

# Managed Care Litigation Update<sup>TM</sup>

## NEWSWORTHY

Eleventh Circuit sitting *en banc* rules that a county's coverage exclusion for "sex change" and "reversal of a sex change" in its employer-provided health insurance policy does not violate Title VII of the Civil Rights Act, reversing the district court. *Lange v. Houston County, Georgia, et al.*, USAC 11<sup>th</sup> Cir., No. 22-13626, — F.4<sup>th</sup> —, 2025 WL 2602633, (Doc. 173, filed Sep. 9, 2025).

District court dismisses with prejudice claims of OON orthopedic group seeking ERISA benefits, finding the policies each contain anti-assignment clauses that render ineffective the purported assignments of benefits. *The Central Orthopedic Group, LLP v. Aetna Life Insurance Company*, USDC ED NY, No. 2:24-cv-7014-BMC, 2025 WL 2549995, (Doc. 19, filed Sep. 4, 2025). Previously reported at *MCLU Vol. 258*.

District court finds that Colorado state law prohibition on anti-assignment provisions applies via the ERISA savings clause such that the anti-assignment provisions cannot apply, granting in part and denying in part motions to dismiss. *CSMN Operations LLC, et al. v. Aetna Life Insurance Co., et al.*, USDC D CO, No. 1:24-cv-368-NYW-RTG, 2025 WL 2513588, (Doc. 79, filed Sep. 2, 2025). Previously reported at *MCLU Vol. 242*.

District court dismisses with prejudice claims of \$13 million underpayment by COVID-19 testing laboratory, finding no cause of action was stated under ERISA, breach of third-party contract, quantum meruit, or negligence. *Abira Medical Laboratories, LLC v. Blue Cross Blue Shield of Florida, Inc.*, USDC MD FL, No. 3:23-cv-1092-TJC-SJH, 2025 WL 2644763, (Doc. 80, filed Sep. 15, 2025).

## RECENTLY FILED ACTIONS

OON provider of intraoperative monitoring services seeks to collect NSA award with 5 determinations. The awards were \$4,000 for CPT 95939, \$3,000 for CPT 95938, \$500 for CPT 95909, \$350 for CPT 95937, and \$500 for CPT 95886.

OON plastic and reconstructive surgeon seeks to collect NSA award associated with CPT 15734-LT. Billed charges were \$42,200, the payment allowed was \$2,276.21, and the award amount was \$39,965.71.

OON plastic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT 19318-50-80 was billed at \$150,000, the payment allowed was \$321.41, and the award amount was \$112,500. For Member Two, CPT codes 1930-50, 14301, 11045-59, 14302, and 19120-80-LT were billed at \$545,346.60, the total payment allowed was \$143,405, and the aggregate award was \$293,378.10.

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## RECENTLY FILED ACTIONS

OON neurosurgeon seeks to collect NSA awards associated with CPT codes 22585, 22845, 61783, 22614 and 22842. Total billed charges were \$232,450, the payment allowed was \$2,848.59, and the aggregate award was \$222,450.

OON plastic and reconstructive surgeon seeks to collect NSA awards associated with CPT codes 15830, 19318 and 64450. Total billed charges were \$299,628, the payment allowed was \$1,593.21, and the award amount was \$144,235.50.

OON plastic and reconstructive surgeon seeks to collect NSA award associated with CPT 19318. Billed charges were \$150,000, the claim was denied, and the award amount was \$75,000.

OON neuromonitoring provider seeks to collect NSA awards related to treatment of nine members. The awards were \$40,242.40, \$30,810, \$6,881.25, \$24,000, \$13,500, \$45,075, \$32,276, \$37,244.60, and \$26,000.

OON pediatric orthopedic surgeon seeks to collect NSA awards related to treatment to two members. For Member One, CPT codes 99283 and 27750 were billed at \$9,597, the payment allowed was \$257.46, and the award was \$8,965. For Member Two, CPT 27750 was billed at \$8,815, the payment allowed was \$377.14, and the award was \$8,183.60.

OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 22842, 63842 and 63048. Total billed charges were \$164,900, the payment allowed was \$864.04, and the aggregate award was \$39,900.

OON intraoperative neurophysiologist seeks to collect NSA awards associated with CPT codes 95886 and 95941. Total billed charges were \$20,000. The payment allowed was \$428.99, and the aggregate award was \$18,581.

Removed action in which OON plastic surgeon seeks to collect NSA award associated with 12 CPT codes and totaling \$95,598 in billed charges. The total payment allowed was \$347.87, and three claims were denied. The aggregate award was \$57,337.53.

Putative class action seeking ERISA benefits, breach of contract for enrollees in non-ERISA plans, and violations of MHPAEA and CUTPA, alleging failure to ensure adequate mental health networks, inaccurate provider directories, and denial of promised benefits.

OON orthopedic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 29876-59-RT, G0289-RT, and 29880-RT were billed at \$33,340, the claim was denied, and the award amount was \$25,005. For Member Two, CPT 25605-RT was billed at \$11,672, the payment allowed was \$670.68, and the award was \$11,672.

OON orthopedic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT 29879 was billed at \$30,000, payment allowed was \$829.92, and the award amount was \$4,796.38. For Member Two, CPT 22612 was billed at \$127,800, the payment allowed was \$346.84, and the award amount was \$93,000.

OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 22552-AS, 22551-AS, 22552, 22853, 22846-59, 22552-59 and 20936. Total billed charges were \$290,300, the payment allowed was \$2,925.20, and the award amount was \$231,842.70.

Removed action in which member seeks ERISA benefits and asserts wrongful denial of coverage for Dorsal Column Stimulator implantation to treat Complex Regional Pain Syndrome. The denial was based on medical necessity.

OON acute care surgeon seeks to collect NSA award associated with CPT 47562. Billed charges were \$52,685.61, the claim was denied, and the award amount was \$30,000.

OON neurophysiologist seeks to collect NSA awards related to treatment of six members in the amounts of \$35,175, \$48,664, \$9,175, \$9,175, \$26,495, and \$18,864.

Removed action in which OON providers seek benefits and assert underpayment associated with lumbar hemilaminectomy and microdiscectomy. The surgeon's billed charges were \$64,246 and the allowed amount was \$4,000. The surgical assistant billed \$61,734 and the amount allowed was \$8,840.64.

OON vascular surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT codes 22558, 22853 and 37617 were billed at \$85,000, the claim was denied, and the aggregate award was \$85,000. For Member Two, CPT codes 22853, 22558 and 22585 were billed at \$120,000, the payment allowed was \$1,939.62, and the aggregate award was \$110,000. For Member Three, CPT codes 22585 and 22853 (two units) were billed at \$135,000, the payment allowed was \$177.05 and the aggregate award was \$132,000.

Putative class action in which member challenges the categorical exclusion of coverage for Zepbound on the grounds Zepbound is the only FDA approved medication to treat obstructive sleep apnea. Plaintiff asserts the denial violates ERISA and the plan terms.

OON surgical institute and alleged assignee seeks ERISA benefits related to treatment of two members and asserts wrongful denials and underpayment of preauthorized claims. Total billed charges were \$79,879.10 and the allowed payment was \$872.74.

OON orthopedic surgeon seeks to collect NSA award associated with CPT codes 99284-25-57 and 13131. Total billed charges were \$18,554, the payment allowed was \$695.65, and the total award amount was \$18,554.

OON vascular surgeon seeks to collect NSA awards associated with CPT codes 22558-62 and 22585-62. Total billed charges were \$57,463, the payment allowed was \$747.91, and the aggregate award was \$57,463.

OON plastic surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT 15830 was billed at \$60,000, the claim was denied, and the award amount was \$60,000. For Member Two, CPT 19318-RT was billed at \$75,000, the payment allowed was \$592.04, and the award amount was \$75,000. For Member Three, CPT 19318-RT was billed at \$75,000, the payment allowed was \$1,050.04, and the award amount was \$75,000.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 19364-62-RT, 19364-62-LT, 21600-62-RT, 19364-62-RT, 19364-62-LT, 64912, 64910-62-LT and 38530. Total billed charges were \$791,207.20, claim was denied, and the award amount was \$470,103.10.

Removed action in which OON neurosurgeon seeks recovery of over \$697,000 related to 20 allegedly delinquent NSA awards for treatment provided to nine members.

OON hand nerve surgeon seeks to collect NSA awards associated with CPT codes 21933 and 13101-59. Total billed charges were \$6,950, claim was denied, and the award amount was \$5,212.

Hospital system that is in network with BCBS California alleges breach of implied contract and non-payment of services rendered to three members affiliated with out-of-state BCBS entity. Aggregate billed charges were \$920,268.50 with alleged contract rate of \$572,495.20.

Member seeks over \$65,000 in ERISA benefits associated with residential treatment at Confluence Behavioral Health and asserts violations of MHPAEA. Claim was denied for lack of medical necessity.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 11971-RT, 11971-LT, 19371-LT and 35590. Total billed charges were \$51,298.30, claims were denied, and the aggregate award was \$49,955.

Removed action in which OON freestanding emergency center asserts underpayment in violation of Texas Insurance Code's Emergency Care Statutes. Billed charges were \$419,969.85 and the amount paid was \$43,359.

Member seeks benefits associated 9 months of residential treatment at Sedona Sky Academy and asserts violations of MHPAEA. Grounds for denial included lack of medical necessity and limitation on the amount of treatment covered under the plan.

OON air ambulance provider seeks to vacate arbitrator's decision, asserts it was not provided adequate notice of the arbitration, and argues the decision was based on incorrect information.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 32900-RT, 35703-LT and S2068-RT. Total billed charges were \$114,059.40, claims were denied, and the aggregate award was \$85,284.10.

OON neurological surgeon seeks to collect NSA award associated with CPT 36227-50. Billed charges were \$72,000, the payment allowed was \$165.49, and the award was \$51,000.

OON neurologist seeks to collect NSA awards associated with three units of CPT 95720. Total billed charges were \$9,000, the payment allowed was \$1,054.51, and the aggregate award amount was \$9,000.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 19318 and 64450. Total billed charges were \$209,628, the payment allowed was \$2,307.18, and the aggregate award amount was \$127,500.

OON neurologist seeks to collect NSA awards associated with CPT codes 95941, 95938-26, 95885-26 and 95908-26. Total billed charges were \$22,900, the payment allowed was \$1,348.93, and the aggregate award was \$22,900.

OON plastic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 35703, 49591, 0437-T and 15777 were billed at \$12,272.28, the claims were denied, and the aggregate award amount was \$12,035. For Member Two, CPT S2068 was billed at \$122,742, the claim was denied, and the award amount was \$122,742.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 19357, 19370, 19342, 15777 and 10180. Total billed charges were \$139,269, the claims were denied, and the aggregate award was \$132,960.23.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 19370-RT, 11970, 19357 and 15777. Total billed charges were \$87,800, claims were denied, and the aggregate award was \$75,505.

OON plastic surgeon seeks to collect NSA awards of \$55,900, \$42,294, \$27,950, \$34,650, \$16,000, and \$6,460.88.

OON plastic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT 21337-59 was billed at \$25,000, the payment allowed was \$234, and the award amount was \$18,756. For Member Two, CPT 11760 was billed at \$6,500, the payment allowed was \$72.35, and the award amount was \$5,118.

OON intraoperative monitoring provider seeks to collect NSA awards related to treatment of two members. For Member One, CPT 63047 was billed at \$8,181.70, the claim was denied, and the award was \$8,181.70. For Member Two, CPT 22840 was billed at \$23,842, the payment allowed was \$1,238.36, and the award was \$23,842.

OON plastic surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT 19318-LT was billed at \$75,000, the payment allowed was \$578.17, and the award was \$75,000. For Member Two, CPT 158787-RT was billed at \$175,000, the payment allowed was \$362.35, and the award was \$99,999.99. For Member Three, CPT 15772 and 15771 were billed at \$37,500, the payment allowed was \$18,750, and the total award was \$33,272.79.

OON plastic surgeon seeks to collect NSA award associated with two units of CPT 14302. Total billed charges were \$121,344, the claim was denied, and the award was \$121,344.

OON musculoskeletal treatment provider seeks to collect NSA awards related to treatment of two members. For Member One, CPT 29826-RT, 29827-22, 29824-RT, 29828-RT and 29823-RT were billed at \$170,000, the payment allowed was \$987.30, and the aggregate award was \$154,082. For Member Two, CPT 27822-RT was billed at \$56,933, the amount allowed was \$2,154.69, and the award was \$56,900.

OON vascular surgeon seeks to collect NSA awards of \$100,000, \$59,581, \$101,580, and \$99,201.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 13132 and 99284. Total billed charges were \$20,495, the amount allowed was \$702.28, and the aggregate award was \$20,495.

OON pain management specialist seeks to collect NSA awards related to treatment of two members. For Member One, total billed charges were \$76,450, the payment allowed was \$4,561.83, and the aggregate award was \$47,000. For Member Two, total billed charges were \$269,000, the payment allowed was \$20,375, and the aggregate award was \$210,232.

OON plastic surgeon seeks to collect NSA award associated with CPT 19325-50. Billed charges were \$19,600, the payment allowed was \$963.16, and the award was \$18,600.

OON neurophysiologist seeks to collect NSA awards associated with CPT codes 95938-20 and three units of 95941. Total Billed charges were \$14,275, the amount allowed was \$1,139.52, and the total award was \$14,275.

OON plastic surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT 19357 was billed at \$74,000, the amount allowed was \$12,139.50, and the award was \$45,000. For Member Two, CPT S2068 was billed at \$152,200, the amount allowed was \$24,195.84, and the award was \$152,000. For Member Three, CPT 38530 was billed at \$8,200, the amount allowed was \$276.39, and the award was \$8,200.

Removed action in which members seek benefits for air ambulance transportation from Lake Charles, Louisiana to New Orleans for blood transfusion of 2 yr old. Claim was denied as not medically necessary.

OON vascular surgeon seeks to collect NSA awards of \$67,000, \$82,000, and \$1,448.94.

OON plastic surgeon seeks to collect 5 NSA awards of \$13,395 for CPT 19357, \$33,000 for CPT 19357, \$20,500 for CPT 19342-RT, \$31,500 for CPT 19380-RT, and \$30,000 for CPT 19318-RT.

Network hospital asserts breach of contract claim claiming wrongful denials and underpayment of 8 claims. The claims or portions thereof were denied as not medically necessary.

OON plastic surgeon seeks to collect NSA award associated with CPT 19357. Billed charges were \$66,000, the amount allowed was \$429.86, and the award was \$66,000.



OON plastic surgeon seeks to collect 4 NSA awards of \$99,000 for CPT S2068, \$30,000 for CPT 19380, \$60,000 for CPT 19380, and \$49,500 for CPT 19357.

OON plastic surgeon seeks to collect 4 NSA awards of \$28,000 for CPT 19380-RT, \$5,910 for CPT 13102, \$7,400 for CPT 15771, and \$37,400 for CPT 19380.

OON plastic surgeon seeks to collect 5 NSA awards of \$12,300 for CPT 15777, \$38,000 for CPT 19357, \$12,300 for CPT 15777, \$38,000 for CPT 19357, and \$7,251.35 for CPT codes 36590, 11406, 12032, and 15771.

Removed action in which member seeks benefits and asserts underpayments associated with residential treatment at Spring Ridge Academy. Plaintiff asserts the payments were inconsistent and haphazard in that there were unexplained gaps in coverage and the explanations were contradictory.

Member seeks ERISA benefits associated with residential treatment at Wingate Wilderness Therapy and Discovery Ranch and asserts violations of MHPAEA. The Wingate claim was denied pursuant to a wilderness therapy exclusion, and the Discovery claim was denied as out of network.

OON neurosurgeon seeks to collect NSA awards associated with treatment of 2 members. For the claim involving CPT codes 20930, 20936, 22600, 22614, 22842, 63045, and 63048, the aggregate award was \$209,059. For the claim involving CPT 22614, billed charges were \$84,000, the payment was \$360.05, and the award was \$75,738.25.

OON spine surgeon seeks to collect NSA awards associated with treatment of 2 members. For CPT 22551, billed charges were \$94,000, the amount paid was \$3,784.90, and the amount of award was \$92,300. For 2 instances of CPT 15734, plaintiff billed \$62,000 each, and the amounts paid were \$654.78 and \$327.39, respectively. The awards were each \$62,000.

OON vascular surgeon seeks to collect 10 NSA awards associated with treatment of member. The aggregate billed charges were \$455,000, the amount paid was \$6,626.14, and the aggregate award was \$331,000.

OON orthopedic surgeon seeks to collect 3 NSA awards of \$1,628.80 for CPT 22853, \$350.06 for CPT 63052, and \$63,000 for CPT 15734.

OON orthopedic surgeon seeks to collect NSA awards in the amounts of \$14,349, \$5,260.63, \$15,630.63, \$43,550, \$42,500, \$52,000, \$29,620, \$14,500, and \$6,000.

OON plastic surgeon seeks to collect NSA award associated with CPT 13151. Billed charges were \$16,975, the amount paid was \$298.98, and the award was \$16,975.

OON neurosurgeon seeks to collect NSA awards in the amounts of \$42,000, \$665.35, \$16,000, \$15,000, \$134,373.74, and \$19,693.60.

OON plastic surgeon seeks to collect NSA awards associated with CPT codes 14301, 35860, and 14302. Total billed charges were \$191,971.10, the amount paid was \$2,477.79.

Removed action in which OON ambulatory surgery center asserts underpayment of unspecified claims. Plaintiffs assert breach of contract, detrimental reliance, and negligent misrepresentation.

OON neurosurgeon seeks to collect 3 NSA awards. For CPT 62141, billed charges were \$95,232, the amount paid was \$1,106.73, and the award was \$71,424. For CPT 15769, billed charges were \$6,600, the amount paid was \$961.34, and the award was \$6,600. For CPT 61595, billed charges were \$158,197, the amount paid was \$2,261.53, and the award was \$43,647.75.

OON orthopedic surgeon seeks to collect 3 NSA awards in the amounts of \$5,500 for CPT 20936, \$6,000 for CPT 20939, and \$45,000 for CPT 22853.

OON plastic surgeon seeks to collect NSA award associated with CPT 19318. Billed charges were \$150,000, the amount paid was \$1,756.46, and the award was \$112,500.

OON vascular surgeon seeks to collect NSA award associated with CPT 22853. Billed charges were \$61,162, the amount paid was \$2,046.24, and the award was \$61,162.

OON orthopedic surgeon seeks to collect 3 NSA awards. For CPT 20103, billed charges were \$8,737, the claim was denied, and the amount of award was \$6,990.40. For CPT 27372, billed charges were \$6,280, the claim was denied, and the amount of award was \$6,280. For CPT 99222, billed charges were \$856, the amount paid was \$163.21, and the amount of award was \$856.

## ADDITIONAL NEWSWORTHY (REGULATORY)

Minnesota Department of Human Services announces intent to discontinue coverage of housing stabilization services under its Medicaid State plan amendment and managed care waiver amendment, asserting widespread fraudulent activity involving the HCBS benefit as the cause. Notice of Discontinuation of Housing Stabilization Services, 50 Minn. Reg. 239 (issued Sep. 2, 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.



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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-DER, (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

## 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.



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