractors for services under any insurance contract on an equal basis with physicians and other health care providers in compliance with Indiana Code 27-8-6-1.

"State Farm is hereby ordered to establish and use written guidelines, approved by the Department of Insurance, for the review of claims involving services performed by chiropractors, which guidelines shall include objective criteria specifying circumstances under which a claim should be challenged by a claims analyst or sent to a higher level of review including a supervisor or outside consultant. Such guidelines shall be submitted to the Department for review and approval by April 30, 1994.

"State Farm is hereby ordered to develop and conduct a training seminar for all claims personnel in the state of Indiana by June 30, 1994, which seminar shall include instruction on current chiropractic methodology and treatment. The written guidelines established by State Farm and approved by the Department of Insurance pursuant to this order shall be reviewed by all claims personnel as part of the seminar. The agenda and all tangible materials used or referred to in conducting the seminar and distributed at the seminar shall be submitted to the Department of Insurance for approval at least 60 days prior to conducting the seminar and shall be approved by the Department of Insurance prior to use or distribution.

"State Farm is hereby ordered to immediately refrain from publishing to or making available for review by claims personal inaccurate and outdated information concerning the care and treatment provided by chiropractic physicians, including but not limited to, videotape #30A/VI4535."

Not only is this a great victory for chiropractors and patients, it clearly demonstrates the discrimination that has become a general practice for many insurance companies. It is highly

unlikely that State Farm is the only offender. Each state association should pursue and file complaints against every insurance carrier involved in such blatant discrimination.

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