

Class Action Suit Brought Against Horizon BCBS by NJ Oral Surgeon

On September 16, 2010, Judge Paul J. Vichness of the Essex County Superior Court certified a class action brought by Michael H. Kirsch, D.D.S., a Caldwell oral surgeon, on behalf of 10,000 dental providers against Horizon Blue Cross Blue Shield of New Jersey ("Horizon") — the largest managed care organization in the state — seeking tens of millions of dollars in damages for Horizon's improper claims processing tactics designed to underpay dentists for the critical services they render to their patients. This is the second class action certified by the Superior Court that was brought by Dr. Kirsch against Horizon. In both class actions, Dr. Kirsch was designated as the sole Class Representative on behalf of each Class and found to be adequate and determined to represent the interests of each Class. In addition, in both class actions Eric D. Katz, a senior partner at Roseland's Mazie Slater Katz & Freeman, LLC was designated as Class Counsel.

In the newly certified class action, Kirsch v. Horizon, Essex County, Docket Number L-109-08 ("Kirsch v. Horizon II"), Dr. Kirsch exposes several illegal claims processing practices used by Horizon over the last six years or longer, including the carrier's deliberate employment of nefarious tactics such as the "bundling" or combining of services in order to pay for only one service even when multiple services

were required to treat the patient and the "downcoding" of services from the procedure that was actually rendered by the dentist to a procedure that was never provided.

In his first lawsuit filed against Horizon, Dr. Kirsch was appointed Class Representative in October 2005 in the 8,000 member certified class action lawsuit captioned Kirsch v. Horizon, Essex County, Docket Number L-4216-05 ("Kirsch v. Horizon I"). That case seeks more than \$13 million dollars in damages for Horizon's blatant and continuing violations of New Jersey's prompt payment laws for more than a decade, and is scheduled for trial in 2011.

Dr. Kirsch has also filed a putative class action against Delta Dental of New Jersey ("Delta Dental") seeking millions of damages for similar claims processing abuses committed by that carrier. The Delta Dental case is currently proceeding in class discovery in the United States District Court for the District of New Jersey. Mr. Katz also represents the Delta Dental putative class.

"Horizon and other managed care insurance companies continue to illegally manipulate and alter the American Dental Association's procedural codes for the single objective of increasing their bottom line. This is accomplished at the expense of hard working

dentists and the care they provide to their patients. Enough is enough. Dentists are sending a united message that we will no longer allow our profession to be bullied by entities solely motivated by profit," said Dr. Kirsch.

Mr. Katz agrees: "Dr. Kirsch should be commended for standing up against Horizon and Delta Dental and blowing the whistle on these carriers' illegal conduct on behalf of tens of thousands of his colleagues — conduct that jeopardizes access to quality dental care."

Mr. Katz, a senior partner in the law firm of Mazie Slater Katz & Freeman, in Roseland, New Jersey, is also Class Counsel in several other provider/managed care class actions seeking damages for claims processing abuses. In one recent case, John Ivan Sutter, M.D. v. Horizon Blue Cross Blue Shield, ESX-3685-02, Stephen J. Bernstein, J.S.C. granted final approval on June 16, 2010 to a settlement on behalf of New Jersey physicians valued at over \$50 million.

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