

### Highlights

- Based on Karen L. Taillon's expertise in contract law and experience dealing with managed care plans, Cummins & White, LLP, successfully represented WMC Insurance Services, Inc., in arbitration for breach of agency contract, receiving an award of more than \$3.8 million.
- Blue Shield of California paid the award, which was accruing more than \$1,800 a day in interest, in full within weeks. This prompt payment allowed WMC Insurance Services to avoid filing a Petition to Confirm the award as a judgment, saving additional time and legal costs.
- In-depth preparation and skilled cross-examination by Cummins & White exposed critical inconsistencies in arbitration testimony by Blue Shield witnesses, who in many cases made statements contrary to earlier deposition testimony.

### About the Attorney



Karen L. Taillon, P.C., joined Cummins & White, LLP, as a senior contract partner in 1993. Ms. Taillon is Certified in Healthcare Compliance and primarily represents healthcare

providers (hospitals and physicians) in issues relating to the healthcare industry, including contract law, managed care and physician contract disputes, real estate transactions and litigation, medical staff matters, general business, and employment law.

## SMALL INSURANCE AGENCY WINS BIG AWARD FROM BLUE SHIELD OF CALIFORNIA

*Cummins & White, LLP, successfully represented WMC Insurance Services, Inc., a three-person general insurance agency, in an arbitration involving Blue Shield of California for breach of agency contract, securing a substantial award of \$3.8 million. While the original cancellation of the contract by Blue Shield caused WMC Insurance Services to essentially close its doors, immediate collection of the award allowed the owners to successfully re-establish their business.*

### Background

WMC Insurance Services, Inc., was a general insurance agency based in Santa Ana, Calif., contracted to sell Medicare HMO Blue Shield 65 Plus policies. Blue Shield of California claimed oral modifications to the contract, which allowed it the right to impose a unilateral reduction in commissions, limit paid annual renewal commissions for enrolled members, and impose charge-backs on commissions for certain disenrollments. Ultimately, Blue Shield terminated the contract with WMC Insurance Services for cause, thus claiming it had no further obligation to perform and specifically no obligation to pay annual renewal commissions.

### Legal Approach

A binding arbitration clause included in the contract between Blue Shield and WMC Insurance Services directed that the breach of agency claim be settled by arbitration. Through discovery, Cummins & White sought to establish that:

- WMC Insurance Services never agreed to contract modifications;
- The contract could not be orally modified; and,
- There was no cause to terminate the contract—it was merely a guise to eliminate the agency's rights to receive annual renewal commissions.

As part of its efforts to win at arbitration and to substantiate the claim, Cummins & White needed to prove Blue Shield's obligation to pay commissions based on contract rates, plus annual renewal commissions after termination of the contract for members who remained enrolled post-termination. Karen L. Taillon, counsel from Cummins & White, presented compelling evidence and testimony from WMC Insurance

### Cummins & White, LLP

Cummins & White, LLP, is recognized as one of California's premier business, insurance, and criminal defense law firms. The Newport Beach-based firm is engaged in general civil litigation and transactional practices, which include insurance coverage, business, estate planning, healthcare, real estate, and liability defense. The firm was founded in 1951 and has 16 partners and associates.

Services personnel establishing breach of agency contract. Ms. Taillon also pointed out numerous inconsistencies in the testimony of witnesses for Blue Shield.

### Result/Implication

After less than 18 months, the arbitration process ended successfully for WMC Insurance Services when a binding arbitration award in excess of \$3.8 million was issued in favor of the agency.

Importantly, Blue Shield of California paid the award in full within weeks. This prompt payment allowed WMC Insurance Services to avoid filing a Petition to Confirm the award as a judgment, saving additional time and legal costs.

According to Ms. Taillon, the award turned the table on the insurance giant, as Blue Shield's conduct essentially put WMC Insurance Services out of business. "As a result of the arbitration award, our client was able to re-establish a general insurance agency under a new name—Beta Benefits—purchase a building from which to operate the business, and continue to provide insurance agency services to date," she said. ■