

Managed Care Litigation Update®

NEWSWORTHY

Fourth Circuit holds that the exclusion of coverage for surgical treatments for gender dysphoria by the state Medicaid plan does not violate the Equal Protection Clause, Section 1557 of the Affordable Care Act, or the Medicaid Act. *Anderson v. Crouch*, USAC 4 Cir., No. 22-1927, — F.4th —, 2026 WL 667919 (Doc. 164, filed Mar. 10, 2026).

District court issues a preliminary injunction in favor of class plaintiffs seeking Facial Feminization Surgery, finding that the characterization of FFS as cosmetic and not medically necessary likely violates Section 1557 of the Affordable Care Act as impermissible sex discrimination. *Gordon v. Aetna Life Insurance Company*, USDC D CT, No. 3:24-cv-1447, 2026 WL 643134, (Doc. 153, filed Mar. 8, 2026). Previously reported at *MCLU Vol. 256*.

District court dismisses claims of OON urgent care facility pertaining to COVID tests and monoclonal antibody treatments, finding that there was no implied-in-fact contract. *Emerald Multispecialty P.A. v. United Healthcare, Inc., et al.*, USDC SD FL, No. 0:25-cv-61681, 2026 WL 707782, (Doc. 30, filed Mar. 6, 2026). Previously reported at *MCLU Vol. 279*.

District court dismisses putative class action asserting a “ghost network” in which the provider directory was unreliable, finding that FEHBA preempts the members’ claims. *Doe, et al. v. Anthem Healthchoice Assurance, Inc.*, USDC SDNY, No. 1:24-cv-8012-JPC, 2026 WL 573595, (Doc. 31, filed Mar. 2, 2026). Previously reported at *MCLU Vol. 259*.

RECENTLY FILED ACTIONS

Pro se action in which a family caregiver seeks Medicaid benefits for allegedly approved 24/7 caregiving services provided from February 17, 2023 to March 1, 2026. Plaintiff alleges nonpayment.

Payor seeks to recoup \$3,230,858 balance pertaining to overpayments to facilities. The original balance of the 2024 Agreement was \$6,480,858 payable in nine monthly installments. Defendant allegedly paid two timely installments, made three late payments, one partial payment, and defaulted on the remainder.

Removed action in which Plaintiff and alleged double assignee of purported receivables of various behavioral health facilities seeks more than \$6.7 million from various insurers on claims of account stated.

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 a surgeon and alleged assignee seeks \$818,407.79 in ERISA benefits, alleging that payor failed to reimburse claims at the 80th percentile of FAIR Health for nineteen members. Plaintiff contends that the medical services did not require preauthorization and the payor promised to reimburse based on UCR market rates.

Member seeks \$60,180 in ERISA benefits under a self-funded plan for his child's residential mental health treatment at the Solacium Sunrise from March 3, 2022 to June 28, 2022. Claims were denied because the procedure code was ineligible, and, on appeal, because the facility was in "authorization unavailable" status and its services did not meet CALOCUS-CASII level of care standards. Plaintiff also alleges an MHPAEA violation.

Plaintiff seeks ERISA benefits for services she received between January 1, 2024 and May 31, 2025, including sums clawed back due to a Medicare Part B carve-out. Plaintiff asserts she attempted to enroll in Medicare Part B when informed by her plan to do so, but her application was denied outside of open enrollment.

Removed action in which Member, through her OON surgeon as attorney-in-fact, seeks additional payment for pre-authorized percutaneous dual cord stimulator lead replacements performed on September 20, 2024 and November 8, 2024, billed at \$106,560 and 292,120, respectively. The payor allowed \$3,686.27 and \$1,843.12 based on the Zelis ERS offered amount. Plaintiff alleges underpayment of 126,341.63 based on the purported 80% UCR.

Member challenges ERISA lien of self-funded plan pursuant to the Michigan No-Fault Act and argues that medical expenses were not included in the third-party settlement.

OON free-standing emergency center, as alleged assignee, seeks \$79,444.88 in benefits under the Texas Emergency Care Statutes and asserts underpayment of emergency services.

Removed action in which network providers challenge attempt to recoup approximately \$1.5 million associated with the allegedly abusive billing of Sanexas. Plaintiffs challenge payor's arbitration demand.

OON emergency provider group joins MDL asserting antitrust violations associated with use of Multiplan reimbursement tools.

OON physician assistant group joins MDL asserting antitrust violations associated with use of Multiplan reimbursement tools.

OON orthopedic services group joins MDL asserting antitrust violations associated with use of Multiplan reimbursement tools.

OON neurosurgery and orthopedic services group joins MDL asserting antitrust violations associated with use of Multiplan reimbursement tools.

Member seeks more than \$110,000 in ERISA benefits for her child's mental health treatment at Catalyst Residential Treatment Center from March 7, 2023 to August 11, 2023. Claims were denied on the basis that a network exception was unwarranted because comparable in-network services were available within the geographic region. Plaintiff also alleges MHPAEA violation.

Removed action in which OON vein treatment and interventional pain management specialists seek \$1,783,177.15 in benefits for pre-authorized services and assert underpayment. Plaintiffs assert statutory claims based on alleged repricing conspiracy involving use of Multiplan's Data iSight pricing database and misrepresentations during the pre-authorization.

Member seeks over \$440,000 in ERISA benefits for his child's residential health treatment at Blue Ridge Therapeutic Wilderness from October 27, 2023 to January 25, 2024, and at Capstone Treatment Center from January 29, 2024 to May 2, 2024. Blue Ridge services were denied pursuant to a wilderness exclusion. Capstone's services were authorized but paid at a flat rate of \$350 per day, which plaintiff asserts is an underpayment. Plaintiff also alleges MHPAEA violation.

Removed action in which OON medical provider seeks \$2,708,777.14 in benefits and asserts underpayment of emergent surgical services provided to members from 2023 to the present. Plaintiff asserts claims for quantum meruit and breach of contract.

Trustees of a multi-employer welfare fund governed by ERISA seek equitable relief and damages of approximately \$1.379 million for losses caused by administrator's alleged breach of fiduciary duties. Plaintiffs allege delay in processing a high-dollar claim caused the fund to lose its stop-loss reimbursement rights.

Hospitals and alleged assignees seek at least \$565,106.60 in benefits under ERISA and common law breach of contract for services provided to six members. They also seek to compel arbitration under the Federal Arbitration Act based on home plan's participation in the BlueCard Program.

Removed action in which Member seeks coverage under a Medicare Advantage Plan for dental implants following chemotherapy and surgical removal of the stomach. Claims were denied as not medically necessary.

Member seeks \$631,651 in ERISA benefits for his child's residential mental health treatment for six weeks at Viewpoint Center beginning January 3, 2024, and at Sandhill Center from February 18, 2024 to December 18, 2024. Both Viewpoint and Sandhill claims were denied as out-of-network and because the plan excludes non-emergent OON treatment outside Iowa or bordering states.

Removed action in which network hospital seeks \$222,798.49 in benefits for treatment of five members and asserts that home plan failed to pay contract rates under the BlueCard program. Plaintiffs assert breach of Provider Agreements, BCBSA License Agreement, and implied-in-fact contract.

RECENTLY FILED ACTIONS – NSA CLAIMS

Removed action in which an OON osteopathic surgeon seeks to collect an NSA award associated with CPT 29898. Billed charges were \$20,000, the claim was denied, and the award was \$14,565.

Removed action in which an OON orthopedic surgeon seeks to collect NSA awards related to treatment of five members. For Member One, the award was \$18,695 for CPT 64625. For Member Two, the aggregate award was \$58,276.82 for CPT codes 64625, 64635, 64480, and 76000. For Member Three, the aggregate award was \$108,640 for CPT codes 63056, 72295, and 64483. For Member Four, the aggregate award was \$66,561 for CPT codes 22526 and 64772. For Member Five, the award was \$60,050 for CPT 62380.

Removed action in which OON plastic surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 13131 and 99283 were billed at \$10,667, the total payment allowed was \$727.91, and the aggregate award was \$10,667. For Member Two, CPT codes 13132 and 99284 were billed at \$19,190, the claims were denied, and the aggregate award was \$19,190.

Removed action in which OON surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT 64483-LT was billed at \$11,500, and the award was \$170.59. For Member Two, CPT codes 76000-79 26 59, 63048, 76000, and 63045 were billed at \$91,000, and the aggregate award was \$82,887.75.

Removed action in which OON neurosurgeon seeks to collect NSA awards related to treatment of five members. For Member One, the award was \$85,000 for CPT 63407. For Member Two, the award was \$43,000 for CPT 22853. For Member Three, the aggregate award was \$50,500 for CPT codes 20930 and 22853. For Member Four, the aggregate award was \$159,999.99 for CPT codes 35221, 22558 and 223853. For Member Five, the award was \$5,500 for CPT 20930.

Removed action in which OON orthopedic surgeon seeks to collect NSA awards related to treatment of three members. For Member One, CPT 22856 was billed at \$99,026.43, the payment allowed was \$1,402.19, and the award was \$95,000. For Member Two, CPT 64712-LT was billed at \$11,965, the payment allowed was \$840.70, and the award was \$11,965. For Member Three, CPT 20936 was billed at \$6,540, the claim was denied, and the award was \$5,500.

Removed action in which OON orthopedic physician seeks to collect NSA awards related to treatment of two members. For Member One, four units of CPT 64722, three units of 22853, and two units of 22552 were billed at \$804,852.16 and the aggregate award was \$280,000. For Member Two, CPT codes 22842, 63052, 22633, 20939, 20936, 63047, 63048, 22614 and 22853 were billed at \$642,058.56 and the aggregate award was \$497,582.06.

Removed action in which OON surgeon seeks to collect NSA awards related to treatment of two members. For Member One, CPT codes 47562 and 49585 were billed at \$76,865.25 and the aggregate award was \$69,000. For Member Two, CPT 49650 was billed at \$8,000 and the award was \$8,000.

Removed action in which an OON orthopedic surgeon seeks to collect NSA awards associated with CPT codes 23472-LT and 24320-LT. Billed charges were \$46,158, the total payment allowed was \$557.19, and the aggregate award was \$46,158.

Removed action in which OON neurophysiologist seeks to collect NSA awards related to treatment of four members. For Member One, the aggregate award was \$29,788.75 for CPT codes 95941, 95938 and 95928. For Member Two, the aggregate award was \$23,538.90 for CPT codes 95955, 95941, 95939 and 95938. For Member Three, the aggregate award was \$48,614.60 for CPT codes 95955, 95941, 95939, 95938, 95870 and 95961. For Member Four, the aggregate award was \$57,102 for CPT codes 95941, 95939, 95938, 95910 and 95886.

ADDITIONAL NEWSWORTHY (REGULATORY)

New Mexico legislature passes act restricting the use of prior authorization and step therapy requirements for treatment of serious mental illness and provides that the grant of prior authorization of a chronic maintenance drug will typically last for 3 years, subject to limited exceptions. NM ST § 59A-22B-8, 2026 N.M. Laws Ch. 47 (S.B. 20) (approved Mar. 6, 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.

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®
Hello jherman@herman-lawfirm.com | Log off

Search

Payer
Plaintiff Name
Date Range
District Court
Court of Appeal

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, (fl...	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

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