

Local Doctors Strike Blow Against HMO For Patients Everywhere

West Palm Beach ophthalmologists Drs. Salomon Melgen and Mark Michels today settled a three year long legal battle against managed care middlemen Eye Management, Inc. (EMI) and its owner, Dr. Robert Mondshine of Miami shortly before trial with the announcement of a \$1.525 million settlement in favor of the doctors. EMI is the insurance broker for eye care services for tens of thousands of south Floridians including those insured by Blue Cross/Blue Shield Health Options, Cigna, and others. Melgen and Michels were specialty providers for EMI when their dispute with EMI began in 1995.

The dispute arose when Melgen and Michels began to understand that non-physicians often made decisions about specialty ophthalmology care for which they had little if any training or experience. The doctors also learned that EMI pays primary care ophthalmologists a markedly discounted fixed fee per patient regardless of how much or how little care is provided. Further, 20% of this money is withheld until year's end in order to pay for subspecialty care like that provided by Melgen and Michels. Primary care ophthalmologists were given this money only if it wasn't spent on patient care. The system has an obvious disincentive to provide specialized eye care. EMI itself is paid by major insurers on the basis of a fixed fee per patient. When fees for specialized eye testing or surgery exceed this 20% amount, the difference cuts into EMI profits. The fewer the services provided to patients, the higher EMI's profits. EMI therefore refused to pay for services unless they were authorized in advance, albeit often by untrained personnel.

When Melgen and Michels complained that EMI's authorization process was threatening to deny patients needed services, Mondshine responded by sending a letter to other south Florida ophthalmologists accusing Melgen and Michels of making treatment decisions without regard to patient welfare. He encouraged these doctors to send their patients elsewhere for specialty eye care. Drs. Melgen and Michels demanded a retraction and apology immediately. When no letter was written, a lawsuit was filed.

"We enjoy an excellent reputation among our peers for following the highest professional standards," said Melgen. "We simply could not allow Dr. Mondshine's terrible attack on our integrity to go unanswered." Drs. Melgen and Michels were

awarded two of the three high honors given annually to Florida ophthalmologists by their peers in 1997. Dr. Melgen received the James Clower Community Service Award and Dr. Michels received the Curtis Benton Outstanding Young Ophthalmologist Leadership award. Dr. Melgen has been a leader in the local implementation of new and complex surgical procedures

which are now the commonly accepted standard of care. He has been a Director of the American Board of Eye Surgeons, and in 1995 Governor Lawton Chiles appointed Dr. Melgen to the prestigious position as Chairperson of the State's Physician Advisory Panel, a position in which he continues to serve. Dr. Michels was the first vitreoretinal surgeon in Palm Beach County to perform true outpatient retina surgery so patients could avoid the inconvenience and expense of hospitalization. Dr. Michels is currently 1st Vice President of the Florida Society of Ophthalmology and just

completed his 4th term as President of the Palm Beach County Ophthalmology Society. He serves as the American Academy of Ophthalmology's liaison to US Senator Bob Graham.

"We couldn't stand by and let some corporate bureaucrat tell us how to treat our patients. That's not what we trained so long to do", Michels said. "I felt we were being punished for putting patient concerns ahead of EMI's profits. The more thorough we were, the more it ate into Dr. Mondshine's bottom line. We insisted on treating patients as if they were family. Since we weren't intimidated by Dr. Mondshine, it seemed clear to us we were being singled out as part of an effort to keep all of the doctors in EMI's network from challenging EMI's interference in patient care decisions." The defamation claim was broadened to encompass the economic pressures they impose on doctors to cut corners on quality care.

As part of the case settlement, Mondshine was required to provide Drs. Melgen and Michels a written retraction of his criticism on their practice and the apology they sought back in 1995. Jack Scarola, who represented Drs. Melgen and Michels, described the settlement as a complete victory for his clients. "More importantly," he said, "this case is a very significant victory for patients. The quality of health care is caught in a terrible economic squeeze. Unless doctors have the courage to fight to preserve their professional independence as Drs. Melgen and Michels did, we all will suffer." ■

