

## **Press Release: Physicians and Humana Inc. Settle MDL Class Action**

On October 18, 2005, counsel for approximately 900,000 physicians and Humana, Inc., announced that they have settled a national class action pending in federal court in the Southern District of Florida before U.S. District Judge Federico Moreno as well as multiple state court actions filed against the company. Humana is the sixth company named as a Defendant in the *In re Managed Care Litigation* in Florida to settle with physicians. The agreement resolves a national lawsuit against Humana Health Inc. and Humana Health Plan, Inc. ("Humana") and includes substantial commitments by Humana to institute a significant number of business practice changes that will benefit physicians.

This agreement includes industry-leading improvements to physician-related business practices. The cornerstone of these business practices is Humana's agreement to apply generally accepted medical standards. Additionally, Humana has committed to increase transparency in paying claims and has agreed to an enforcement mechanism to help ensure compliance with the terms of the settlement. The business practice changes and transparency add significant value to physicians in terms of ensuring reduced overhead and greater focus on patient care. The agreement will also streamline communication between physicians and Humana, reduce administrative complexity in the claims payment system and help to improve the quality of the health care system in general. Humana values the business practice changes at an excess of \$75,000,000.

The settlement also includes a payment of \$40 million to a settlement fund for payments to physicians.

If approved by the court, the agreement would conclude this lawsuit against Humana as part of on-going multi-district litigation currently pending against many of the nation's largest for-profit health insurers and which is scheduled for trial on April 17, 2006.

### **Key Aspects of Settlement**

In addition to the monetary component of the settlement, physicians and Humana have agreed to new levels of transparency and communication as well as a renewed commitment concerning business practices through a number of initiatives. In the agreement, Humana has agreed to, among other things:

- A definition of medical necessity that ensures that patients are entitled to receive medically necessary care as determined by a physician exercising clinically prudent judgment in accordance with generally accepted standards of medical practice;
- Use of clinical guidelines that are based on credible scientific evidence published in peer reviewed medical literature (taking into account Physician Specialty
- Conform to proper coding standards including use of AMA CPT®
- Society recommendations, the views of Physicians practicing in the relevant clinical areas, and other relevant factors) when making medical necessity determinations;

- Provide physicians with access to an independent medical necessity external review process;
- Establish an independent external review board for resolving disputes with physicians concerning many common billing disputes;
- Pay for the cost of recommended vaccines and injectibles and for the administration of such vaccines and injectibles;
- Not automatically reduce the intensity coding of evaluation and management codes billed for covered services;
- Ensure the payment of valid clean claims within fifteen (15) days for claims electronically submitted and thirty (30) days for claims submitted on paper;
- Provide complete fee schedules via electronic communication;
- Establish a compliance dispute resolution mechanism to address disputes regarding Humana's compliance with the agreement;
- Limit the use of rental networks;
- Recognize valid assignment of benefits;
- Establish a physician advisory committee; and
- Provide ninety (90) days notice of changes in practices and policies and annual changes to fee schedules.

"We are thrilled that Humana has decided to join the growing ranks of health insurers who have agreed to settle this case with physicians. This settlement shows that Humana is committed to aiding our efforts to ensure that physicians are able to achieve the highest quality of care for their patients," said Timothy B. Norbeck, Executive Director of the Connecticut Medical Society.

"The commitments obtained from Humana in this settlement represent real progress in our ongoing efforts to ensure that physicians in this country are able to achieve the highest quality health care for patients in this country. We are pleased that Humana has committed to these efforts," said Edith Kallas, partner with Milberg Weiss Bershad & Schulman LLP in New York.