Neade v. Portes, 739 N.E.2d 496 (Ill. S.Ct. 2000)

Topics Covered: Payment Issues (for Physicians), Ethics, Managed Care Tort Liability and Patient Rights

Outcome: Favorable

Issue

The issue in this case was whether a physician is liable for breach of fiduciary duty to patients for not disclosing any financial incentives to limit care.

AMA Interest

The AMA believes that the primary burden of disclosure of financial incentives relating to a patient's treatment lies with the HMO, not with physicians.

Case Summary

The Illinois Appellate Court, relying in part on the AMA's Council on Ethical and Judicial Affairs (CEJA) Opinion 8.132, held that a physician and a managed care organization have a fiduciary duty to disclose to their patients any financial incentives to limit medical care.

The Illinois Supreme Court reversed, holding that no cause of action exists for breach of fiduciary duty against a physician. The Court ruled that the alleged breach of a fiduciary duty for failure to disclose an interest in a Medical Incentive Fund was merely a "re-presentment" of plaintiff's medical malpractice claim. Concerning CEJA Opinion 8.132, the Court stated that Illinois law places the burden of disclosure of "financial inducements" on HMOs, not on physicians.

Litigation Center Involvement

The Illinois State Medical Society and the Litigation Center filed an amicus brief which supported the CEJA opinion, while emphasizing the practical burdens a physician faces in making the disclosures mandated in the appellate court decision. The brief also argued that, under the circumstances of this case, the court should not equate the physician's legal and ethical obligations, as the primary duty to disclose financial incentives should rest with the health plan.