

## **NY DCs File Class Action Suit to Recover Millions in Lost Claims**

Editorial Staff

In what is being called, "a necessary legal action to correct what has been a systemic injustice against the chiropractic profession," Dr. William Remling, executive director of the New York Chiropractic Council, announced that the council has filed a class action lawsuit in United States District Court, Southern District, against New York's largest health insurance carriers, Empire Blue Cross and Blue Shield and Empire Healthnet. The lawsuit seeks to recover millions of dollars in claims that were not reimbursed by Empire. Dr. Remling estimated that the amount of money withheld by Empire is in the millions.

Dr. Robert Hoffman, board chairman of the New York Chiropractic Council and a practitioner in Oyster Bay, New York, filed the lawsuit on July 22, 1996. "This lawsuit is being filed not only on behalf of the 4,300 doctors of chiropractic in New York state, but also on behalf of the tens of thousands of chiropractic patients who were denied just reimbursement for health care services," said Dr. Hoffman.

The action is being brought under the Employees Retirement Income Security Act (ERISA) of 1974, which governs rights of reimbursement for health care professionals and the general business law of New York, which prohibits deceptive insurance industry practices.

Rheingold, Valet, Rheingold, P.C., a New York City law firm with an extensive background handling class action lawsuits, has been retained to lead this action. They will coordinate their efforts with the Council's general counsel, Cartier, Hogan, Sullivan, Bernstein and Auerbach, P.C., of Patchogue, New York.

The lawsuit is an outgrowth of a June 1995 New York State Insurance Department examination of Empire's practices and procedures, and a February 19, 1996 department consent decree in which Empire admitted to committing various violations of insurance law in its "wholesale rejection" of chiropractic service claims; that Empire engaged in "unfair claim settlement" practices with respect to processing and denying of claims for chiropractic services.

The lawsuit states: "Empire rejected claims for manipulative treatments when performed by chiropractors while paying claims for the same or similar services rendered by physicians, physical therapists or osteopaths, rejected reimbursable claims for physical therapy services by chiropractors, even when these doctors of chiropractic were licensed physical therapists, and denied claims for x-ray and radiological services rendered by doctors of chiropractic depriving subscribers of needed chiropractic care."

This lawsuit comes on the heels of Governor Pataki's refusal to sign Chiropractic Insurance Equality Legislation -- which overwhelmingly passed the state senate and assembly -- to ensure that insurance companies provide for chiropractic reimbursement as they do other health care treatments. "While we

are disappointed that legislation was once again scuttled by the executive branch," said Dr. Remling, "we're encouraged that this legal action holds greater hope for success since it will be judged in a court of law, an environment insulated from the Blues' potent political muscle."

Through its newspaper, New Directions, the New York Chiropractic Council will be canvassing the state's 4,300 DCs to ask for their participation in the lawsuit by completing a "Declaration of Interest." By completing this declaration, doctors indicate that they have unjustly received reduced reimbursements or a complete rejection of reimbursements from Empire. Participating doctors will also be asked to prepare a compilation of all unreimbursed and under-reimbursed Empire claims as documentation for the lawsuit.

DCs who wish to find out more about participating in this lawsuit should call the New York Chiropractic Council at (718) 386-3988.

SEPTEMBER 1996