



# Luks v. Empire HealthChoice (N.Y. Supreme Ct.) (settled in 2004)

Topics Covered: Payment Issues (for Physicians), Managed Care Payments

## **Outcome: Favorable**

### **Issue**

The issue here was whether orthopedic surgeons were entitled to insurer reimbursement for performing multiple procedures when those procedures were performed through a single incision.

### **AMA Interest**

The AMA supports fair policies and practices regarding payment for physician services.

### **Case Summary**

This class action filed by orthopedic surgeons against a health insurance group alleged that the defendants utilized a reimbursement policy that wrongly denied physicians full compensation for medically necessary multiple procedures performed through a single incision and instead reimbursed only for one procedure. Plaintiffs alleged violations of state business and insurance law statutes, breach of contract, an implied covenant of good faith and fair dealing, unjust enrichment and fraud.

The parties ultimately settled the case, with the insurer agreeing to revise its policy so that reimbursement would be provided for all procedures performed through a single incision.

### **Litigation Center Involvement**

The Litigation Center provided the physician-plaintiffs with technical assistance through the submission of an affidavit by the AMA attesting to generally accepted medical payment practices and Current Procedural Terminology guidelines, under which the defining criteria for physician reimbursement should be the number of appropriate procedures performed and not the number of incisions made to perform such procedures.