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Profits Before Patients: Aetna's Illegal Campaign Against Patient Choice

Thousands of California Doctors File Lawsuit to Stop Threats and Retaliation By Aetna

**Lawsuit aims to protect patient and doctor's rights to quality healthcare
and to prevent insurers from interfering with patient choice**

Launching "Call to Action" campaign against insurer that puts profits before patients

Los Angeles (July 3, 2012) – Aetna Health of California routinely and illegally denies patients access to out-of-network doctors after selling them costly insurance policies that promise patients the right to choose their own physicians, according to a lawsuit filed today by the Los Angeles County Medical Association (LACMA), California Medical Association (CMA) and a coalition of health care organizations and providers.

The lawsuit, filed in Los Angeles County Superior Court, alleges a systematic practice by Aetna of threatening patients with denial of promised coverage if their members see doctors outside the Aetna network of providers, and threatening doctors with having their Aetna contracts terminated if those doctors refer patients outside the network. The insurance company has carried out both these threats in many cases, according to the suit.

"Aetna is putting profits ahead of patient's health and safety; that's immoral and too often it is also illegal," said Rocky Delgadillo, Chief Executive Officer of the nonprofit Los Angeles County Medical Association and the former Los Angeles City Attorney. "The insurance company interferes not only with doctor-patient relationships, but also harms the ability of California health care providers to get sick people the care they need in a professional and timely manner."

Joining LACMA and CMA as plaintiffs are the Santa Clara County Medical Association (SCCMA) and Ventura County Medical Association (VCMA), along with more than 60 physicians, four surgery centers, and a California man who was denied reimbursement for much-needed surgery by his doctor.

“This lawsuit is about defending patient rights to quality care, which Aetna is ignoring,” said Francisco J. Silva, General Counsel and Vice President at CMA. “This is an example of sacrificing the patient/physician relationship, by cutting costs and boosting profits.”

The allegations against Aetna include false advertising, breach of contract, unfair business practices, and both intentional and negligent interference with healthcare providers. The suit seeks an end to the practices, an immediate injunction, compensation for patients and physicians, and punitive damages including triple damages under the federal Lanham Act.

Aetna Health of California is a division of Aetna Health Management, based in Hartford, Ct., with \$33.8 billion in reported revenue last year.

Along with this lawsuit, the coalition is issuing a call to action to the many patients, employers and physicians who have been denied coverage, threatened or retaliated against by Aetna. The coalition has established a page on LACMA’s website, LACMA.net.org, for patients, physicians and employers to share their experiences about Aetna.

“We want to hear your stories and we want your employers to hear your stories so that when they choose a company to provide medical insurance services they pick one that lives up to its promises and puts patients first,” added Delgadillo. “We want Aetna to hear your stories and we want them to know that we will be telling these stories loudly: in court, in the state capital and in city halls across California until its practices stop.”

The suit recounts the experience of a California man who purchased a Preferred Provider Organization (PPO) plan from Aetna in 2007. The advertised plan offered coverage at both in-network and out-of-network facilities, options the patient plaintiff wanted so his family could receive the best medical care possible.

“Aetna, however, repeatedly and inappropriately attempted to discourage the patient from using those benefits,” Los Angeles attorney Daron L. Toooh wrote in the complaint. For example, when the Aetna member’s doctor referred him for out-of-network care at the Los Altos Surgery Center, he received repeated calls and letters from Aetna urging the patient against using his out-of-plan benefits. In a later instance, Aetna refused to authorize medically necessary surgery recommended by his doctor unless a network doctor performed the procedure.

Despite the fact that the Aetna member's policy included coverage for out-of-network care and that the services provided were medically necessary, Aetna refused to pay for the surgery he finally received at an out-of-network facility. He filed three appeals and the insurance company eventually paid \$9,000 of \$70,000 in bills. "The vast majority of the \$70,000 bill for out-of-network services provided to (the patient) remains unpaid by Aetna," according to the lawsuit.

The identity of the Aetna member who is a plaintiff in the complaint is being kept confidential at this time to protect his confidential health information.

The lawsuit cites the patient's case as just one example of Aetna's illegal business practices in California. "The handling of this case is egregious, but unfortunately it's not an isolated instance," Tooch said. "Doctors, not insurance clerks, should be the ones making the decisions about when and how to provide quality patient care. "

Aetna advertises and sells insurance policies representing that customers can obtain health care from the physician or provider of choice when they purchase Preferred Provider Organization (PPO) and Point of Service (POS) policies. The Aetna website marketing advises, "Advantages of a PPO include the flexibility of seeking care with an out-of-network provider if so desired..." and "In a POS, you have greater freedom to see out-of-network providers than with an HMO."

Instead, many people who sign up for these premium policies seem to be unable to choose their own doctors despite paying for the privilege. Their doctors, in turn, grapple with threatening phone calls and cancelled contracts if they refer patients to out-of-network physicians and surgery centers.

The lawsuit comes just three months after California Insurance Commissioner Dave Jones criticized Aetna's quarterly health insurance rate increases as "unreasonable" and "in excess" of the U.S. Bureau of Labor's medical cost inflation index. Aetna, the commissioner said, "is hitting its California small employer customers with an average increase of 30.3 percent over the last 24 months."

"Despite making tens of millions of dollars selling policies with out of network benefits," the lawsuit says, "Aetna has engaged in a campaign to retaliate against its members who attempt to use their out-of-network benefits, and the physicians who refer these members to out-of-network providers."

"Aetna has given us no choice," said Delgadillo. "Aetna's assault on patient rights and its abandonment of its promises – its contractual responsibility to patients, doctors and employers -- has to be stopped."

About the Los Angeles County Medical Association:

The Los Angeles County Medical Association is a professional association representing 6,500 physicians from every medical specialty and practice setting as well as medical students, interns and residents.

About the California Medical Association:

CMA serves more than 35,000 members in all modes of practice and specialties representing the patients of California.

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