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## Humana pact no cure-all for doctors' woes

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In October 2003, when the doctors at Cincinnati Head & Neck read news accounts of Humana's settlement of a physician lawsuit, they expected big changes.

"Humana said we were going to get all these things, and we said we would like to see that -- but that hasn't happened," Dr. Michael Wood said after negotiations broke down.

Wood and partners Drs. Joseph Hellmann and Thomas Kereiakes say what they got instead was a lot of frustration.

"We started researching who makes what around here," Wood said. "We gathered data. Humana's response was that they have lots of others willing to take what they are paying."

Humana settled the antitrust lawsuit filed in June 2003 by the region's 1,900 physicians by agreeing to increase payments to doctors by \$100 million over three years. Once that term is up, a three-member "compliance committee" will annually review Humana's talks and agreements with doctors until 2010 to ensure that negotiations are not the product of anticompetitive activities.

The suit charged that the insurers conspired to keep reimbursements to doctors artificially low. It was filed in Boone County Circuit Court and Hamilton County Common Pleas Court against Humana and Aetna Health Inc., Anthem Blue Cross Blue Shield and UnitedHealthcare of Ohio. Aetna has since settled as well.

Richard Wayne, an attorney with Strauss & Troy who helped negotiate the settlement for physicians, said discovery is moving forward with Anthem and UnitedHealthcare. The Ohio Supreme Court and the Kentucky courts are weighing a claim by the insurers that the case go to arbitration. Anthem's parent company Wellpoint, meanwhile, has settled a similar class-action suit in Florida.

"I think Wellpoint's move in Florida is something helpful to doctors throughout the country," Wayne said. "But I don't see that case resolves the claims we made for doctors in Greater Cincinnati."

Designed by the Academy of Medicine of Cincinnati and attorney Stan Chesley, the suit and resulting settlements were supposed to put the region's physicians on a level reimbursement playing field with those in other parts of the country.

Whether that's happened is up for debate.

"I think there are some who say things did get better, and I am aware that some physician relationships with some of the insurers have turned out well for some, and others would say it hasn't made a difference," said Russell Dean, who championed the suit when he served as executive director of the Academy of Medicine. "A lot of that has to do with how strong someone's negotiating position was anyway."

Some physicians are seeing improved negotiating relationships with Humana and better pay. Others, like Cincinnati Head & Neck, fought monthslong battles to gain increases they believed they were entitled to, only to be told by Humana "no other insurer is paying those prices in the market."

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"Our reimbursement is half of what it was less than 10 years ago," said Hellmann. "We were depressed for so long that even a 10 percent increase is not accurate."

Some say what the settlements amount to are payment increases that insurers would have provided anyway.

Humana CEO Larry Savage disagreed. He said the health insurer promised to increase what it spends on reimbursements and not to reduce anyone's payment levels.

"I think we've fulfilled the spirit and intent of the settlement," he said.

Despite the debate over the lawsuit's impact, a few things are clear. The aftermath has forced physicians, hospitals and health insurers to start thinking in new ways about how they do business.

Doctors and hospitals are working together on community initiatives and business ventures. Humana is rebranding itself as a consumer company, ready to supply data and tools to customers to help them make cost-efficient health care choices.

Many physicians now are taking an entrepreneurial route by building their own facilities in an effort to find more revenue.

Russ Sanford, vice president for real estate development firm Equity, which specializes in medical office building developments, said more physicians are seeing returns on their investments of close to 20 percent after three years when they build and own their own space.

"When doctors make that investment, they can own the building, rent out the space they don't need and put their cash return back into the business," Sanford said.

The Greater Cincinnati Health Council started a physician job Web site, [www.cincinnati.mdjobs.com](http://www.cincinnati.mdjobs.com), to help recruit and retain physicians. Humana has partnered with the University of Cincinnati to start a program that will educate doctors in the economics of today's health care scenarios.

And Mercy Health Partners helped recruit 42 doctors to the area in 2004 -- and more in 2005 -- by offering income guarantees.

The Cincinnati lawsuit also prompted doctors in other regions such as Wake County, N.C., and Kansas City, Mo., to file suits against Anthem, Humana and UnitedHealthcare. Those cases still are pending.

But many doctors still are bitter about their pay and say that the lawsuit settlements didn't force any tangible changes.

Dean said that overall he is pleased with the outcomes, and he acknowledged that the issue has always been about costs.

"We did something when we sued these insurers," Dean said. "And to have two of the four and possibly a third settle -- by putting more money in the physician reimbursement pot than they otherwise might have -- it has to be considered, if not a victory, certainly progress."