

Michigan DCs Prepare to Defend Practice Rights Against ACN

Editorial Staff

The Michigan Chiropractic Association (MCA) and Dr. Jim Duncan were victorious recently in a lawsuit against Midwest Security Life Insurance Company, which utilized out-of-state chiropractors to cut chiropractic claims. The May 20, 2005 ruling by Circuit Court Judge David S. Swartz sets the stage for the MCA's upcoming legal battle against the American Chiropractic Network (ACN).

"There are certain insurance companies that operate outside the law, and we called them on it and we won," remarked Dr. Bill Goss, chairman of the Michigan Chiropractic Legal Action Consortium (MCLAC). "As long as there are insurance companies that continue to break the law, we will take them to task for it."

The action against Midwest Security became necessary after the regional insurance provider refused payment on the basis of case reviews by DCs in Wisconsin, where Midwest Security is located. The company's decision was appealed to the insurance commissioner, who referred the case to HAYES Plus, a Pennsylvania agency. HAYES Plus upheld the original denial claims.

Dr. Duncan, with the help of MCLAC, filed suit under Michigan's Patient Protection Bill (Senate Bill 1121), which became law in December 2002. The Patient Protection Bill ensures that only chiropractors with a valid Michigan license can provide chiropractic services or expert opinions. Michigan is one of the few states in the country to have enacted such licensure restrictions to improve patient care.

In his ruling, Judge Swartz reasoned that it is illegal for an insurance company to utilize out-of-state chiropractors (who lack a valid Michigan chiropractic license) to give opinions or recommendations regarding chiropractic care in Michigan: "Michigan law clearly states that a chiropractic expert 'shall not engage' in chiropractic services, including the rendering of chiropractic opinions, 'unless licensed, or otherwise authorized by a chiropractor, under this article.'"

The article of Michigan law Judge Swartz referred to in rendering his decision is MCLA 333.16411. Section 16411 was one of three sections of the Michigan Public Health Code updated in 2002 under the provisions of SB 1121.

"We passed the Patient Protection Bill and that's great," commented Dr. Duncan. "But you don't realize how important it is until someone tries to break the law and you have to work to defend your practice. I think this case puts some real teeth into the law itself."

Judge Swartz's ruling paves the road for legal action against other organizations that want to use out-of-state chiropractors to restrict the practice of chiropractic in Michigan - particularly ACN. The MCA claims that ACN operates under the state rules of Minnesota, where ACN is based, and expects all of

its providers to do the same. If this is the case, it places great strain on chiropractic providers in Michigan, who must adhere to state regulations that delineate acceptable scope of practice, but must also bend to the demands of ACN's out-of-state experts. According to the MCA, if a chiropractor doesn't follow ACN's practice recommendations, he or she risks being labeled an "outlier" and being kicked out of the network.

Chiropractic organizations across the country are becoming aware of the threat ACN poses to chiropractors and their patients. In the July 2, 2005 issue of *DC*, we reported on the American Chiropractic Association's announcement that ACN is one of three managed care carriers that are most troubling to chiropractors; the ACA noted that "these carriers routinely deny requested treatment and reduce or deny reimbursement." The MCA says it is currently collecting information from DCs demonstrating how ACN is inappropriately denying insurance claims and unfairly restricting appropriate methods of clinical chiropractic care.

Resources

1. *James Duncan v. Midwest Security Life Insurance Company*. Case No. 04-1061-AA. *Opinion and Order Granting Appeal and Reversing Administrative Board Decision*, issued May 20, 2005.
2. Michigan chiropractors defend right to practice against ACN. Press release from the Michigan Chiropractic Association, June 28, 2005.
3. Landmark Michigan law protects chiropractors, patients. *Dynamic Chiropractic*, March 10, 2003: www.chiroweb.com/archives/21/06/08.html.
4. ACA collecting data on managed care abuses; ACN, ASHP, Landmark receive most complaints. *Dynamic Chiropractic*, July 2, 2005: www.chiroweb.com/archives/23/14/01.html.

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