



'David' takes on managed care Goliath and wins

from the **AAP Department of Practice**

Horizon Blue Cross Blue Shield of New Jersey, the state's largest HMO, agreed to settlement terms, concluding a class-action lawsuit initiated by John Ivan Sutter, M.D., FAAP.



Dr. Sutter

The suit claimed the carrier had reduced payments improperly or made late payments to New Jersey physicians that resulted in significant administrative hassles for practitioners attempting to track down payments and determine how claims were processed and paid.

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The New Jersey state court approved the settlement on Feb. 2. It may be a model for other carriers to adopt as standard business practices.

As part of the settlement, Horizon agreed to implement several business practice improvements that, according to Class Counsel Eric D. Katz, “will increase the transparency of claims processing and payment and reduce administrative overhead.” Katz, a partner in the Roseland, N.J., law firm of Mazie Slater Katz & Freeman, also noted: “These changes will result in improved interaction between Horizon and physicians which, in turn, will improve the delivery of health care to the citizens of New Jersey.”

Over the past two years, national carriers such as Aetna, CIGNA, Humana and Wellpoint/Anthem have agreed to settlements in



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response to class-action suits by physicians alleging unfair business practices. Unlike the litigation with national carriers involving several medical societies, however, the Horizon case was waged by Dr. Sutter alone.

Richard Lander, M.D., FAAP, a New Jersey pediatrician and chair of the AAP Section on Administration and Practice Management, described Dr. Sutter's class-action lawsuit as a “David who took on the managed care Goliaths and won.” He said he hopes “other managed care companies will change their tactics before they, too, are engaged in these suits.”

Under the settlement, Horizon agrees to, among other reforms:

- make available its complete fee schedules to participating physicians and its fees will not be reduced, if at all, more than once per year;
- provide 90 days' notification of material changes to its contracts, policies and procedures;
- disclose the significant automated edits it uses to process physician claims;
- not recover overpayments to physicians after more than 18 months of the original payment;
- allow primary care physicians to close their practices to new patients covered by Horizon plans;
- not revoke approved medical necessity in the absence of evidence of fraud, significant error or material change in the condition of the patient prior to service; and

- provide detailed monthly capitation reports to participating physicians. It also will implement a dedicated capitation liaison program staffed with trained professionals who will address and resolve common capitation inquiries, including the assignment of plan members to panels, and will facilitate the prompt payment of money due for capitated services, including “carve out” services that are not included in the per member per month payment.

A health economist provided a report to the court, which estimated the value to physicians in the form of changes in carrier business practices as more than \$39 million.

The carrier will not make any retroactive payments to physicians as part of the settlement. However, as part of the settlement of the Sutter case, New Jersey physicians also will receive all of the benefits from another pending suit against Horizon and other Blue Cross plans (*Love vs. Blue Cross Blue Shield Association*) if and when that case settles. It is expected that retroactive payments will be made to doctors as part of any settlement in that case; thus, Sutter class members would receive money when the Love case is settled.

“New Jersey physicians doing business with Horizon will get the best of both worlds and enjoy two sets of significant benefits, both monetary and reforms,” according to Katz.

Dr. Sutter concurred, stating, “While physicians are relieved of a significant administrative burden, patients will ultimately be the true beneficiaries receiving more attention with the end result being a better quality of care.”