

# THE CHIROPRACTIC CHOICE

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## Michigan DC and MCA Win Case Against Insurance Company Using Out-of-State Chiropractors for Expert Opinions

### Ruling paves way for MCA's ongoing battle against ACN

Dr. Jim Duncan and the Michigan Chiropractic Association (MCA) were victorious in a lawsuit against insurance companies that utilize out-of-state chiropractors to cut chiropractic claims. The ruling in this case paves the way for the MCA's upcoming legal battle against the American Chiropractic Network (ACN).

"There are certain insurance companies that operate outside the law, and we called them on it and we won," said Dr. Bill Goss, Chairman of the Michigan Chiropractic Legal Action Consortium (MCLAC). "As long as there are insurance companies that continue to break the law we will take them to task for it," he said.

Dr. Jim Duncan's lawsuit against Midwest Security started when the regional insurance provider refused payment on the basis of case reviews by DCs in Wisconsin, where Midwest Security is located. The company's decision was appealed to the insurance commissioner who referred the case to HAYES Plus, a Pennsylvania agency that upheld the original denial claims.

Dr. Duncan, with the help of the MCLAC, filed a lawsuit under Michigan's Patient Protection Bill (Senate Bill 1121) which became law in December 2002. The Patient Protection Bill ensures that only chiropractors with a valid Michigan license can provide chiropractic services or expert opinions. Michigan is one of the few states in the country that has enacted such licensure restrictions to improve patient care.

The judge presiding over the case, Judge Swartz, ruled in favor of Dr. Duncan and MCLAC. He reasoned that it is illegal for an insurance company to utilize out-of-state chiropractors who do not have a valid Michigan chiropractor's license, to give opinions or recommendations regarding chiropractic care in

Michigan.

"We passed the Patient Protection Bill and that's great," said Dr. Duncan. "But you don't realize how important it is until someone tries to break the law and you have to work to defend your practice. I think this case puts some real teeth into the law itself."

The ruling will pave the way for further MCA legal action against other organizations that want to use out-of-state chiropractors to restrict the practice of chiropractic in Michigan, particularly the ACN.

ACN is an insurance claims review agency. They are owned by an insurance company, United Health Care and have a partnership with Blue Cross Blue Shield. They are based in Minnesota and operate under the state rules of Minnesota. This poses great strains on chiropractors in Michigan who must adhere to state regulations that delineate an acceptable scope of practice, but must also bend to the inflexible demands of ACN's out-of-state experts. If DCs don't follow their recommendations for practice, they risk being labeled an "outlier" and being kicked out of their network.

A spokesperson for the Michigan Chiropractic Association told *The Chiropractic Choice* that since the partnership of ACN and Blue Cross Blue Shield their main agenda has been to enforce "a symptom approach to chiropractic care" which forces a "minimalistic utilization of chiropractic" services.

ACN is one of the most troubling managed care carriers to chiropractors because it routinely denies or reduces reimbursement claims. The MCA is currently collecting information from doctors demonstrating how ACN is inappropriately denying insurance claims and unfairly restricting appropriate methods of clinical chiropractic care.

## Washington State Petitions Insurance Commissioner for Relief

Citing "the growing threat to our patients and our profession," the Washington State Chiropractic Association (WSCA) announced on September 12 that it has petitioned the state's Insurance Commissioner Mike Kreidler to stop some insurance companies from discriminating against the chiropractic profession.

The WSCA filed formal petitions with the Insurance Commissioner requesting new rules designed to fix the growing problems caused by the few large health insurers dominating Washington markets. "We can no longer ignore the growing threat to our patients and our profession," said Dr. Bill Davis, WSCA President. "Chiropractors want to spend time with patients not contracts. We are asking the Insurance Commis-

sioner to step in and stop the discrimination and unfair practices of some insurance companies."

According to the WSCA, the large insurers are forcing chiropractors into lopsided contracts that small practices cannot afford to reject. Insurers tie one product to another so that the chiropractor cannot choose between plans or programs. They terminate contracts without cause, forcing patients to find new doctors, and refuse to pay chiropractors who step in to take care of colleague's patients.

"Imagine what your life would be like if there was only one grocery store and they made you buy a pack of cigarettes with every gallon of milk and kicked you out if you complained," Davis said. "That's our life with the big insurers."

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The Commissioner has 60 days to rule on the petitions and may accept, reject or change the requested rules. The petitions seek improvements to existing rules governing contracts between insurers and practitioners. The amendments would ban some existing insurer practices and would set new standards for the health care networks of the three largest insurers in Washington.

Copies of the petitions can be found on the WSCA website at [www.chirohealth.org](http://www.chirohealth.org).