

State: Calif.

Physical Therapists Accuse One Call, Align Networks of Unfair, Fraudulent Business Acts: Top [2017-03-17]

A lawsuit filed with a California state court accuses One Call Medical Inc. of running an illegal patient referral scheme driven by improper financial inducements, interfering with the right of injured workers to choose a treating physician within an employer's medical provider network and acting as a claims administrator without being certified to do so.



The nonprofit Independent Physical Therapists of California on Monday filed in San Diego Superior Court a [complaint](#) accusing One Call Medical and its subsidiary, Align Networks Inc., of engaging in illegal, unfair and deceptive or fraudulent business acts.

“This action arises out of defendants’ uniform practice of soliciting and receiving improper payments for the referral of health care services, and managing services provided to injured workers in California in ways that violate numerous California laws designed to protect injured workers, including laws requiring authorization or certification to engage in such conduct in California,” the complaint says.

One Call and a company spokeswoman did not respond to requests for comment Thursday. The company administers 29 medical provider networks in California, according to information on the Division of Workers’ Compensation website.

The first allegation in the complaint is that One Call violated Labor Code Section 3215, which prohibits offering or accepting any kind of compensation or inducement in exchange for patient referrals. One Call allegedly contracts with providers under the guise that those who accept the lowest payment receive the most referrals.

“Physical therapists who do not accede to the deepest discounts OCM demands but remain contracted at higher rates and receive referrals only when OCM cannot refer the injured worker to a practice that has contracted with it at a lower rate in the same geographic area,” the complaint says.

One Call pockets the difference between how much it receives from the payer and how much it pays to providers, creating an incentive to steer patients to the providers willing to work for the lowest rate, the physical therapists allege.

“OCM solicits and obtains deeper discounts from these health care professionals in exchange for more referrals, obtains discounts from health care professionals as an ‘inducement’ or ‘preference’ for referrals, and to the extent it retains the spread created from such discounts, OCM receives payments from the payers of workers’ compensation claims as compensation for making those referrals that increase the size of the discounts OCM negotiates,” the complaint says.

Employers can designate a provider to treat injured workers for up to 30 days, after which the worker can choose another provider from within the employer's network. But when it comes to physical therapists, workers have to go through One Call's subsidiary, Align Networks.

The roster for the One Call network used by State Compensation Insurance Fund lists 1,597 locations for physical therapy services throughout the state. All are identified only as "Align Networks," and while they have different addresses, the phone number and fax numbers are the same. The [roster for an MPN](#) One Call administers and posted to the website for Genex services identifies 1,758 different addresses for Align Networks, but all have the same phone number.

According to the complaint, injured workers searching for a physical therapist in any of One Call's networks must call Align, which makes the referral. The complaint also alleges that some of the addresses for physical therapists listed in State Fund's MPN roster are for businesses that no longer contract with Align, provide acupuncture or chiropractic care rather than physical therapy, and in at least one case, is actually a florist shop.

The complaint also alleges One Call requires contracted providers to use it for billing, rather than allowing the providers to submit bills directly to the carrier. This obscures the difference between how much employers are paying for medical services and the rate at which providers of those services are reimbursed, the complaint alleges.

The lawsuit also claims that this "middleman" arrangement violates provisions in the Labor Code and the Insurance Code.

Labor Code Section 3702.1 allows only admitted insurers and certified third-party administrators to act as a claims administrator.

The complaint alleges that managing the provision of physical therapy services through referrals and paying claims submitted by physical therapists are actions that can be performed only by a claims administrator. And the Labor Code allows only admitted insurers and third-party administrators with a certificate to administer self-insured employers' claims to act as an administrator.

One Call is not certified as a claims administrator, according to the physical therapists' lawsuit.

"As a result of defendants' scheme, defendants' clients may have no idea the magnitude of the discounts defendants offer or impose, or how little defendants are actually paying for the treatment services provided to injured workers, and are reasonably likely to be misled into believing that the treating providers are receiving fair compensation and that these clients' injured employees are receiving optimal treatment for their injuries," the complaint says. "They are also likely unaware of the material fact that the defendants are illegally demanding unreasonably large discounts as an inducement for the referral of these patients, and misled into believing defendants can lawfully conduct business in this state and have the required authorizations to do so, when that may well not be the case."

Paul Gaspar, president of the Independent Physical Therapists of California, said on Thursday the "long overdue" complaint was born partially out of physical therapists who have not received the raise they were promised in Senate Bill 863.

The 2012 reform bill required the Division of Workers' Compensation to adopt Medicare's Resource-Based Relative Value Scale medical fee schedule, which the division did at the start of 2014.

Payments for physical therapy services have increased under the RBRVS fee schedule, but Gaspar said the actual providers of those services are not receiving any of that money.

The Workers' Compensation Insurance Rating Bureau in November 2015 reported that payments to physical therapists increased 24.3% from the first half of 2014 to the first half of 2015. This increase accounted for "the majority" of the overall increase in medical payments over the same period.

The average cost per physical therapy transaction increased 6.2% over the same period, which the WCIRB said suggests “most of this increase in services was driven by an increase in the number of transactions.”

The California Workers’ Compensation Institute in August 2016 reported that the average amount paid for physical therapy service codes increased from \$89.84 under the old fee schedule in 2013 to \$112.71 in 2015.

“We’re not getting what the Legislature thought it was signing up for,” Gaspar said. “The industry has become a commodity, and we didn’t get doctoral degrees in physical therapy to be a commodity. As directed by the Legislature, there were dramatic increases in physical therapy (reimbursement rates), and I think if you ask any physical therapist, they’ll say they haven’t seen anything.”