VOLUME 288B JANUARY 15, 2026

Managed Care Litigation Update®

NEWSWORTHY

New Jersey district court denies motion to confirm NSA award and dismisses the claim with prejudice, writing that "multiple opinions from this District have recently considered the questions of law" and that the "have uniformly held [] that this Court lacks jurisdiction to confirm NSA awards because the IDR process is not an arbitration and there is no enforceable arbitration award." *Neurospine Plus, LLC v. Aetna*, USDC D NJ, No. 2:25-cv-3022-EP-CF, 2026 WL 50138, (Doc. 32, filed Jan. 7, 2026). Previously reported at ***MCLU Vol. 271***.

District court dismisses air ambulance company's petition to confirm NSA award, finding that court lacked personal jurisdiction over Anthem and that petition "says nothing about any connection between Anthem and Florida." *Worldwide Aircraft Services, Inc. v. Anthem Insurance Companies, Inc.*, USDC MD FL, No. 8:25-cv-1444-TPB-SPF, 2025 WL 3771274, (Doc. 24, filed Dec. 31, 2025). Previously reported at ***MCLU Vol. 274***.

Magistrate issues report and recommendation on the merits in summary proceeding that NSA certified dispute resolution entity did not err in awarding zero dollars in 108 proceedings, finding that "the CIDRE is actually required to select the zero-dollar offer if, in its judgment as arbitrator, it believes that offer to be the more appropriate of the two offers." *Avraham Plastic Surgery LLC, et al. v. Aetna, Inc., et al.*, USDC ED NY, No. 1:25-cv-784-OEM-SDE, 2025 WL 3779084, (Doc. 104, filed Dec. 30, 2025). Previously reported at ***MCLU Vol. 266***.

RECENTLY FILED ACTIONS

Member seeks $590,000 in ERISA benefits for child's residential mental health treatment at Waypoint Academy from June 14, 2023 to November 17, 2023. Member alleges insurer represented that the plan covered treatment and preauthorization was not required. Claim was denied because provider is out of network. Member further asserts MHPAEA violation.

Removed action in which OON hospital asserts underpayment of claims for nine members between June 24, 2021 and June 21, 2024. Total billed charges were $496,564.18 and the amount paid was $13,314.15. Hospital asserts claims for breach of implied-in-fact contract and quantum meruit.

Removed action in which Member seeks ERISA benefits for services performed by two surgeons associated with procedure codes 43281 and 43775. Plaintiff asserts underpayment based on the 80th Percentile of Fair Health data. For procedure code 43775, insurer paid $1,332.83 to Surgeon One, and $213.35 to Surgeon Two. Procedure code 43281 was denied as incidental to code 43775.

RECENTLY FILED ACTIONS

OON co-educational medical detox facility, as alleged assignee, seeks $131,000 in ERISA benefits from self-funded plan for residential detoxification treatments rendered from March 20, 2022 to April 14, 2022. Plaintiff asserts insurer preapproved eight days of inpatient rehabilitation treatment and five days of residential treatment, but that reimbursement was insufficient.

Insurer asserts abuse of NSA process and seeks declaratory and injunctive relief, alleging hospitals submitted false attestations, initiated IDR proceedings for ineligible claims, and violated NSA requirements. Plaintiff asserts claims for violation of California Business & Professions Code §§ 17200 et seq., ERISA equitable relief, and, vacatur of IDR determinations.

Member seeks ERISA benefits for air-ambulance transportation from Phoenix, AZ to Chicago, IL for a pre-authorized neurological rehabilitation. Claim was denied on the grounds that Member was not transferred to the closest appropriate facility. External reviewer nominally upheld denial but required payment for the transportation Member would have needed to reach any of three identified alternate facilities.

Removed action in which OON pain specialist and member's purported attorney-in-fact seeks benefits and asserts underpayment for services billed as assistant surgeon. Billed charges were $126,720, and payment allowed was $158.62.

Member seeks $448,000 in ERISA benefits for child's residential mental health treatment at Ironwood Maine from May 30, 2023 to October 15, 2023 and Elevations Residential Treatment Center from October 17, 2023 to October 2, 2024. The Ironwood claims were denied as non-covered and out-of-network without a prior authorization. The Elevations claims were partially denied as not medically necessary pursuant to MCG guidelines, 27th Edition. Member also asserts MHPAEA violations.

Removed action in which alleged double assignee seeks $923,194.61 from insurer on an unspecified account-stated claim. The claims were removed on federal question and diversity grounds, and defendant asserts ERISA claims are involved.

Insurer files adversary proceeding asserting breach of fiduciary duties against trustee of rural hospital that was embroiled in a fraudulent scheme to overcharge and misrepresent claims for lab tests including blood and urine. Plaintiff asserts that nearly $40 million in its unsecured claims will not be paid because trustee pursued frivolous claims against insurers while paying out meritless claims to parties alleged to be co-conspirators in criminal proceedings.

Insurer seeks to recoup $7,569,601.64 in alleged overpayments to an in-network Medicare Part D pharmacy. Plaintiff asserts the pharmacy did not dispute the annual True-Up calculation but failed to remit the required payment.

Removed action in which pro se member seeks $3,603.87 in benefits under a fully-insured plan and asserts the coordination of benefits provisions of the plan were misapplied.

Member seeks ERISA benefits under a self-funded plan for child's residential mental health treatment at New Haven Residential Treatment Center from December 18, 2023 to August 14, 2024 and asserts violations of MHPAEA. Coverage was provided through January 15, 2024 but denied thereafter for lack of medical necessity pursuant to the CALOCUS-CASII standards.

Member seeks ERISA benefits under a self-funded plan for child's residential mental health treatment at Outback Therapeutic Expeditions from June 21, 2022 to September 15, 2022 and asserts violations of MHPAEA. Claims were denied pursuant to a wilderness therapy exclusion.

Removed action in which COVID-19 testing lab seeks $2,440,399.53 in benefits and asserts wrongful denials and underpayments. Plaintiff asserts billed charges of $318 for each of the 9,896 claims at issue.

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.

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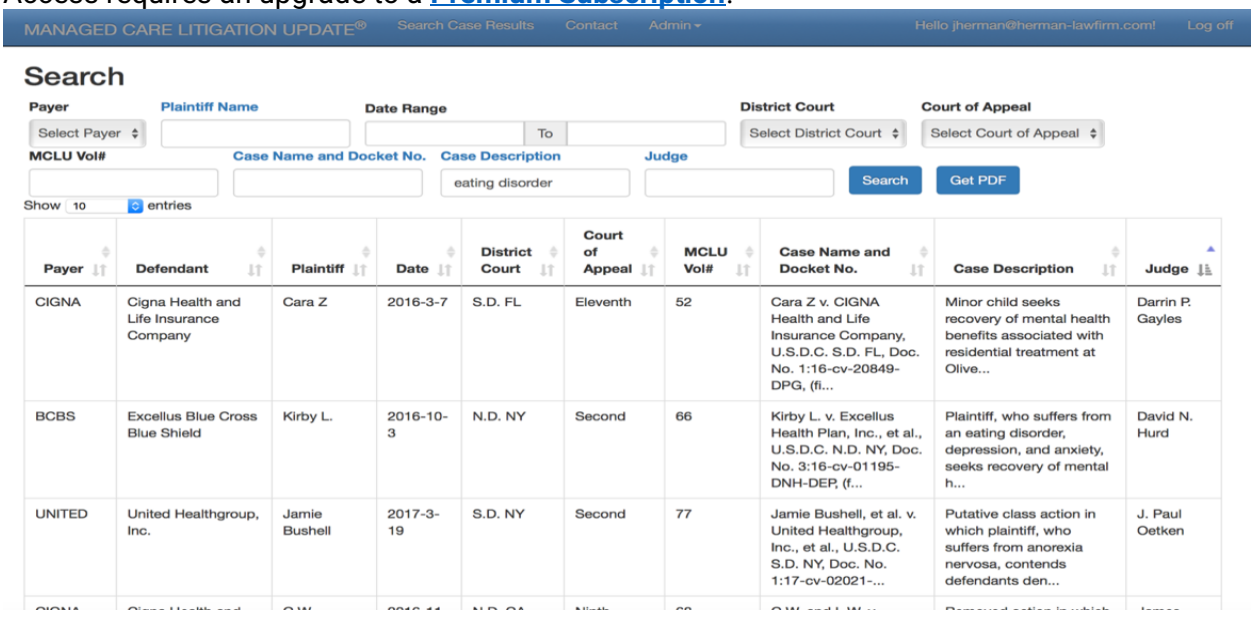

Payer	Defendant	Plaintiff	Date	District Court	Court of Appeal	MCLU Vol#	Case Name and Docket No.	Case Description	Judge
CIGNA	Cigna Health and Life Insurance Company	Cara Z	2016-3-7	S.D. FL	Eleventh	52	Cara Z v. CIGNA Health and Life Insurance Company, U.S.D.C. S.D. FL, Doc. No. 1:16-cv-20849-DPG, (fi...	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)

Washington Office of Insurance Commissioner issues rules regulating notices of provider contract terminations issued to enrollees and associated public statements, generally prohibiting such statements prior to 45 days before no-cause terminations and requiring OCI approval if template language is not used. 2026 WA Reg. Text 698447, WSR 26-01-200 (issued Jan. 7, 2026).

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.

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*Licensed in California as Jonathan M. Herman, P.C.