

FACTSHEET ON SHIP LAWSUIT

What's the lawsuit about?

Long-term care insurance is marketed to consumers who wish to protect themselves and their families against the costs and burdens often associated with old age. The policies cover, among other expenses, the cost of home care, which includes services of personal caretakers for in-home assistance with activities like bathing, dressing, eating, using the restroom, and moving about. As reported by the news media, insurance companies doing business in the long-term care marketplace have often been accused of unnecessary rate increases and other abusive practices. (See Charles Duhigg, *Aged, Frail and Denied Care by Their Insurers* (Mar. 26, 2007), <http://www.nytimes.com/2007/03/26/business/26care.html?pagewanted=all>.)

This lawsuit targets the company-wide business practices of Senior Health Insurance Company of Pennsylvania (also known as SHIP), which the suit says are designed to avoid providing the home care benefits to which its California policyholders are entitled.

Who is the plaintiff in the lawsuit?

The lead plaintiff in the lawsuit is Dr. William Hall, an 87-year old resident of Upland, California, a former U.S Army colonel who earned a Purple Heart in the Korean War, and the former Chief of Medicine at a major California hospital. He first purchased a policy from Transport Life Insurance company in 1994. (Policies sold by Transport Life, American Travelers Life, United General Life, and Continental Life Insurance companies were transferred to Conseco Senior Health Insurance Company between 1998 and 2000, which was later renamed SHIP in 2008.)

In 2010, 16 years after he first purchased the policy and began paying monthly premiums, Dr. Hall broke his hip twice and developed other medical conditions that required home care. Dr. Hall submitted a claim to SHIP for benefits covering the services of personal caregivers to assist Dr. Hall with activities of daily living in his home.

Who is the defendant in the lawsuit?

SHIP administers long-term care insurance policies originally sold by Conseco Senior Health Insurance Company, American Travelers Life Insurance Company, Transport Life Insurance Company, United General Life Insurance Company, and Continental Life Insurance Company. After originally marketing and selling the policies to consumers, these companies eventually stopped selling new policies and transferred responsibility for them to SHIP.

What does the lawsuit accuse the defendant of doing?

- Requiring home caregivers to be “certified” by the state of California before SHIP will pay for their services. The policy specifically provides that the services may be performed by caregivers *without* state certification, and in fact California Insurance Code § 10232.9(c) bars long-term care insurance companies from imposing such a requirement;
- Requiring a policyholder to submit detailed “daily visit notes” in “real time” taken by personal caretakers with his or her first claim. The SHIP policy does not contain any requirement that policyholders provide such notes before SHIP will pay a claim;

- Requiring a policyholder to repeatedly fill out and submit paperwork asking for duplicate information (e.g., claim form, provider claim form, physician’s claim form, health benefit sheet, home health care provider form) before SHIP will pay a claim;
- Requiring a policyholder to be examined by SHIP’s own medical professional to determine whether the policyholder can begin receiving benefits, even though the policy allows for any medical professional to make the determination;
- Failing to respond to claims in a reasonable amount of time;
- Denying claims without providing an understandable explanation in support of the denial;
- Failing to keep adequate records of documents submitted by policyholders;
- Accompanying partial claim payments with incomprehensible explanations of what is actually covered.

What does the lawsuit seek?

Dr. Hall, on his own behalf, seeks damages against SHIP for failing to handle his claims and pay the benefits he is entitled to under the insurance contract, for financial elder abuse under Welfare and Institutions Code sections 15610.30 et seq., for pain and suffering, and punitive damages for the company’s outrageous conduct.

On behalf of himself and other SHIP policyholders in California, Dr. Hall seeks a court order against SHIP forcing the company to stop its business practices in the administration of long-term care insurance policies, which Dr. Hall contends are unlawful, unfair, and fraudulent in violation of California’s Unfair Competition Law, Business & Professions Code, section 17200 et seq., and prohibiting SHIP from imposing unlawful and unreasonable demands on policyholders.

Dr. Hall asks the Court to order SHIP:

- Not to request proof of caregiver licensure, deny claims for lack of caregiver licensure or provide policyholders with information leading them to believe their caregivers must be licensed;
- To provide proper notice to policyholders that caretaker “daily visit notes” are required, plus an understandable description of what the notes must contain.
- To respond to claims in a timely manner and provide an understandable explanation of claims decisions;
- To include clear line item explanations showing what is actually covered in its benefits statements;
- To keep adequate records of documents submitted by policyholders;
- To comply with the language of its policies, which allows policyholders to select any medical professional to determine their eligibility for benefits.

Where was the lawsuit filed, and when?

Hall v. Senior Health Insurance Company of Pennsylvania, Case No. CIVRS 1200996, was filed in San Bernardino Superior Court on February 7, 2012.

Who are the lawyers representing Dr. Hall?

William Shernoff, senior and managing partner of Shernoff Bidart Echeverria Bentley LLP, and Sam Bruchey, associate attorney. On the web at: <http://www.shernoff.com/>

Harvey Rosenfield, founder of Consumer Watchdog, Pamela Pressley, Consumer Watchdog's Litigation Director, and Jerry Flanagan and Laura Antonini, Consumer Watchdog staff lawyers.

Consumer Watchdog is a non-profit and non-partisan consumer advocacy group with offices in Santa Monica, CA and Washington, D.C. Visit us on the web at: <http://www.ConsumerWatchdog.org>