

Managed Care Litigation Update™

NEWSWORTHY

District court grants employers and employee benefit plans preliminary injunction against Iowa PBM legislation, finding that the legislation is preempted as applied to ERISA plans, their sponsors, their fiduciaries, their administrators, their PBMs, and their beneficiaries. Among other provisions enjoined, the any-willing provider requirement and the prohibition on discriminating in participation and reimbursements were found to be preempted by ERISA. *Iowa Association of Business and Industry, et al. v. Doug Ommen*, USDC SD IA, No. 4:25-cv-211-SMR-WPK, (Doc. 54, filed Jul. 21, 2025).

District court grants summary judgment in part against provider seeking over \$6 million in unpaid claims associated with COVID-19 testing, finding that the an alleged violation of the FFCRA or CARES Act does not support a violation of the Connecticut Unfair Trade Practices Act, and that plaintiff's tortious interference claim cannot survive in the absence of any evidence of defamatory statements about plaintiffs. *Murphy Medical Associates, LLC, et al. v. CIGNA Health and Life Insurance Company, et al.*, USDC D. Conn., No. 3:20-cv-1675-VAB, 2025 WL 2022056, (Doc. 168, filed Jul. 18, 2025).

District court grants motion to dismiss claims of freestanding emergency clinics for lack of subject matter jurisdiction, finding that plaintiffs failed to carry their burden in a factual attack on subject matter jurisdiction, and holding that allegations alone do not overcome the valid and unambiguous anti-assignment provisions submitted in support of the motion. *ER Addison, LLC, et al. v. Aetna Health Inc., et al.*, USDC ND TX, No. 3:24-cv-1816-D, (Doc. 42, filed Jul. 3, 2025). Previously reported at *MCLU Vol. 253*. DISCLOSURE: I AM COUNSEL OF RECORD.

RECENTLY FILED ACTIONS

Removed action in which OON hospital seeks additional reimbursement of Medicare Advantage claims with dates of service from 2018 to 2022. Plaintiff asserts pharmaceutical claims under the 340B Program were to be paid at the average sales price ("ASP") plus 6% but that it was instead paid at ASP minus 22.5%.

ERISA plan alleges breach of fiduciary duty and prohibited transactions against PBM and asserts wrongful coverage of weight loss drugs in violation of the terms of the SPD. Plaintiff asserts over \$4 million in claims for weight loss drugs were wrongfully paid by PBM between June 2, 2019, and date of filing.

Hospital asserts breach of implied contract and quantum meruit based on the treatment of three members. Total billed charges were \$1,130,504.16, the total amount paid was \$437,151.95, and the alleged balance pursuant to the Blue Card obligations is \$108,402.12.

Upgrade to a Premium Subscription and receive case caption and court information to the cases discussed in this Basic Subscription version. A Premium Subscription also includes access to the searchable Managed Care Litigation Database®. For more information, visit:

<http://www.managedcarelitigationupdate.com/subscription-information/>

RECENTLY FILED ACTIONS

Removed action in which member seeks unspecified health benefits in an amount of \$25,000 per month in addition to alleged wrongful denial of certain prescription drug claims.

Removed action in which member seeks unspecified health benefits associated with treatment from January 19, 2023 to February 3, 2023. Basis of denial is not stated in underlying Petition.

OON provider of intraoperative neuromonitoring services seeks to collect NSA award involving 2 determinations. For CPT 95941, the award was \$7,000, and for CPT 95938, the award was \$4,900.

Non-profit hospital systems who opted out of class action settlement in a prior action (In re Blue Cross Blue Shield Antitrust Litig., MDL No. 2406, N.D. Ala., Case No. 2:13-cv-20000-RDP) assert unlawful horizontal market allocation, price-fixing and boycotting agreement in violation of Sherman Act.

OON pain management provider seeks to collect NSA award associated with CPT 20936. Billed charges were \$6,150.00, claim was denied, and award amount was \$5,500.00.

OON orthopedic surgeon seeks to collect NSA award associated with CPT 22845. Billed charges were \$45,800, allowed amount was \$94.59, and award was \$42,000.

OON provider of intraoperative neuromonitoring services seeks to collect NSA awards associated with CPT codes 95940, 95938, 95861, 95937 and 95939. Total billed charges were \$30,400, allowed amount was \$3,281.04 in total, and aggregate award amount was \$22,951.50.

OON orthopedic surgeon seeks to collect NSA awards associated with treatment of two members. For CPT 64721, billed charges were \$15,000, claim was denied, and the award was \$15,000. For CPT codes 23462, 20680 and 23420, total billed charges were \$150,000, the total amount paid was \$321.56, and the aggregate award amount was \$135,107.20.

OON orthopedic surgeon seeks to collect NSA award associated with treatment of 4 members. For CPT 27829-LT, billed charges were \$30,000, the allowed amount was \$1,400, and the award was \$6,670.77. For CPT 64491-RT, billed charges were \$5,700, the allowed amount was \$1,240, and the award was \$5,700. For CPT 29888-LT, billed charges were \$34,078, the allowed amount was \$204.76, and the award was \$25,558.50. For CPT 27447-LT, billed charges were \$70,955, the allowed amount was \$10,355, and the award was \$42,500.

OON orthopedic surgeon seeks to collect NSA awards associated with treatment of 4 members. For CPT 29827-LT, billed charges were \$25,950, the allowed amount was \$161.86, and the award was \$25,950. For CPT 27446-LT, billed charges were \$20,000, the allowed amount was \$366.19, and the award was \$20,000. For CPT 29823, billed charges were \$19,500, the allowed amount was \$5,548, and the award was \$19,500. For CPT 29807-RT, billed charges were \$23,460, the claim was denied, and the award was \$23,460.

OON plastic surgery provider seeks to collect NSA award associated with CPT 19380. Total billed charges were \$31,500, claim was denied, and award amount was \$31,500.

Member seeks ERISA benefits and contests plan's demand for reimbursement of \$617,193.70 in medical expenses paid between May 6 and October 24, 2022. The parties dispute whether the expenses arise out of an automobile accident and implicate third party liability or instead are due to preexisting conditions.

OON interventional pain management provider seeks to collect NSA award related to CPT codes 63047 and 63048. Billed charges were \$75,000 and \$19,050, respectively. Allowed amounts were \$1,397 and \$262.12, while corresponding award amounts were \$70,000 and \$18,787.88.

OON neurologist seeks to collect NSA awards related to CPT code 95720 on four members. For Member One, two units were billed at \$3,000 each, with an allowed amount of \$386.98 per unit, and award of billed charges. Member Two had four units billed at \$3,000 each, with an allowed amount of \$407 per unit and award of billed charges. For Member Three, one unit was billed at \$3,000, with an allowed amount of \$386.98, and award amount at \$3,000. Member Four had six units that were billed at \$3,000 each, with an allowed amount of \$407.99 per unit and award of billed charges.

OON plastic surgeon seeks to collect NSA award with 12 determinations. The awards were \$6,900 for CPT 22853; \$6,950 for CPT 22830; \$14,800 for CPT 22633; \$4,600 for CPT 22634; \$1,280 for CPT 20939; \$42,800 for CPT 15734; \$475 for CPT 13101; \$3,000 for CPT 13102; \$3,800 for CPT 63052; \$10,500 for CPT 63053; \$6,800 for CPT 22842; and \$450 for CPT 99223.

OON surgeon seeks to collect NSA award associated with CPT code 11043. Billed charges were \$5,592, the allowed amount was \$171.77, and the award was \$5,592.

OON provider of intraoperative neuromonitoring services seeks to collect NSA award with 4 determinations. The awards were \$13,800 for CPT 95941; \$700 for CPT 95937; \$11,600 for CPT 95939; and \$7,000 for CPT 95938.

ONN plastic surgeon to collect NSA award associated with CPT code S2068. Total billed charges were \$107,399.25, the amount allowed was \$924.46, and the award was \$89,000.

Member seeks ERISA benefits associated with psychotherapy treatment, alleging wrongful denial based on lack of preauthorization, failure to provide full and fair review of claims, and refusal to produce relevant documents.

OON orthopedic surgeon seeks to recover benefits related to five CPT codes that were denied. CPT 20936 was billed at \$6,600 with an award of \$5,500.00; CPT 22855 was billed at \$75,000 with an award of 60,000; CPT 22853-59 was billed at \$50,000 with an award of \$40,000; CPT 22856-22 was billed at 137,000 with an award of 114,000; and CPT 20930 was billed at 6,000 with an award of \$6,000.

OON provider groups allege market allocation conspiracy and associated antitrust claims against BCBS licensees.

Member seeks over \$59,000 in ERISA benefits associated with residential treatment at New Vision Wilderness and assert violations of MHPAEA. Claim was denied on the grounds that wilderness therapy is considered experimental, investigational, or unproven.

OON plastic surgeon and alleged assignee seeks to recover unspecified amount of benefits associated with list of allegedly underpaid emergency claims.

OON pain management surgeon seeks to collect 2 NSA awards. For CPT code 11760, billed charges were \$7,875, the allowed amount was \$1,251.48, and the award was \$7,481.25. For CPT code 26410, billed charges were \$12,400, the claim was denied, and the award was \$9,600.

OON pain management provider seeks to recover NSA awards associated with treatment of 2 members. For Member One, awards were \$40,000 per unit for CPT 22853, \$3,200 for CPT 20930, \$85,371.50 for CPT 22551, and \$36,700 for CPT 22846. For Member Two, for each of 3 units of CPT 62290, billed charges were \$12,500, the allowed amount was \$77.80, and the award was \$6,001.50 per unit.

OON cosmetic, reconstructive and hand surgeon seeks to recover NSA awards associated with treatment of five members. For Member One, two units of CPT S2068 were billed at \$75,000 each, plan allowed \$14,979.28 per unit, and the award was \$75,000 each. For Member Two, CPT 13122 was billed at \$13,500, the claim was denied, and the award was \$13,500. For Member Three, CPT 15860 was billed at \$3,275, the amount allowed was \$277.22, and the award was \$3,275, and CPT 13101 was billed at \$9,475, the claim was denied, and the award was \$9,475. For Member Four, CPT26010-LT was billed at \$3,200, CPT 20611 at \$1,340 and CPT 11042 at \$1,400, the allowed amounts were \$228.50 for CPT 26010-LT, \$164.12 for CPT 20611, and \$60.59 for CPT 11042; and the respective awards were \$3,200, \$961.40, and \$1,400. For Member Five, CPT 13152 was billed at \$30,000, the claim was denied, and the award was \$29,619.02.

OON orthopedic surgeon seeks to recover NSA awards associated with CPT codes 27829 and 29515. Billed charges were \$30,000 and \$850, respectively. Plan allowed \$646.53 for 27829 and denied 29515. Award amounts were \$23,559.47 and \$850.

OON neurophysiology provider seeks to collect NSA award in the amount of \$37,064 associated with CPT codes 95941, 95938, 95939, and 95861.

OON air ambulance provider seeks to collect two NSA awards with an alleged outstanding balance of \$13,376.33.

OON vascular surgeon seeks to collect NSA award associated with CPT code 37617. Billed charges were \$10,000, the claim was denied, and the award was \$10,000.

Removed action in which emergency cardiologist challenges reimbursement with respect to treatment of 5 members. Plaintiff asserts a total underpayment of \$1,003,110.14 based on the difference between billed charges and the paid amount. Plaintiff asserts a single cause of action for quantum meruit.

Member seeks ERISA benefits and asserts underpayment associated with residential treatment at Oasis Ascent. The allowable amount was determined as the lowest amount paid by the plan for the same or similar service from a network provider.

OON orthopedic and neurosurgical care provider seeks to recover NSA awards for services provided to two members. For Member One, billed charges for CPT 63030-22 were \$100,000 and for CPT 63035-22 were \$62,500.00, plan allowed \$1,156.22 and \$220.27, respectively, and corresponding awards were \$91,000 and \$31,000. For Member Two, billed charges for CPT 61107 were \$40,048 and for CPT 62256 were \$38,864, plan allowed \$469.76 and \$855.06, respectively, and corresponding awards were \$23,000 and \$10,557.

Removed action in which OON hospital system asserts unjust enrichment claim asserting underpayment of over 12,000 claims involving emergency services.

OON orthopedic surgeon seeks to recover NSA award associated with CPT 22612. Billed charges were \$85,000, the claim was denied, and the award was \$79,000.

OON orthopedic surgeon seeks to recover NSA award associated with CPT 23472-LT. Billed charges were \$42,665, the claim was denied, and the award was \$42,665.

OON orthopedic surgery practice seeks to collect NSA awards for treatment of two members. Billed charges for CPT 29879 were \$30,000, the claim was denied, and the award was \$21,096. For Member Two, billed charges for CPT 64772 were \$34,800, the claim was denied, and the award was \$21,871.

OON orthopedic surgeon seeks to recover NSA award associated with CPT 29881-LT and 29874-LT, each with billed charges of \$14,700. Plan allowed \$796.12 for CPT 29881-LT, and award was \$13,500. The claim for CPT 29874-LT was denied, and the award was \$14,700.

OON plastic surgeon seeks to recover 5 NSA awards: \$13,018.15 for CPT 19318; \$4,200 for CPT 14001; \$2,332.82 for CPT 19342; \$2,300 for CPT 38530; and \$26,037 for CPT 19318.

Hospital group joins MDL asserting anticompetitive conduct involving use of Multiplan to determine OON reimbursement amounts.

Member seeks ERISA benefits associated with residential treatment at Open Sky and Catalyst, along with related transportation. Plaintiff asserts violations of state and federal mental health parity laws. The Open Sky claim was denied as excluded wilderness therapy, and the Catalyst claim was denied as not medically necessary.

Removed action in which hospital and alleged assignee seeks ERISA benefits associated with treatment following automobile accident. The basis for denial or nonpayment is not stated in the underlying complaint.

Member seeks ERISA benefits associated with residential treatment at Solacium Sunrise and asserts underpayment of covered claims in addition to wrongful denials. Plaintiff asserts violations of state and federal mental health parity laws. Certain claims were denied as no longer medically necessary.

OON plastic surgeon seeks to collect 2 NSA awards. For CPT 19318-50, billed charges were \$31,500, the amount paid was \$1,490.10, and the award was \$31,500. For CPT 13101, billed charges were \$9,000, the amount paid was \$344.03, and the award was \$9,000.

MCLU is online and searchable.

The underlying database to this publication, containing approximately 5,000 federal cases reported in this publication, is online. The Case Description field is word searchable. Searches can also be performed by Payer, Date Range, District Court and/or Court of Appeal, citation, or Judge. Past issues are available for immediate download.

Access requires an upgrade to a [Premium Subscription](#).

MANAGED CARE LITIGATION UPDATE®
Search Case Results
Contact
Admin -
Hello jherman@herman-lawfirm.com!
Log off

Search

Payer
Plaintiff Name
Date Range

District Court
Court of Appeal

Select Payer
MCLU Vol#

Case Name and Docket No.
Case Description
Judge

Show 10 entries

Payer	Defendant	Plaintiff	Date	District Court	Court of Appeal	MCLU Vol#	Case Name and Docket No.	Case Description	Judge
CIGNA	Cigna Health and Life Insurance Company	Cara Z	2016-3-7	S.D. FL	Eleventh	52	Cara Z v. CIGNA Health and Life Insurance Company, U.S.D.C. S.D. FL, Doc. No. 1:16-cv-20849-DPG, (f...	Minor child seeks recovery of mental health benefits associated with residential treatment at Olive...	Darrin P. Gayles
BCBS	Excellus Blue Cross Blue Shield	Kirby L.	2016-10-3	N.D. NY	Second	66	Kirby L. v. Excellus Health Plan, Inc., et al., U.S.D.C. N.D. NY, Doc. No. 3:16-cv-01195-DNH-DEP, (f...	Plaintiff, who suffers from an eating disorder, depression, and anxiety, seeks recovery of mental h...	David N. Hurd
UNITED	United Healthgroup, Inc.	Jamie Bushell	2017-3-19	S.D. NY	Second	77	Jamie Bushell, et al. v. United Healthgroup, Inc., et al., U.S.D.C. S.D. NY, Doc. No. 1:17-cv-02021-...	Putative class action in which plaintiff, who suffers from anorexia nervosa, contends defendants den...	J. Paul Oetken

ADDITIONAL NEWSWORTHY (REGULATORY)

Oregon Legislature passes act requiring a health plan covering breast reconstruction to cover autologous breast reconstruction and associated medically necessary services on a basis no less favorable than the coverage of other breast reconstruction services. The act also adds network adequacy standards associated with the provision of autologous breast reconstruction. 2025 Oregon Laws S.B. 1137 (West's No. 508) (amending ORS 743B.001).

[Mitchell Hasenkampf](#) leads the firm's compliance practice group, which advises clients on matters including utilization review and prompt pay requirements for government and commercial plans, Member incentives, marketing and member communications, and Grievance and Appeal processes.

ABOUT THE AUTHOR



Jonathan M. Herman is the founding member of [Herman Law Firm](#), which represents health insurers, plan administrators, and self-funded plans in reimbursement disputes and compliance matters. He is also on the Roster of Arbitrators for the American Arbitration Association (Healthcare, Commercial) and a Neutral for the American Health Lawyers Association.

H **Herman Law Firm**
TEXAS • LOUISIANA • MISSISSIPPI • MASSACHUSETTS • IOWA • CALIFORNIA*
*Licensed in California as Jonathan M. Herman, P.C.

Managed Care Litigation Update is a registered trademark of Jonathan M. Herman, LLC