



Q & A Managed Care Case

What are the goals of this legal action?

Our laws require managed care organizations to apply cost containment measures to chiropractors and physicians in a similar manner. Managed care organizations have violated these laws by:

- Failing to pay chiropractors the same amount they pay physicians for exams, x-rays, adjustments, (osteopathic manipulations), physiological therapeutics, and supplies.
- Failing to give chiropractors increases in their reimbursement in a similar amount that is given to physicians.
- Failing to pay at all for items that are with a chiropractor's scope of practice and are routinely paid when provided by physicians.
- Failing to apply quality assurance to chiropractic services in a manner similar to physicians which has resulted in arbitrary limitations on the number of adjustments and other services a chiropractor may provide to a patient.
- Attempting to intimidate patients from receiving chiropractic treatment by sending letters implying they are receiving too much chiropractic care.

We want to recover the hundreds of millions of dollars that should have been paid to chiropractors, amounts paid by patients out of pocket for care that should have been paid, interest at 12% as required by our timely payments law and punitive damages to ensure that managed care organizations never again violate these laws.

Who is the WCA representing in this legal action?

The WCA is representing its members.

Will this action be similar to the class action co-payment case?

Yes and no. The cases are similar in that the same anti-discrimination laws have been violated. However, because chiropractors may not be able to sue directly for violations of WI. stat. 632.87, this lawsuit is more complicated. As a result, while our attorneys are paying for all of the costs of the co-pay case, they will not handle the managed care case on a contingency basis.

Who will pay for this lawsuit?

The WCA Board of Directors has authorized the payment of all fees for this lawsuit. Members will not be assessed. Because the WCA has always been managed conservatively and for the benefit of our members, funds for this legal action are available from income the WCA has saved over the past 20 years.

Will the costs of this lawsuit allow the WCA to continue its other work in protecting the profession from actions taken by the legislature, the insurance industry, employers, other health care groups and, of course, changes as a result of national health care?

Yes. The WCA has taken several steps to ensure that the costs of this lawsuit are handled prudently and cost effectively.

Step One The attorneys have agreed to a significant reduction in their hourly rate.

Step Two The lawsuit has been divided into different phases. Each phase of the lawsuit will be approved separately and the WCA has the right to discontinue the lawsuit at the end of any phase without financial penalty.

Step Three Each phase of the lawsuit has work associated with it. All of the work associated with that phase has a budget. If the attorneys go over that budget, the attorneys must pay for the extra work.

Step Four If the goals of the lawsuit are expanded or if the requirements of any phase of the legal action change, the WCA must give prior approval before the work is done.

Since the WCA is paying for the lawsuit, how much of the settlement will the WCA keep?

The WCA will not keep any of the settlement. The entire settlement will go to our members.

How do I make sure that I get part of any settlement?

Phase one of the legal action is data collection. While the WCA has much anecdotal information, we do not have sufficient data to prove the allegations detailed above. In order to get the necessary proof, we need data from every WCA member that has been or is a member of any managed care organization.

It is very important to note that no chiropractor will ever lose a managed care agreement because they gave data to the WCA. All participants and data will only be seen by WCA staff and our attorneys. Neither the WCA board nor any chiropractor will have access to the names of anyone who contributed data or the data itself.

Here is what we need:

Please copy everything in your files that relates to any managed care or insurance agreement you *ever signed even if you no longer provide care for that managed care organization or insurer*. We do not need anything related to billing but absolutely everything related to your managed care agreements.

1. Agreements
2. Fee schedules
3. Correspondence
4. Quality assurance manuals
5. Utilization reports
6. Performance reviews

Really, we want everything – if in doubt, send it. Copy everything you have, put it in an envelope or box and send it to us. We will sort the contents and anything we do not need will be shredded. **Please remember that everything you send is confidential and will only be shared with our attorneys. No acknowledgement of your participation will be made.**

Will this be a “class action” lawsuit?

Our attorneys are considering a number of different approaches. A class action is one of the strategies they are pursuing. The final determination will be made after the data collection phase.

If the WCA cannot sue for direct violation of Wi. stat. 632.87, on what grounds will chiropractors recover their damages?

Our attorneys have identified several laws under which a claim for damages may be made. These include:

- Declaratory judgment and/or injunctive relief to secure compliance with Wi. Stat. 632.87 (3)
- Violation of WI Administrative Code
- Tortious interference with past and future contractual relations
- Breach of contract
- Fraud
- Unfair trade practices
- Preventing pursuit of work
- Fraudulent representations
- Civil conspiracy

Which managed care companies may be sued?

Every managed care organization doing business in Wisconsin is being investigated by our legal team. Data is critical to determine the extent to which each company may have violated our laws. The sooner data is submitted, the sooner the next phase of the legal action can commence.

What happens if the WCA does not collect sufficient data for a particular managed care company?

We cannot bring a legal action unless we have the data substantiating our claim. If insufficient data is collected for a particular managed care company, an action would not be brought against that company, doctors would not collect any damages, and the managed care company would be free to continue their discriminatory practices.

When would you like our managed care information?

We would like copies of your managed care files as soon as possible but no later than September 30, 2011.

Does it cost anything to participate in this lawsuit? No.

Now the small print

The WCA Board of Directors wants true equality for its members and chiropractic patients and is not intimidated by the managed care or insurance industry. Nonetheless, we are investing a great deal of financial resources into this action.

We are not going to ask for financial donations for this effort.....

.....but we do need one thing

.....your absolute loyalty for the next 4 years

We need you to take all of your continuing education from the WCA for the next four years. Many of our members take some of their courses from us, but also attend continuing education from their colleges at their alumni events. While we understand the importance of your college, it is the WCA that is funding this legal action just as we pay for the entire infrastructure that supports chiropractic in the state. From the thousands of phone calls and emails we answer every year to the work we do in the legislature and on state and national committees, we are the organization that protects your future.

If you support our continuing education programs we will be able to rebuild our financial reserves so we can do whatever is necessary to protect you in the future.....as we always have in the past.

Because you support us

The WCA is the most proactive chiropractic organization in the country

The WCA is YOU!