

# Managed Care Litigation Update™

## NEWSWORTHY

District court dismisses counterclaims of laboratory that asserted \$26 million in wrongfully-denied COVID-19 testing claims, finding that the laboratory failed to sufficiently plead exhaustion of its administrative remedies. *Aetna Life Insurance Company v. Fast Lab Technologies, LLC, et al.*, USDC SD NY, No. 1:24-cv-2057-PKC, 2025 WL 2463706, (Doc. 62, filed Aug. 27, 2025). Previously reported at *MCLU Vol. 245*.

District court grants cross-motion for summary judgment to ERISA plan, finding that plan's accreditation requirements of residential treatment facilities did not violate MHPAEA because there was no facial disparity in the plan's accreditation terms, and no evidence of disparate application of such terms. *A.H. v. Healthkeepers, Inc.*, USDC D UT, No. 2:22-cv-368-TS-CMR, 2025 WL 2463195, (Doc. 63, filed Aug. 26, 2025). Previously reported at *MCLU Vol. 202*.

District court dismisses NSA and FAA claims of New Jersey neurophysiologist against Illinois insurer, finding that the court had no personal jurisdiction over the out-of-state defendant and that the services of an out-of-state, out-of-network physician to a member of the insurer were not sufficient to establish specific jurisdiction. *Elite Neurophysiology LLC v. Blue Cross Blue Shield of Illinois*, USDC D NJ, No. 2:25-cv-1735-SDW-LDW, 2025 WL 2388404, (Doc. 14, filed Aug. 18, 2025). Previously reported at *MCLU Vol. 268*.

## RECENTLY FILED ACTIONS

OON orthopedic surgeon seeks to collect four NSA awards totaling \$29,896.50 associated with seven billed CPT codes.

OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 29828 and 29823. Billed charges were \$22,718 and \$19,500, respectively. Payments allowed were \$749 and \$209.13. Award amounts were \$22,718 and \$19,500.

OON surgeon seeks to collect NSA award associated with CPT code 47563. Billed charges were \$62,889.71 and award amount was \$62,889.71.

OON neurophysiologist seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 95861, 95939, 995938 and two units of 95941 were billed at \$38,475, total payment allowed was \$730.14, and aggregate award amount was \$4,352.95. For Member Two, CPT 95939 was billed at \$15,000, payment allowed was \$136.55, and award amount was \$15,000.

**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

OON plastic surgeon seeks to collect NSA awards associated with CPT 19318-50 for treatment of three members, each billed at \$150,000. The allowed payments were \$2,280.71, \$5,51.02, and \$1,255.52. The award was \$112,500 for each claim.

OON pain management specialist seeks to collect NSA award associated with CPT 27792. Billed charges were \$39,774, the allowed amount was \$997.20, and award was \$29,830.50.

OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 29888 and 29823. Total billed charges were \$64,078, total payment allowed was \$1,966.14, and the aggregate award was \$64,078.

Removed putative class action in which members assert violation of the UTPCPL and seek injunctive relief to stop termination of pharmacy from provider network, patient steering to PBM-affiliated pharmacies, and other alleged anticompetitive conduct.

Removed action in which network pharmacies assert breach of contract and violations of state unfair trade practices laws and assert underpayment for generic and brand drugs, discriminatory reimbursement practices, and unlawful claw backs.

OON surgical neurophysiologist seeks to collect NSA award associated with CPT 95941 billed at \$5,870. Payment allowed was \$466.48 and award amount was \$5,870.

Non-profit hospital systems that 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 plastic surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT 19318 was billed at \$194,628, payment allowed was \$182.46, and the award amount was \$112,500. For Member Two, CPT 19318 was billed at \$194,628, payment allowed was \$2,280.71, and the award amount was \$112,500. For Member Three, CPT codes 13121 and four units of 13122 were billed at \$78,356.80, the claim was denied, and the aggregate award was \$28,019.80.

OON radiologist seeks to collect NSA award associated with CPT 22554. Billed charges were \$103,320, payment allowed was \$460.04, and the award amount was \$50,000.

LTAC hospital seeks ERISA benefits related to treatment of two members whose claims were denied for lack of medical necessity. Hospital asserts a right to payment on the first claim from implied-in-fact and oral contracts, and for the second claim, the alleged right to payment arises from a letter of agreement.

OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 63047 and 63048 billed at \$85,000 and \$27,000, respectively. Payments were allowed at \$3,032.30 and 561.03, and award amounts were \$85,000 and \$27,000.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 13101, 13102, 19318-LT and 19318-RT. Total billed charges were \$91,900, payment allowed was \$5,338.76 in total, and the aggregate award was \$91,800.

OON plastic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 19364-RT and 19364-LT were billed at \$150,000 each, payment allowed was \$366.82 each, the aggregate award was \$95,000. For Member Two, CPT 14301 was billed at \$51,658, payment allowed was \$75.22, and the award amount was \$38,743.50.

Removed action in which OON urgent and family care provider asserts underpayment of claims for treatment of 579 members for monoclonal antibody treatment and COVID-19 Testing, and to 356 members for CPT M0223 or IV for COVID treatment. Basis of payment and/or denials not specified.

Removed action in which insurer asserts drug manufacturer engaged in anticompetitive conduct by unlawfully extending patent protection for the drug Enbrel, thereby blocking biosimilar competition and causing inflated prices.

OON neurophysiologist seeks to collect NDS awards related to treatment of two members. For Member One, CPT codes 95938 and 95861 were billed at \$9,175 and \$5,337, respectively. Both claims were denied, and the aggregate award was \$11,641. For Member Two, CPT 95938 was billed at \$9,175, the claim was denied, and award amount was \$9,175.

OON orthopedic surgeon seeks to collect NSA awards related to treatment of four members. For Member One, CPT codes 63052 and 22634 were billed for a total of \$45,151, the claims were denied, and the aggregate award was \$45,151. For Member Two, CPT 22583 was billed at \$86,042, the claim was denied, and the award was \$86,000. For Member Three, CPT 22612 was billed at \$56,656, the allowed payment was \$2,220.55, and the award was \$56,656. For Member Four, CPT codes 22853 and 22842 were billed for a total of \$120,042, the total payment allowed was \$521.05, and the aggregate award was \$120,000.

OON plastic surgeons seek ERISA benefits related to services of primary and assistant surgeons for CPT 15734, spinal muscle flap closures. The claims were denied due to lack of medical necessity, insufficient documentation, or unsupported procedures. Plaintiff asserts this procedure is part of the standard of care following certain spinal surgeries.

Removed action in which OON neurosurgical spine institute alleges negligent misrepresentation and promissory estoppel and asserts underpayment for CPT codes 22630, 22840, 22853 and 69990 based on alleged representations regarding payment of UCR.

OON air ambulance provider seeks to collect balance of NSA award in amount of \$93,594.00. Billed charges were \$235,782 and the total paid was \$18,980.75.

OON plastic surgeon seeks to collect NSA award associated with CPT 19318-RT. Billed charges were \$55,900, payment allowed was \$1,604.63, and the award amount was \$55,900.

OON physician assistant seeks to collect NSA award associated with CPT 25607. Billed charges were \$23,737, payment allowed was \$206.86, and award amount was \$10,400.

OON surgical assistant seeks to collect NSA award associated with CPT 27422. Billed charges were \$35,000, the payment allowed was \$105.54, and the award amount was \$18,080.86.

OON pain management specialist seeks to collect NSA awards related to treatment of three members whose claims were all denied. For Member One, CPT codes 22551, 22552, and 22853 were billed at \$292,700 and the total award was \$250,000. For Member Two, CPT codes 63077 and 63078 were billed at \$100,200 and the total award was \$54,160. For Member Three, CPT 63045 was billed at \$66,500 and the award was \$63,000.

OON plastic surgeon seeks to collect NSA award associated with CPT 14302. Billed charges were \$27,302, the payment allowed was \$52.57, and the award was \$27,302.

OON neurophysiologist seeks to collect NSA awards related to treatment of three members whose claims were each denied. For Member One, CPT codes 95939, 95938, 95937, 95861 and two units of 95991 were billed at \$36,800, and the total award was \$36,530. For Member Two, CPT codes 95938, 95937, 95861 and four units of 95941 were billed at \$31,200, and the total award was \$30,704.80. For Member Three, CPT codes 95939, 95938, 95937 and three units of 95941 were billed at \$41,500, and the total award was \$41,123.10.

OON pain management specialist seeks to collect NSA awards related to treatment of two members. For Member One, CPT 64635 was billed at \$21,900, payment allowed was \$421.80, and the award amount was \$13,500. For Member Two, CPT 64483 was billed at \$29,120, the payment allowed was \$18,750, and the award amount was \$20,250.

Acute care hospitals that are in network with the Host BCBS plan but not the home plan seek ERISA benefits and damages for breach of implied-in-fact contracts and implied-in-law contracts related to treatment of four members provided under the BlueCard program. Plaintiffs assert amounts owed of \$35,816, \$93,205.06, \$27,950, and \$71,651.90, respectively.

OON plastic surgeon seeks to collect NSA awards related to treatment to two members. For Member One, CPT codes 19318 and 64450 were billed at \$209,628, the total allowed payment was \$301.00, and the total award was \$127,500. For Member Two, CPT 15771 was billed at \$15,000, the claim was denied, and the award was \$11,250.

OON reconstructive plastic surgeon seeks to collect NSA awards associated with CPT codes 19340, 15777 and 64450. Total billed charges were \$265,800, the payment allowed was \$2,535.81 in total, and the aggregate award was \$144,600.

OON neurophysiologist seeks to collect NSA awards related to treatment of two members whose claims were each denied. For Member One, CPT codes 95940, 95938, 95885 and 95908 were billed at \$20,500, and total award amount was \$19,180. For Member Two, CPT codes 95940, 95938, 95939 and 95861 were billed at \$48,812, and total award amount was \$41,569.60.

Member seeks \$58,375 in ERISA benefits for inpatient treatment at Richard J. Caron Foundation Treatment Center. Plaintiff asserts that coverage was pre-approved through August 11, 2021 and denied as not medically necessary thereafter, yet even the pre-approved portion was not reimbursed.

OON plastic surgeon seeks to collect 4 NSA awards in the amounts of \$8,291 for CPT 32900, \$14,500 for CPT 19342, \$42,294 for CPT 15570, and \$17,396.20 for CPT 19316.

Removed action in which OON air ambulance provider seeks \$82,429.04 in benefits pertaining to transportation from Hawaii to Palo Alto, California. Plaintiff asserts the insurer agreed to pay \$42,800 but only paid \$2,624.69, and that the balance has accrued interest for over 2,100 days.

OON plastic surgeon seeks to collect 3 NSA awards. For CPT 14302, billed charges were \$139,588.80, the amount allowed was \$41,600, and the award was \$121,344. For CPT 19350, billed charges were \$110,096, the amount allowed was \$11,775, and the award was \$98,321. For CPT 15777, billed charges were \$70,800, the amount allowed was \$4,365, and the award was \$53,100.

OON provider of intraoperative neurophysiological monitoring seeks to collect NSA awards associated with treatment of 8 members. The aggregate alleged balances are \$33,385.92, \$45,801.30, \$42,086.71, \$26,630.29, \$49,794.99, \$45,376.03, \$46,295.43, and \$37,689.09.

OON spine surgeon seeks to collect NSA award associated with CPT 22558-62. Billed charges were \$87,540.12, the allowed amount was \$1,234.51, and the award was \$70,080.

OON plastic surgeon seeks to collect NSA award associated with CPT 19318. Billed charges were \$80,000, the allowed amount was \$483.71, and the award was \$40,000.

OON provider of intraoperative neuromonitoring seeks to collect NSA awards associated with treatment of 4 members. The aggregate balances are \$35,091.97 for CPT codes G04530-XS (7 units), 95938-26, 95939-26, and 95861-26; \$3,415.67 for 3 units of CPT G0453-XS; \$31,852.87 for CPT codes G0453-XS (4 units), 95938-26, 95939-26, and 95861-26; and \$11,133.62 for CPT code 95939-26.

Removed action in which estate seeks recovery against Medicare Advantage plan after deceased member passed away after a fall at a nursing home. Member's request for a higher level of care had been denied prior to the fall.

OON provider of intraoperative neuromonitoring seeks to collect NSA awards associated with treatment of 7 members. The aggregated alleged balances are \$26,219.28, \$24,761.48, \$9,417.93, \$9,125.68, \$4,868.04, \$43,340.84, and \$28,040.71.

OON air ambulance provider seeks to collect NSA award. Billed charges were \$468,427, the amount paid was \$22,363.13, and the amount of award was \$468,427.

OON plastic surgeon seeks to collect 3 NSA awards associated with CPT 19318. The first was billed at \$150,000, \$2,520.73 was paid, and the award was \$150,000. The second was billed at \$75,000, the claim was denied, and the award was \$75,000. The third was billed at \$97,314, the claim was denied, and the award was \$97,314.

OON plastic surgeon seeks to collect NSA award associated with CPT 19318. Billed charges were \$97,314, the allowed amount was \$1,852.30, and the amount of award was \$97,314.

OON physician seeks to recover NSA award associated with CPT 63030. Billed charges were \$50,000, the amount allowed was \$150.54, and the award was \$50,000.

OON nurse and surgical assistant seeks to collect NSA award associated with CPT 27447-AS-LT. Billed charges were \$50,000, the allowed amount was \$192.27, and the amount of award was \$41,000.

Removed action in which pro se physician asserts underpayment of CPT codes 99233 and two instances of 99232. Total billed charges were \$1,630 and the total allowed amount was \$290.64.

Alleged assignee of OOn neurologist seeks to collect 4 NSA awards. The awards were \$3,700 for CPT 95941, \$6,000 for CPT 95939, \$5,600 for CPT 95938, and \$2,200 for CPT 95927.

Insurer files sealed complaint asserting fraudulent use of state and federal Independent Dispute Resolution regimes by submitting knowingly ineligible claims.

Member seeks over \$63,000 in benefits associated with residential treatment at Open Sky Wilderness Therapy and asserts violations of MHPAEA. Basis of denial was a wilderness therapy exclusion.

Removed action in which OON facility seeks \$712,529.22 associated with emergency services provided to members. Plaintiff asserts claims for breach of implied contract and quantum meruit.

Removed action in which postal worker challenges the subrogation interest of the Department of Labor and its administrator Community Insurance Company following personal injuries suffered while delivering the mail.

Removed action in which laboratory seeks benefits and asserts underpayment and wrongful denials of Covid-19 testing claims.

OON neurosurgeon seeks to collect NSA award associated with CPT codes 20930, 22551, 22552, 22800, 22846, and 22853. Total billed charges were \$435,146.26, the total amount allowed was \$7,459.67, and the total award was \$409,000.

OON plastic surgeon seeks to collect 3 NSA awards associated with CPT 19318-50-80. The first was billed at \$150,000 and the award was \$112,500. The second was billed at \$194,628, and the award was \$112,500. The third was billed at \$150,000 and the award was \$112,500.

OON neurophysiologist seeks to collect 6 NSA awards with alleged outstanding balances of \$24,237.80, \$23,944.03, \$38,169.60, \$54,009.60, \$26,785.57, and \$39,644.

OON provider of intraoperative neuromonitoring seeks to recover NSA awards associated with treatment of 9 members. The alleged outstanding balances are \$35,453, \$51,696.55, \$47,431.98, \$33,175, \$32,063.27, \$15,000, \$14,863.45, \$8,681.44, \$16,325.13, and \$739.38.

OON orthopedic surgeon seeks to collect 2 NSA awards. For CPT 27236, billed charges were \$29,000 and the allowed amount was \$1,765.04. For CPT 99223, billed charges were \$1,250 and the allowed amount was \$0. The combined award was \$26,940.54.

OON plastic surgeon seeks to collect NSA award associated with CPT codes 11045 and 14302. Total billed charges were \$207,748.80, the total allowed was \$596.74, and the total award was \$193,520.06.

Member seeks over \$61,000 in benefits associated with residential treatment at New Vision Wilderness Therapy and asserts violations of MHPAEA. The claim was denied as unproven and not medically necessary wilderness therapy.

OON plastic surgeon seeks to collect NSA award associated with CPT code 49592-80. Billed charges were \$24,043, the amount allowed was \$98.60, and the award was \$24,043.

OON plastic surgeon seeks to collect NSA award associated with CPT codes 15771 and 11970-RT-59. Total billed charges were \$90,000, the total amount allowed was \$1,185.09, and the total award was \$86,000.

Hospital seeks \$1,446,172.73 in benefits pursuant to a Transplant Service Agreement with insurer. Plaintiff asserts it provided services to member under the agreement and has not been adequately reimbursed.

Member seeks ERISA benefits associated with residential treatment at Elevations RTC and asserts violations of MHPAEA. The claim was denied because the facility was designated as not available for authorization.

Member seeks ERISA benefits associated with residential treatment at Blue Ridge Therapeutic Wilderness and Treatment Solutions Kaizen Academy and asserts violations of MHPAEA. The Blue Ridge claim was denied as excluded wilderness therapy. The Kaizen claim was paid but plaintiff asserts the rates were inconsistent and inadequate.

## 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
To
Select District Court
Select Court of Appeal

MCLU Vol#
Case Name and Docket No.
Case Description
Judge

eating disorder
Search
Get PDF

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)

Delaware Legislature amends the state utilization review requirements, mandating a 6-month notice to members prior to any changes to utilization review terms unless those changes are due to clinical guideline changes or relevant FDA published safety information. The legislation adds licensure qualifications for UR personnel and response deadlines. 2025 Delaware Laws Ch. 176 (S.B. 12) (approved Aug. 25, 2025).

[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.



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