

# Managed Care Litigation Update®

## YEAR END REFLECTIONS

This is the 287<sup>th</sup> issue of Managed Care Litigation Update® as it enters its **twelfth** year of publication. A heartfelt “thank you” to all who have contributed to the continued success of this newsletter, which reaches about 2,000 lawyers in the managed care space every two weeks.

In 2025, this publication covered 1,455 managed care cases, a continuing increase from last year when this publication covered 899 cases, and 692 the year before. Many cases are appeals of awards under the NSA, for which I have created a new category of monitored cases. I also created a new category of 1557 cases, in which there are an increasing number of cases.

I’m always pleased when opposing counsel mentions that I have included his/her case in this publication, whether as a reported decision or a newly filed action, as it is confirmation that both payor cases and provider cases get equal coverage. And whether you are on the provider side or the payer side, please continue to send me published decisions that you believe should be included in the Newsworthy section.

I sincerely hope that you find the content and trends helpful to your respective practices and always welcome your suggestions for an improved publication.

Please take a moment to visit the **Representative Subscribers**, who have graciously agreed to publish their firm logos and links to their profiles on [www.managedcarelitigationupdate.com](http://www.managedcarelitigationupdate.com)

Best wishes to all for *health* and prosperity in 2026. *JMH*

## RECENTLY FILED ACTIONS

Member seeks \$62,000 in ERISA benefits from a self-funded plan for child's residential treatment at Trails Carolina. Claims were denied as investigational. Member also alleges MHPAEA violation.

Removed action in which member seeks ERISA benefits and asserts underpayment for procedure codes 43775, 43774 and 43281 performed by two surgeons. Payment of \$1,374.30 was allowed on CPT 43775. Code 43281 was denied as being incidental to 43775.

In adversary proceeding, network hospital seeks over \$250 million in damages and injunctive relief requiring payment of services at the same rates paid to nearby hospital system. Plaintiff alleges antitrust claims and breach of the implied covenant of good faith and fair dealing.

**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:**

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## RECENTLY FILED ACTIONS

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Removed action in which OON emergency care provider asserts systemic underpayment of emergency claims from 2023 to the present and seeks declaratory judgment regarding prospective rates. Plaintiff asserts breach of implied-in-law contract and violations of Florida Statutes §§ 627.64194 and 641.513.

Removed action in which OON plastic surgeon seeks benefits related to procedures performed, including breast reconstruction, muscle flap closure, breast reduction, complex wound repair, facial laceration repair, tissue graft, hand surgery, tendon repair, nasal fracture repair, and wound debridement. Plaintiff asserts claim dissatisfaction with adjudication, denial of claims, and reimbursement rates.

Removed action in which Member seeks over \$250,000 in benefits for a spinal surgery. The claim was denied based on an age limit of 60. Member alleges breach of contract and violation of California Insurance Code § 790.03.

Member seeks \$91,000 in ERISA benefits related to child's residential mental health treatment at Spruce Mountain and asserts violation of MHPAEA. Claim was denied on the grounds the facility did not qualify as a "residential treatment center" under the plan.

Member seeks \$111,000 in ERISA benefits related to child's residential mental health treatment at Innerchange Chrysalis. Claim was denied on the grounds that provider was ineligible to bill for the services.

Removed action in which OON emergency services provider seeks \$3,331,549.86 in benefits for emergency services, surgeries, and procedures rendered between 2023 to the present. Plaintiff asserts claims for quantum meruit and breach of contract. Lawsuit was removed on the grounds the complaint includes claims against Medicare Advantage plans.

Member seeks \$91,000 in ERISA benefits related to child's residential treatment at Evoke at Entrada for two months and at Crossroads Academy for four months. Member also alleges MHPAEA violation. The Evoke claim was denied on the basis the services were outside the scope of provider's practice, and the Crossroads claim was denied on the grounds the facility was an excluded "boarding school" not eligible for coverage.

Removed action in which member seeks \$1,395 in dental benefits and asserts he was told coverage was in place through January 31, 2025, and that the provider received pre-authorization and certification of coverage. Claim was denied on the grounds coverage terminated on December 31, 2024. Member alleges negligent misrepresentation.

Pro se member asserts ERISA violations for alleged failure to provide an urgent, physician-level review and proper appeals process for a pre-service coverage request for revision FESS/mastoidectomy. Member seeks declaratory and equitable relief, including an order compelling insurer to process the urgent appeal and reimburse pharmacy expenses.

Member seeks over \$200,000 in ERISA benefits related to child's residential treatment at White River Academy from July 1, 2021 to August 10, 2024. Claims were denied due to lack of sufficient documentation and failure to submit medical records by the first insurer, and untimely filing of claim by the second insurer. Member also alleges MHPAEA violations.

Member seeks over \$475,000 in ERISA benefits under a self-funded plan related to child's residential treatment at Solacium Sunrise. Claims were denied based on lack of medical necessity. Member also alleges violation of MHPAEA.

In putative class action, pharmacy asserts violations of the West Virginia Pharmacy Audit Integrity Act by failing to include the mandatory \$10.49 dispensing fee and reimbursing pharmacies at rates lower than their own affiliates. Plaintiff seeks monetary damages, restitution, declaratory and injunctive relief to enforce compliance with the Act and to invalidate alleged unlawful contracts.

Member seeks specific performance requiring the provision of EOBs and other claims-related information for medical treatment in 2023 and further complains of alleged incorrect processing of claims from September to October 2024. Plaintiff has two policies with the insurer and asserts coverage is not properly coordinated. Plaintiff alleges violations of ERISA and Alaska insurance regulations.

Removed action in which Plaintiff and alleged assignee of purported receivables seeks over \$2.5 million from various insurers on claims of account stated.

Member seeks reimbursement of over \$2,600 contained in a health care savings account and asserts the TPA has wrongly denied reimbursement on the incorrect assertion that there was no health care savings account.

Member seeks over \$300,000 in ERISA benefits related to child's residential mental health treatment at New Haven between July 9, 2021 to June 3, 2022. Claims were denied as not medically necessary based on Calocus-Casii and American Academy of Child and Adolescent Psychiatry standards. Member also asserts violations of MHPAEA.

Removed action in which group of hospitals seek over \$1.2 million in reimbursement and assert underpayment and wrongful denials by home plan when plaintiffs are in network with host plan. Plaintiffs assert claims for breach of implied contract and quantum meruit.

## RECENTLY FILED ACTIONS – NSA CLAIMS

Insurer asserts false attestations and fraudulent initiation of IDR process for ineligible claims, including en masse batch submissions, failure to initiate and exhaust the Open Negotiation Periods, and duplicate submissions.

Removed action in which OON air ambulance provider seeks to collect NSA award of \$22,244.25 related to service code A0436.

Medicaid MCO seeks declaratory relief to establish that initiating IDR for an ineligible Medicaid claim is unlawful and fraudulent, and that corresponding \$7,075 NSA award is non-binding. Plan paid \$1,440.72 in accordance with Pennsylvania Medicaid Program fee schedule.

## NEWSWORTHY

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District court grants in part ERISA plan's motion to dismiss, finding that the administrator was permitted discretion to apply the "wilderness therapy" exclusion to the claim at issue even if "wilderness therapy" was not defined, but finding that plaintiff adequately stated a claim for violation of MHPAEA. *Stephanie R. v. Blue Cross and Blue Shield of Illinois, et al.*, USDC ND IL, No. 1:24-cv-13112, 2025 WL 3648709, (Doc. 34, filed Dec. 16, 2025). Previously reported at *MCLU Vol. 263*.

District court denies OON provider's petition to vacate arbitration award concerning IDR determinations in favor of plan, finding that the IDR entity's reliance on the QPA was not impermissible. *Neuromon Professionals, LLC v. Horizon Blue Cross Blue Shield*, USDC D NJ, No. 2:25-cv-13216-SRC-SDA, 2025 WL 3653894, (Doc. 11, filed Dec. 17, 2025). Previously reported at *MCLU Vol. 276*.

District court grants motion for judgment in favor of Medicaid MCO finding that member does not have standing to assert a claim under the New Mexico Trade Practices and Frauds Act because the member did not fall into the "narrow exception" under which members are "special beneficiaries of a New Mexico statutory scheme requiring mandatory insurance for the benefit of third parties." *Julie Graham, et al. v. Blue Cross Blue Shield of New Mexico*, USDC D NM, No. 1:22-cv-305-KG-GJF, 2025 WL 3687756, (Doc. 79, filed Dec. 19, 2025). Previously reported at *MCLU Vol. 199*.

District court grants motion to dismiss of ERISA plan, finding that the plan had discretion to deny \$7,000 in claims for newborn care where the newborn was not added to the policy as required by the policy terms. *Townley v. Aetna Life Ins. Co.*, No. 4:24-cv-3513, (Doc. 46, filed Dec. 31, 2025). Previously reported at *MCLU Vol. 257*. DISCLOSURE – I AM COUNSEL OF RECORD.

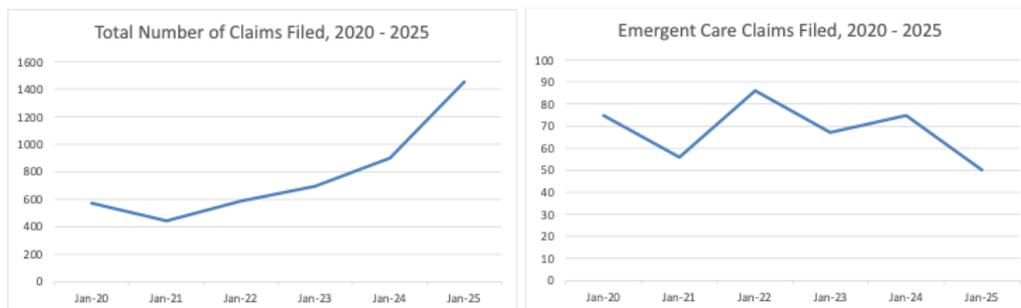
## ADDITIONAL NEWSWORTHY (REGULATORY)

US Department of Health and Human Services proposed rule to reduce the reporting cadence of an individual or non-grandfathered health plan's transparency in coverage requirements from monthly to quarterly while simultaneously increasing the detail of reporting required by adding new data elements like product type, network name, and enrollment counts, along with changing certain thresholds in an attempt to make the data more standardized, accurate, and accessible. Transparency in Coverage, 90 Fed. Reg. 60432, (issued Dec. 23, 2025).

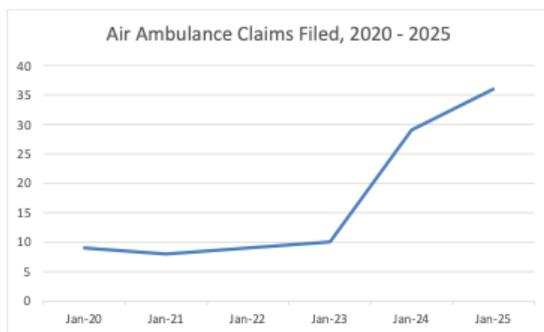
[Mitchell Hasenkampf](#) leads the firm's compliance practice group, which advises clients on matters including utilization review and prompt pay requirements for government and commercial plans, Member incentives, marketing and member communications, and Grievance and Appeal processes.

## FIVE YEAR TREND OF CLAIMS (2020 – 2025)

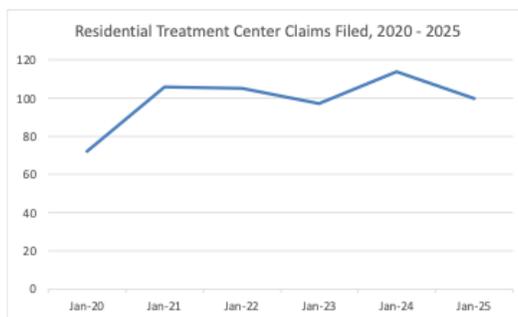
- Managed Care Litigation Update® covered 1,455 new case filings in 2025, 899 new case filings in 2024, 692 new case filings in 2023, 584 new case filings in 2022, 444 new case filings in 2021, and 569 new case filings in 2020.



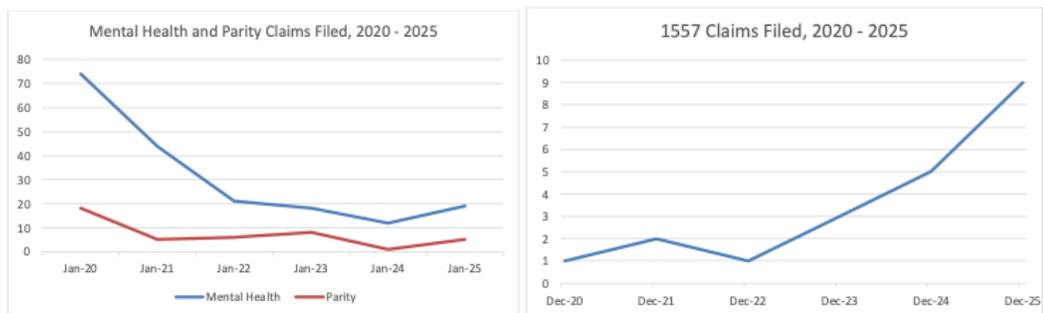
- **DECREASING EMERGENT CARE CLAIMS:** there was a DECREASE in case filings over whether the services rendered fall under coverage for emergent care versus other health plan benefit provisions. There were 50 such cases in 2025, 75 such cases in 2024, 67 such cases in 2023, 86 such cases in 2022, 56 such cases in 2021, and 75 such cases in 2020.
- **INCREASING AIR AMBULANCE CLAIMS:** There were 36 new cases filed in 2025 involving coverage disputes over air ambulance transport, 29 new cases filed in 2024, 10 such cases filed in 2023, 9 such cases filed in 2022, 8 such cases filed in 2021, and 9 such cases were filed in 2020.



- **DECREASING CLASS ACTIONS:** There were 35 new putative class actions filed in 2025, 71 such cases filed in 2024, 24 such cases filed in 2023, 26 such cases filed in 2022, 17 such cases filed in 2021, and 19 such cases filed in 2020.
- **Esther Salas**, U.S. District Judge for the District of New Jersey, presided over the highest number of cases reported in this publication from 2017 – 2024 (136). **Claire C. Cecchi**, U.S. District Judge for the District of New Jersey, presided over the second highest number of cases in the same period (128).
- **DECREASE IN CLAIMS FOR RESIDENTIAL TREATMENT CENTERS:** there were 100 new cases filed in 2025 seeking coverage for treatment rendered at residential treatment centers, 114 new cases filed in 2024, 97 new cases were filed in 2023, 105 new cases were filed in 2022, 106 new cases were filed in 2021, and 72 new cases were filed in 2020.



- **DECREASE IN CLAIMS FOR WILDERNESS THERAPY PROGRAMS:** there were 39 new cases filed in 2025 seeking coverage for wilderness therapy programs, 42 new cases filed in 2024, 21 new cases filed in 2023, 24 new cases filed in 2022, 29 new cases filed in 2021, and 18 new cases filed in 2020.
- **INCREASING CLAIMS UNDER MENTAL HEALTH PARITY LAWS:** Of the 19 new case filings in 2025 involving disputes over mental health benefits, 5 alleged a violation of federal and/or state mental health parity laws. Of the 12 new case filings in 2024 involving disputes over mental health benefits, 1 alleged a violation of federal and/or state mental health parity laws. Of the 18 new case filings in 2023 involving disputes over mental health benefits, 8 alleged a violation of federal and/or state mental health parity laws. Of the 21 new case filings in 2022 involving disputes over mental health benefits, 6 alleged a violation of federal and/or state mental health parity laws. Of the 44 new case filings in 2021 involving disputes over mental health benefits, 5 alleged a violation of federal and/or state mental health parity laws. Of the 74 new case filings in 2020 involving disputes over mental health benefits, 18 alleged a violation of federal and/or state mental health parity laws.



- **INCREASING CLAIMS ASSERTING A 1557 VIOLATION:** there were 9 new cases filed in 2025 asserting a 1557 violation, 5 new cases filed in 2024, 3 new cases filed in 2023, 1 new case filed in 2022, 2 new cases filed in 2021, and 1 new case filed in 2020.
- There were 942 new cases filed in 2025 involving some aspect of an appeal of an award under the NSA or seeking enforcement of that award. There were 109 such cases filed in 2024. There were 15 such cases filed in 2023.

## 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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