



FOR IMMEDIATE RELEASE

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OSCA Update on Humana Lawsuit

As many of you are aware, the OSCA filed a law suit in the Summit County, Ohio Court of Common Pleas against Humana in 2014. Together with co-Plaintiff Dr. Thaddeus Bosman, OSCA sought the return of monies that had been “recouped” from Ohio chiropractic practices by Humana after Humana had already paid those practices in full for services rendered to Humana Medicare Part C beneficiaries. Humana initially removed the lawsuit to the U.S. District Court for the Northern District of Ohio in the fall of 2014, and the case was then dismissed by the district court in January 2015. OSCA appealed this ruling to the U.S. Court of Appeals for the Sixth Circuit. On appeal, OSCA’s position was supported (and ultimately vindicated) by an amicus brief filed by the U.S. Department of Health & Human Services, which argued that OSCA’s and Dr. Bosman’s claims were not required to be exhausted through the Medicare appeals process and were not preempted by the Medicare Act.

Ultimately, the Sixth Circuit sided with OSCA and Dr. Bosman and reversed the district court’s order dismissing the lawsuit. The Sixth Circuit also ordered that the case be returned to the Summit County Court of Common Pleas, where it was initially filed.

Upon return to state court, Humana filed a second motion to dismiss in December 2016. That motion is still pending before Summit County Common Pleas Judge Joy Oldfield, and has not been ruled on nearly two years later. Despite OSCA’s significant victory against Humana at the Sixth Circuit, the delays that this case has faced since returning to state court have significantly impacted the association’s efforts to pursue the case further.

The OSCA Board has recently received advice from legal counsel to dismiss the case. Factors contributing to this recommendation include:

1. The initial amount of \$10,000 approved by the board for this lawsuit is exhausted.
2. We have no control over when Judge Oldfield will rule on Humana’s pending motion.
3. If the judge rules against Humana’s motion to dismiss, the case would move into discovery and additional motion practice. This process can be costly, estimated in the \$50,000-\$70,000 range.
4. If Dr. Thad Bosman, the co-plaintiff, and OSCA withdraw their complaint, there is a one-year time frame in which it can be re-filed.

It was a complex and difficult discussion and decision regarding how to best proceed with this lawsuit. The OSCA board voted in the board meeting on July 19th that, based on the lack of activity over the past 18 months, potential large expenses associated with moving forward, and depth of



resources available to an insurance company like Humana, it was not in the best interest of OSCA members to proceed with the lawsuit. As the original plaintiff in this suit, Dr. Bosman agrees with the board's decision and offered this statement, "I am in complete support of dropping the Class Action Lawsuit which bears both my name as well as the OSCA's. This suit has been going on since 2014, and the big, deep pocketed insurance companies have stalled any progress for us in this suit. I see no end to this tactic of Humana and feel it would be best to drop the suit at this time."

If you have comments or concerns on this matter that you would like to relay to the OSCA Board, please reach out to you District Director.

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