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IN THE SUPERIOR COURT OF WASHINGTON FOR SNOHOMISH COUNTY

DARLENE ROCKEY and HEIDI WOECK, on
their own behalf and on behalf of similarly
situated persons,

Plaintiffs,

v.

THE CENTER FOR COUNSELING AND
HEALTH RESOURCES; GREGORY L. JANTZ
and LaFON JANTZ, and their marital
community,

Defendants.

NO. 09-2-02242-7

SECOND AMENDED COMPLAINT
(CLASS ACTION)

I. PARTIES, JURISDICTION AND VENUE

1. Plaintiff Darlene Rockey is a resident of Palm Springs, California. Ms. Rockey has health coverage through Medicare. On or about April 14, 2005, Ms. Rockey traveled to Edmonds, Washington, to enroll in Intensive Outpatient Treatment at The Center for Counseling and Health Resources ("The Center"). Ms. Rockey was enrolled at The Center from approximately May 2, 2005 to May 23, 2005.

2. Plaintiff Heidi Woeck is a resident of Edmonds, Washington. Ms. Woeck has health coverage through Premera Blue Cross. On or about November 22, 2005, Ms. Woeck enrolled in The Center's Intensive Outpatient Treatment.

1 operating and expense funds, failed to properly account for the funds paid in advance
2 and failed to refund any funds paid in advance that were not used to pay for services
3 received.

4 10. Defendants' acts and omissions breached their fiduciary duties to
5 Ms. Rockey, Ms. Woeck and other similarly situated patients and negligently
6 misrepresented The Center's obligations to bill third-party payors.

7 11. Defendants Gregory and LaFon Jantz failed to adequately
8 supervise the employees of The Center to ensure that billing was conducted as
9 required by The Center's contracts with third-party payors and by state and federal
10 law.

11 12. Plaintiffs, on behalf of the class they seek to represent, filed this
12 lawsuit in order to recover the funds improperly paid to defendants and obtain an
13 accounting for all such funds. Plaintiffs also seek declaratory and injunctive relief to
14 prevent defendants from demanding up-front payments from patients for services that
15 are covered by third-party payors.

16 IV. CLASS ACTION ALLEGATIONS

17 13. *Definition of Class.* Pursuant to CR 23, Plaintiffs bring this action
18 on behalf of themselves and all persons similarly situated. The class is defined as
19 follows:

20 All patients of The Center who, at any time since January 22,
21 2003, paid up-front for service(s) when the cost of the
22 service(s) would have been covered by a third-party payor.

23 14. *Size of Class.* The plaintiff class includes most, if not all, of
24 patients who enrolled in The Center's intensive treatment programs. The proposed
25 class is so numerous that, when combined with other relevant factors, joinder of all
26 members is impracticable.

1 15. **Common Questions of Fact and Law.** There are questions of law
2 and fact that are common to all class members. The common questions of fact and law
3 include (but are not limited to): (1) whether defendants required patients seeking
4 services from The Center to pay up-front for services; (2) whether the patients who
5 were required to pay up-front for services could have had those services paid for by a
6 third-party payor; (3) whether defendants failed to segregate any funds collected as up-
7 front payments; (4) whether defendants failed to account to patients who paid up-front
8 for all the charges and deductions to those payments; (5) whether defendants failed to
9 refund any unused or unbilled portion of the funds paid up-front; (6) whether
10 defendants' actions were breach of contract; (7) whether defendants' actions violate the
11 Washington State Consumer Protection Act, RCW 19.86 *et seq.*; (8) whether defendants'
12 actions were constituted negligent misrepresentation; and (9) whether defendants
13 negligently supervised their employees' billing practices and procedures.

14 16. **Class Representative.** The claims of the named Plaintiffs are
15 typical of the claims of the class as a whole, resulting from defendants' standard billing
16 practices. The named Plaintiffs will fairly represent and adequately protect the
17 interests of the class members because they have been subjected to the same standard
18 billing practices as other class members and suffered similar injuries. The named
19 Plaintiffs do not have interests antagonistic to those of other class members as to the
20 issues in this suit.

21 17. **Class Counsel.** The named Plaintiffs are represented by counsel
22 who are experienced in insurance litigation and complex class action litigation and
23 who can adequately represent the interests of the class. Moreover, counsel has worked
24 extensively to identify and investigate potential claims in this action, and will commit
25 all resources necessary to pursue this action in the best interests of the class.
26

1 24. Ms. Rockey signed the "Intensive Agreement" and paid for a four-
2 week "intensive" program at The Center.

3 25. Ms. Rockey left The Center before she had received all of the
4 services for which she had paid in advance.

5 26. Ms. Rockey, both on her own, and through counsel, requested a
6 refund of the up-front payments she had made to defendants.

7 27. Defendants refused to refund any of Ms. Rockey's payments.
8 Defendants did not provide a full accounting of the funds that she had paid up-front to
9 defendants.

10 28. Ms. Rockey did not obtain reimbursement for her treatment at The
11 Center from Medicare.

12 ***Heidi Woeck***

13 29. Ms. Woeck enrolled in The Center's Intensive Treatment Program
14 on or about November 22, 2005. Ms. Woeck remained in treatment at The Center until
15 September 25, 2006.

16 30. Ms. Woeck had private insurance through Premera Blue Cross.

17 31. The Center was a contracting provider with Premera Blue Cross.

18 32. The Center's contract with Premera Blue Cross states:

19 Provider hereby agrees that in no event, including but not
20 limited to nonpayment by [Premera Blue Cross]...shall the
21 Provider bill, charge, collect a deposit from, seek
22 compensation remuneration or reimbursement from or have
any recourse against an enrolled participant or person...for
services provided pursuant to this contract.

23 33. The Premera Blue Cross contract prohibits The Center from
24 making separate oral or written agreements with Premera's insureds. These
25
26

1 requirements supersede “any oral or written contrary agreement now existing or
2 hereafter entered into between Provider and enrolled participants....”

3 34. Despite The Center’s contract with Premera Blue Cross,
4 defendants required Ms. Woeck to pay in-full and up-front for the cost of her Intensive
5 Treatment program.

6 35. Ms. Woeck was required to sign an “Intensive Agreement” form
7 which stated, in part: “I understand that The Center, Inc. will not bill insurance for
8 services incurred during my intensive and I agree to self-pay the entire cost of the
9 intensive.”

10 36. Ms. Woeck signed the “Intensive Agreement” and paid in-full and
11 up-front for her “intensive” program at The Center.

12 37. At the conclusion of Ms. Woeck’s Intensive Treatment program,
13 defendants provided an incomplete and partial description of the services she had
14 received. Defendants did not fully account for all of the services Ms. Woeck received,
15 describing more than \$3200 in charges as “miscellaneous.”

16 38. Defendants charged Ms. Woeck significantly above the “allowed
17 amount” as determined by the contract between Premera Blue Cross and The Center.

18 39. Charging Ms. Woeck for the cost of services above the “allowed
19 amount” (known as “balance billing”) also violated the contract between Premera Blue
20 Cross and The Center.

21 ***Class Facts***

22 40. Defendants’ billing practices in Ms. Rockey’s and Ms. Woeck’s
23 cases are the same or similar to that of other similarly-situated patients.

24 41. As the Honorable Marsha J. Pechman found in a case brought
25 against the same defendants by a different former patient:
26

1 Defendants deceptively concealed their responsibility to bill
2 [the plaintiff's] insurance company directly for covered
3 services and instead required [the plaintiff] to pay for those
4 services before receiving treatment.

5 ...

6 *This billing practice affects every patient seeking intensive
7 treatment from The Center whose insurance policy covers
8 some portion of the intensive services provided.*

9 *Reimer v. Center for Counseling and Health Resources*, 2008 WL 3186840, *2 (W.D.Wash.
10 2008) (emphasis added) (attached). Judge Pechman held that defendants' practice of
11 requiring up-front payment for services covered by third-party payors constituted a
12 violation of the Washington Consumer Protection Act.

13 42. Ms. Rockey and Ms. Woeck, like others in the class they seek to
14 represent, have been harmed by defendants' standard practice of requiring patients to
15 pay up-front for services despite coverage for The Center's services by a third-party
16 payor. Both Ms. Rockey and Ms. Woeck have lost the use of significant funds and have
17 been unable to obtain full reimbursement for the costs of defendants' services.

18 43. Ms. Rockey and Ms. Woeck, like other potential class members,
19 were required to pay excessive charges for defendants' services, since they paid
20 defendants' full, non-discounted charges, while their third-party payors would have
21 only paid reduced, negotiated rates.

22 VI. CLAIMS FOR RELIEF

23 A. First Claim – Breach of Contract

24 44. Plaintiffs re-allege paragraphs 1-43 above.

25 45. Defendants have breached their provider agreements with third-
26 party payors by requiring, as a standard practice, that patients like Ms. Rockey and
Ms. Woeck pay for otherwise covered services.

1 (b) Declare that defendants' actions as alleged herein breach
2 defendants' provider agreements with third-party payors and violate the Washington
3 Consumer Protection Act;

4 (c) Order defendants to refund all payments improperly received
5 from Ms. Rockey, Ms. Woeck and all other similarly situated persons, including
6 interest;

7 (d) Order defendants to provide an accounting for all services charged
8 to Ms. Rockey, Ms. Woeck and all other similarly situated persons;

9 (e) Order defendants to pay for all damages incurred as a result of
10 defendants' improper billing practices, the lost use of the funds wrongfully demanded
11 by defendants, their breach of fiduciary duty, negligent supervision and negligent
12 misrepresentation;

13 (f) Order defendants to pay to Plaintiffs' attorneys' reasonable fees
14 and costs; and

15 (g) Order any other relief that is appropriate.

16 DATED: June 2, 2009.

17 SIRIANNI YOUTZ
18 MEIER & SPOONEMORE

19
20 _____
21 Eleanor Hamburger (WSBA # 26478)
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