



Foong v. Empire Blue Cross and Blue Shield, 762 N.Y.S.2d 348 (N.Y. S.Ct., App. Div. 2003)

Topics Covered: Termination of Physician Participation in Provider Networks, Due Process

Outcome: Very Favorable

Issue

The primary issue in this case was whether, under New York law, a managed care organization could terminate one of its panel physicians without due process.

AMA Interest

The AMA supports fairness in the relationship between managed care organizations and the physicians participating in their provider networks.

Case Summary

Empire Blue and Dr. Foong disputed the propriety of certain of his medical practices, as well as the justification for his billings. Dr. Foong submitted his records to the New York County Medical Society, whose Review Committee found that Dr. Foong “had demonstrated sound medical practice in each case.” Empire Blue nevertheless terminated Dr. Foong, who then sued Empire Blue. Empire Blue moved for dismissal of the complaint or, in the alternative, for summary judgment.

The trial court found that Dr. Foong had asserted a potentially valid claim and denied Empire Blue’s motion. Empire Blue appealed.

The Appellate Division affirmed the trial court. It held that, by New York statute, physicians are entitled to a due process hearing to contest a managed care plan deselection.

Litigation Center Involvement

The Litigation Center, along with the Medical Society of the State of New York, filed an amicus curiae brief in support of Dr. Foong in the Appellate Division of New York Supreme Court.

New York Supreme Court Appellate Division brief