

# Illinois Supreme Court Thwarts Insurance Company Tactics

## RULES AGAINST EFFORTS TO DENY REIMBURSEMENT

Editorial Staff

Hearing that an insurance company is denying reimbursement for care is not news. There seems to be an ever-growing list of "reasons" for an insurer declining to pay. This is the case not only for doctors of chiropractic, but also for most health care providers. The latest excuse is that there is something lacking in the status of a professional service corporation. Fortunately, the Illinois Supreme Court has been given the opportunity to rule on this issue.

Back on Nov. 26, 2001, Blue Cross Blue Shield of Illinois "unilaterally cancelled" its agreement with a professional corporation owned and operated by a licensed podiatrist, because the corporation had failed to renew its "certificate of registration" issued by the Illinois Department of Professional Regulation. Two days after the date of cancellation, the professional corporation (plaintiff) "filed a four-count complaint against Blue Cross, seeking to recover payments under the June 2000 agreement for podiatric services rendered to patients insured by Blue Cross":

- Count I "alleged that Blue Cross breached the June 2000 agreement because Blue Cross failed to pay its bills due plaintiff on a timely basis."
- Count II "alleged that Blue Cross engaged in fraud, in that Blue Cross intentionally misrepresented that it would pay claims for treatment of its insureds by plaintiff, causing plaintiff monetary damages."
- Count III "alleged that Blue Cross committed unfair and deceptive acts in violation of the Consumer Fraud and Deceptive Business Practices Act."
- Count IV "alleged that Blue Cross violated section 155 of the Illinois Insurance Code by delaying and failing to pay its claims."

The lower and appellate courts both found in favor of Blue Cross on all four counts, based upon the assumption that the "certificate of registration" issued to corporations held the same public protection qualities as the podiatric license required by the Podiatric Medical Practice Act. The podiatric corporation retorted that "at all times relevant to this litigation it has been in compliance with the licensing requirements of the Podiatric Medical Practice Act, and argues that the certificate of registration requirement imposed on corporations by the Professional Service Corporation Act is unrelated to licensing."

The Illinois Supreme Court found that the corporate registration certificate and podiatric license were distinct in purpose:

"There is no need for the legislature to require that the individuals forming the professional service corporation be *licensed* as a prerequisite to that corporation obtaining a *certificate of registration* unless a license and a certificate of registration are two separate concepts which serve two distinct purposes. For example, an individual who is unlicensed to practice a profession in an individual capacity does not become 'licensed' simply by virtue of being part of a professional service corporation

that holds a current certificate of registration issued by the Department. Conversely, a duly licensed professional does not become 'unlicensed' simply because that individual provides services through an unregistered professional service corporation.

"In contrast to the Podiatric Medical Practice Act, the provisions of the (Professional Service Corporation) Act do not assure professionalism and competence in the practice of podiatry. Rather, the Act provisions underscore that the professional service corporation is simply the vehicle by which the General Assembly allows licensed individuals to practice their profession in the corporate form, and thereby reap the benefits of incorporation.

"In addition, nowhere in the (Professional Service Corporation) Act did the legislature suggest that contracts with an otherwise valid professional service corporation should be voided because the corporation did not maintain a current certificate of registration. We conclude that the Department's limited administrative power to enforce the Act is yet another indication that the Act's certification of registration requirement was not intended to protect the public."

In a 15-page opinion filed Sept. 22, 2005,\* the Illinois Supreme Court reversed the judgments of the circuit and appellate courts, ruling that a professional corporation is not required to maintain corporate registration in order to uphold a reimbursement contract with an insurance company.

Chiropractic attorney Michael J. Schroeder, vice president of the National Association of Chiropractic Attorneys (NACA), commented on the ruling:

"This is an extremely important opinion for doctors of chiropractic across the country. Numerous carriers are trying this ploy in an effort to avoid paying for care. We are currently in litigation with one insurer that is trying to avoid paying a chiropractor claiming that his fictitious business name filing is incorrect. This decision by the Illinois Supreme Court should effectively eliminate the insurance companies' attempts to deny claims over professional corporation administrative issues."

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- *Note:* The 15-page opinion of the Illinois Supreme Court in the case of *Chatham Foot Specialists, P.C., v Health Care Service Corporation, d/b/a Blue Cross Blue Shield of Illinois*, is available in full online at [www.chiroweb.com/illinois](http://www.chiroweb.com/illinois).

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