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Contacts: Edith Kallas (212-447-7019)
Archie Lamb (205-324-4644)

**Physicians Announce That They Have Now Settled Class Action
Claims With Over 90% of
All Blue Cross and Blue Shield Plans in the Country and the Blue
Cross and Blue Shield Association
Counsel calls latest settlement "historic"**

NEW YORK CITY – Calling it a “historic settlement,” counsel representing a putative class of approximately 900,000 physicians, as well as the medical societies of numerous states and other medical societies across the country, today announced that they have settled a national class action lawsuit with the vast majority of the Blue Cross and Blue Shield health plans in the country and the Blue Cross and Blue Shield Association. When combined with prior settlements with other Blues, this settlement means that more than 90% of all Blues plans in the country – covering approximately 77 million patient lives – have now settled this class action with physicians.

The settling plans have agreed to implement what counsel said are “important and valuable business practice changes,” and to streamline the way companies interface with doctors, resulting in major savings to the system. According to counsel, these business changes and savings, combined with a guaranteed cash payment of over \$128 million to class members, bring the estimated value of the settlement to an amount in the range of settlements previously agreed to with other managed care companies.

The class action – *Love et al. v. Blue Cross Blue Shield Association, et al.* – was filed in 2003, and has been pending before U.S. District Judge Federico Moreno in federal court for the Southern District of Florida in Miami. The complaint identified numerous Blue Cross and Blue Shield plans as defendants in an alleged scheme to defraud doctors in violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO).

Counsel said that this latest settlement was yet another major development in their ongoing fight against insurers’ alleged wrongful practices relating to medical necessity determinations and reimbursement for services provided to patients. Physicians and medical societies have previously settled very similar claims against almost every other managed care insurer in the nation in a prior class action, resulting in major reforms in the health insurance landscape in this country. “The commitments contained in this agreement and prior agreements bring the settling Blues into compliance with what has become the standard for the industry, which is premised on achieving the highest quality delivery of health care,” said Edith Kallas, co-lead counsel for plaintiffs and a partner at Whatley Drake & Kallas. “That is truly in the best interest of physicians and their patients.”

The practice changes the Blues plans have agreed to include commitments to do the following:

- Implement a definition of medical necessity that ensures that patients are entitled to receive medically necessary care as determined by a physician exercising clinically prudent judgment in accordance with generally accepted standards of medical practice;
- Use clinical guidelines that are based on credible scientific evidence published in peer-reviewed medical literature (taking into account Physician Specialty Society recommendations, the views of physicians practicing in the relevant clinical areas, and other relevant factors) when making medical necessity determinations;
- Provide physicians with access to an independent medical necessity external review process;
- Establish an independent external review board for resolving disputes with physicians concerning many common billing disputes;
- Pay for the cost of recommended vaccines and injectibles and for the administration of such vaccines and injectibles;
- Not automatically reduce the intensity coding of evaluation and management codes billed for covered services;
- Ensure the payment of valid clean claims within fifteen (15) days for electronically-submitted claims and thirty (30) days for paper claims;
- Provide fee schedules to physicians;
- Establish a compliance dispute mechanism to address disputes regarding the Blues' compliance with the agreement;
- Establish and/or maintain physician advisory committees; and
- Provide ninety (90) days' notice of changes in practices and policies and annual changes to fee schedules.

These practice changes are expected to result in hundreds of millions of dollars in real savings to physician practices throughout the country. The end result will leave doctors "more time for patient care instead of dealing with what was a complex, cumbersome, costly and frustrating system put in place by Blue Cross and Blue Shield plans," said Archie Lamb, plaintiffs' co-lead counsel. He added, "The primary achievement of this agreement for physicians is found in the fundamental recognition by these companies of the importance of America's physicians in the healthcare equation."

William W. Hinchey, M.D., President of the Texas Medical Association, stated, "Given the Blues' size and clout nationwide, this settlement should have an immediate, substantial, and positive impact on our patients and our practices. It will help us return our focus to where it should be: on managing patient care."

The agreement follows similar settlements with virtually every other managed care company in the nation, with the exception of UnitedHealthcare, who continues to litigate against physicians rather than making the kinds of positive practice changes other insurers have agreed to make. Counsel stated that United Healthcare has repeatedly refused to address the significant concerns raised by representatives of the more than 400,000 physicians nationwide who care for United's health plan members. Bob Seligson, Executive Vice President/CEO of the North Carolina Medical Society and President of the national Physicians Advocacy Institute, Inc., said, "The Blues plans have demonstrated that they are serious about improving their

relationship with the nation's physicians. We call upon UnitedHealthcare to follow the Blues plans example, along with every large for-profit health insurer in the country, and implement the terms of these settlements voluntarily. Doing so would go a long way in repairing the divisions that exist between UnitedHealthcare and America's physicians.”

The case is being heard in the United States District Court, Southern District of Florida, Miami Division: 03-21296-CIV-Moreno. Additional background information on the case can be found online at www.hmocrisis.com and www.hmosettlements.com. Those sites include complete copies of the Settlement Agreement.

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