



Kaiser v. CIGNA, 294 F.3d 849 (7th Cir. 2002)

Topics Covered: Payment Issues (for Physicians), Managed Care Payments

Outcome: Favorable

Issue

The issue in this case was whether a health insurance company, CIGNA, improperly reduced its payments to physicians in its provider network.

AMA Interest

The AMA supports fair payment to physicians for their services.

Case Summary

This class action lawsuit, originally filed in a Madison County, Illinois state court, alleged that, through the use of ClaimCheck Software, CIGNA improperly "bundled" and "downcoded" Current Procedural Terminology (CPT) procedures in order to reduce its payments to in-network physicians. To justify such actions, CIGNA contended that the AMA sanctioned the use of its edits.

The standard managed care agreement between CIGNA and the physicians in its PPO program panel provided that the physicians would be reimbursed for "Covered Services" at "the lesser of Physician's usual and customary charge for the service provided or CIGNA's ... maximum fee schedule in effect at the time of the service, less applicable Copayments." The contract did not explicitly define what was meant by a physician's "services." CIGNA had drafted this form contract.

The case was certified as a nationwide class action. CIGNA moved to dismiss or stay the majority of the claims, contending that they were subject to arbitration agreements. CIGNA also filed a class action lawsuit in the United States District Court for the Northern District of Illinois to compel arbitration under the Federal Arbitration Act. In light of the parallel proceedings in state court, however, the federal district court declined to exercise jurisdiction. CIGNA appealed that decision, but the Seventh Circuit affirmed the ruling, with a slight, technical modification.

The plaintiffs filed their third amended complaint in the Madison County court. They expanded their claims to include violations of the federal ERISA and RICO statutes. CIGNA, on the basis of the federal statutory claims, removed the suit to the United States District Court for the Southern District of Illinois. On the same day, CIGNA and the plaintiffs signed a voluminous settlement agreement, which, subject to the court's approval, would resolve all claims alleged in the federal district court, conditionally certify the plaintiff class, and conditionally approve the proposed settlement. The settlement agreement could be finalized only if no more than 7.5% of

the class members opted out of the lawsuit and if the agreement passed a fairness hearing to be held by the court. The settlement also provided for numerous forms of injunctive relief in favor of the plaintiff class.

Pursuant to an order of the Judicial Panel on Multidistrict Litigation, the case was transferred to the United States District Court for the Southern District of Florida, for consolidation into the Managed Care Provider Track MDL. Following such transfer, the providing judge of the Managed Care MDL enjoined implementation of the settlement agreement. His order was directed toward "CIGNA, its attorneys ... and any party acting in concert with CIGNA." In deference to this injunction, neither CIGNA nor the Kaiser plaintiffs attempted to implement the settlement.

Eventually, the *Kaiser* claims were settled as part of the overall settlement of the claims in the Managed Care MDL, on terms generally favorable to physicians.

Litigation Center Involvement

To assist the plaintiffs at the class certification hearing, the AMA's CPT Department submitted an affidavit, explaining to the court that the AMA interpreted CIGNA's software edits differently from the way that CIGNA represented that those edits should be interpreted. The AMA, through the course of this case, also provided substantial technical support on coding issues. The Illinois State Medical Society also provided technical advice.