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Helping Physicians Practice Medicine



**MEMBER  
ALERT**

## **Special Member Alert: Join the Court Fight to Protect Physician Medicare Data**

In 1978, the FMA and six physicians filed a class-action lawsuit to prevent the predecessor agency to the U.S. Department of Health and Human Services (HHS) from disclosing what physicians who treat Medicare patients were paid. The American Medical Association later joined the lawsuit as a plaintiff.

The FMA won the suit and an injunction was entered in 1979 that made individual physician billing and payment data exempt from public disclosure laws and barred the Department from disclosing any information that would "...personally and individually identify those providers of services under the Medicare program."

Over the years the injunction has been challenged several times. All have failed. Now the FMA is defending the injunction against the most serious threat yet. The *Wall Street Journal's* parent company, Dow Jones & Co., filed a motion in January to reopen the case and intervene as a defendant. The *Journal* claims that the original decision prevents reporters from naming physicians they believe are defrauding the Medicare program. The Dow Jones motion was filed in the U.S. District Court in Jacksonville.

The FMA objects to any fraudulent activity and recognizes the threat fraud poses to the health care system. However, almost all physicians bill correctly for services provided. Lifting the injunction and making billing and payment data of individual physicians available to the public would not help solve the fraud problem and could inadvertently lead to persecution of individual doctors or disclosure of patient information. Therefore, the FMA is working vigorously to defend the injunction — and the attorneys handling the case for the FMA need help.

The FMA won in 1979 in large part because of affidavits that individual physicians filed in the case, which illustrated the harm that might occur if billing and payment data were to be made public. The FMA needs those affidavits again. **The FMA is asking all members who treat Medicare patients to consider completing an affidavit** for the current case (*Florida Medical Association, et. al. v. Department of Health, Education and Welfare and Dow Jones and Company.*) A draft affidavit has been prepared that illustrates the testimony necessary to preserve the injunction. (Click [here](#) to see a template) **If you would like to substitute your name for Dr. Welby's on the affidavit, please contact FMA General Counsel Jeff Scott, Esq., at [jscott@flmedical.org](mailto:jscott@flmedical.org) or (850) 224-6496 as soon as possible.**

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