VOLUME 300B JULY 15, 2026

Managed Care Litigation Update®

NEWSWORTHY

Second Circuit reverses judgment in favor of out-of-state BCBS plan, finding that participation in the BlueCard program provided sufficient contacts with New York to support the exercise of personal jurisdiction over that BCBS plan in claims alleging underpayment. *Northwell Health, Inc. v. Grp. Hospitalization & Med. Servs.*, USCA 2d Cir., No. 25-192, — F.4th —, 2026 WL 2035965, 2026 US App. LEXIS 20684, (Doc. 80, filed Jul. 15, 2026). Previously reported at ***MCLU Vol. 219***.

Fifth Circuit affirms summary judgment in favor of Louisiana, finding that statute barring manufacturers from interfering with a 340B covered entities' ability to obtain and deliver discounted drugs through contract pharmacies was not preempted by the 340B program, particularly 42 U.S.C. §256b. *AbbVie, Inc. v. Murrill*, USCA 5th Cir., No. 24-30645 c/w 24-30673, — F.4th —, 2026 WL 1947948, 2026 U.S. App. LEXIS 19643, (Doc. 237, filed Jul. 6, 2026).

Ninth Circuit affirms dismissal of putative class action alleging state law deceptive marketing of Medicare Advantage plans, finding that the claims were preempted even if the defendants themselves were not MAOs but instead third-party marketing organizations. *Est. of Bibi Ahmad v. UnitdHealth Grp., Inc., et al.*, USAC 9th Cir., No. 25-2746, 2026 WL 2034036, 2026 U.S. App. LEXIS 20597, (Doc. 37, filed Jul. 14, 2026).

RECENTLY FILED ACTIONS

Removed action in which member seeks $63,687.68 in benefits associated with out-of-state treatment at Mayo Clinic for treatment of type II achalasia. Claim was denied for lack of obtaining out-of-state non-emergency waiver.

Member seeks over $69,000 in ERISA benefits associated with over three months of residential treatment at The Willows at Red Oak Recovery and assert violations of MHPAEA. The claim was denied as not medically necessary pursuant to the MCG Behavioral Criteria Guidelines, Residential Behavioral Health Level of Care, Adult.

Member seeks ERISA benefits from self-funded plan for residential treatment at The Heritage Community and asserts violations of MHPAEA. The claim was denied as not a covered benefit.

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RECENTLY FILED ACTIONS

Payer seeks to recover more than $3.2 million following arbitration award arising from breach of parties' settlement agreements. Plaintiff asserts provider and its owner agreed to repay nearly $3.8 million, made partial repayments, and later defaulted on the repayment obligations.

OON pediatric home nursing provider alleges more than $1.2 million in underpayments for pre-authorized services billed under HCPCS codes S9123 and S9124 for four members. Plaintiff contends payer negotiated reimbursement at $145.80 per hour/unit but later paid lower amounts, citing CO-43 (charge exceeds fee schedule) and maximum expense limitations. Plaintiff asserts negligent misrepresentation, breach of contract, and Texas Insurance Code violations.

OON chiropractic and physical therapy provider and alleged assignee seeks $51,270.92 in ERISA benefits for approximately 125 claims submitted for services rendered between January and September 2025. Plaintiff alleges payer represented that OON services would be reimbursed at 110% of Medicare but subsequently underpaid, denied, or failed to process claims, including claims allegedly denied based on a visit-limit determination.

Removed action in which OON free-standing emergency center and alleged assignee seeks $423,910.58 in benefits and asserts failure to pay the UCR for emergency services.

Plan sponsor of self-funded ERISA plan seeks to recover approximately $150,999.95 in alleged overpayments arising from member's hospitalization. Plaintiff asserts claim documents reflected charges of $31,521.86, yet $182,521.81 was paid from plan assets. Hospital contends claim was paid correctly under a negotiated DRG 793 reimbursement methodology, and overpayment was only $35.23. Plaintiff further alleges failure to provide adequate pricing and claim-support documentation.

Member seeks more than $1,000,000 in ERISA benefits from a self-funded plan for child's residential mental health treatment at Discovery Ranch for Girls from August 27, 2024 to October 15, 2024. Plaintiff alleges payer initially preauthorized 50 days of residential treatment and later authorized 27 days of partial hospitalization coverage. Plaintiff further alleges payer negotiated a reduced payment arrangement but later denied payment, asserting the services billed did not match the services rendered. Payer denied coverage as not medically necessary under CALOCUS-CASII criteria. Plaintiff also alleges violations of MHPAEA.

Removed action in which OON emergency physician seeks benefits and asserts underpayment of $274,599.30. Plaintiff asserts claims pursuant to Florida emergency care provisions.

Member seeks ERISA benefits from self-funded plan associated with residential treatment at Ascend Healthcare from July 1, 2024 through August 26, 2024 and asserts violations of MHPAEA. Authorization was denied for lack of medical necessity pursuant to the CALOCUS-CASII criteria.

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RECENTLY FILED ACTIONS – NSA CLAIMS

Removed action in which OON surgeon seeks to collect multiple NSA awards under state law causes of action associated with CPT code 22853-80. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON provider seeks to collect multiple NSA awards under state law causes of action associated with CPT codes 64722-51 and 64874-59-F8-F9. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON provider seeks to collect NSA award under state law causes of action associated with CPT codes 22551, 22856, 63052, and 22633. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON provider seeks to collect multiple NSA awards under state law causes of action associated with CPT codes 64483-50, 64484-50, 77003, 20553, 64490-50, and 64491-50. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON plastic surgeon seeks to collect multiple NSA awards under state law causes of action associated with CPT codes 14302, 19364-LT, 15004, 14060, 15860, and 64913. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON neurosurgery practice seeks to collect NSA awards under state law causes of action associated with CPT codes 63053, 20930, and 20936. Plaintiff asserts claims for unjust enrichment, quantum meruit, breach of implied covenant, account stated, and third-party beneficiary.

Removed action in which OON surgeon seeks to collect NSA award associated with CPT 44970. The billed charges were $41,926, the payment was $631.28, and the award was $41,926.50. Plaintiff asserts unjust enrichment, quantum meruit, breach of express contract, breach of the implied covenant, violation of NY Insurance Law § 3224-a, and alternatively, third-party beneficiary liability.

Removed action in which OON neurosurgeon seeks to collect NSA award associated with CPT 61698. The billed charges were $90,000, the payment was $4,459.74, and the award was $52,800. Plaintiff asserts unjust enrichment, quantum meruit, and violation of New Jersey Prompt Payment of Claims Act.

Removed action in which plastic surgeon seeks to collect NSA award associated with CPT 19318-50-80. The billed charges were $150,000, the payment was $430.93, and the award was $127,500. Plaintiff asserts unjust enrichment, quantum meruit, and violation of New Jersey Prompt Payment of Claims Act.

Removed action in which spine surgeon seeks to collect NSA awards related to treatment of four members. For Member One, CPT 20936 was billed at $6,600, claim was denied, and the award was $5,500. For Member Two, CPT codes 22558, 63047, 22612, 22853, 22840, 20930, 20936, and 61783 were billed at $292,600, payments totaled $4,358.99, and the aggregate award was $291,610. For Member Three, CPT codes 63042 and 63047 were billed at $191,862.03, payments totaled $2,014.55, and the aggregate award was $156,775. For Member Four, CPT 63047 was billed at $87,000, the payment was $4,870.70 and the award was $65,250. Plaintiff asserts breach of contract, breach of implied covenant, violation of New Jersey Prompt Payment of Claims Act, and alternatively, third-party beneficiary liability, unjust enrichment and quantum meruit.

Removed action in which OON pain management specialist seeks to collect NSA awards associated with CPT codes 64494-50 and 64495-50. The billed charges were $92,158, payments totaled $366.89, and the award was $90,668. Plaintiff asserts unjust enrichment, quantum meruit, and violation of New Jersey Prompt Payment of Claims Act.

Removed action in which OON neurophysiologist seeks to collect NSA award associated with four units of CPT 95720. The billed charges were $12,000, payment was $739.52, and the award was $12,000. Plaintiff asserts unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, violation of NY Insurance Law § 3224-a, and alternatively, third-party beneficiary liability.

Removed action in which OON nurse (RNFA) seeks to collect NSA awards related to treatment of two members. For Member One, CPT 29828 was billed at $22,718, claim was denied, and the award was $22,718. For Member Two, CPT 27447 was billed at $50,000, payment was $239.92, and the award was $23,000. Plaintiff asserts unjust enrichment, quantum meruit, and violation of NJ Prompt Payment of Claims Act.

Removed action in which OON orthopedic spine surgeon seeks to collect NSA awards related to treatment of five members. The awards were $4,797.66 for CPT 20660-80-59; $91,000 for CPT 63030-80-LT; $157,643.50 for CPT codes 22840-59, 61783-62-59, 20930-59, 22325-62-59, 22853-59, and S2900-59; $242,000 for CPT codes 22558-62, 22325-62-59, and 63047-RT-62; and $30,000 for CPT 63048-62. Plaintiff asserts unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, violation of NJ Prompt Payment of Claims Act, and alternatively, third-party beneficiary liability.

Removed action in which OON interventional neuroradiologists seeks to collect NSA award associated with two units of CPT 76377. The billed charges were $30,000, claim was denied, and the award was $30,000. Plaintiff asserts unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, violation of NY Insurance Law § 3224-a, and alternatively, third-party beneficiary liability.

Removed action in which OON otolaryngologist seeks to collect NSA award associated with CPT 31255-50. The billed charges were $12,000, claim was denied, and the award was $12,000. Plaintiff asserts unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, violation of NY Insurance Law § 3224-a, and alternatively, third-party beneficiary liability.

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Removed action in which OON plastic surgeon seeks to collect $92,163.60 in NSA awards associated with CPT codes 95929-26, 95941, 95813-26, and 3894816. Plaintiff asserts state law claims such as unfair business practices and quantum meruit, among others.

Removed action in which OON provider seeks to collect NSA awards associated with CPT codes 64493-50, 64484-RT, 22614-82, 22610, 22842-82, 22610-82, 22600-82, 22326-22-82, 63048, 22842, 22558, 22840, 64493-RT, and 64494-RT. Plaintiff asserts state law claims including unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, and account stated.

Removed action in which OON provider seeks to collect $500,293.10 in NSA awards associated with CPT codes 14302-59, 15860, 19357-50, 19357-50, 14301-59, 64912-59-AS14301, 131-59, 15860-59, and 15860-59-AS. Plaintiff asserts state law claims including unjust enrichment, quantum meruit, breach of contract, breach of implied covenant, and account stated.

RECENTLY FILED ACTIONS – ANTITRUST CLAIMS (MULTIPLAN)

Alleged assignee of OON provider antitrust claims asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates. Plaintiff also asserts unjust enrichment under Pennsylvania and New Jersey common laws.

OON chiropractor asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON primary care and urgent care clinics assert antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON hospital system asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON healthcare technology company asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates. Plaintiff also asserts unjust enrichment under Pennsylvania and New Jersey common laws.

OON chiropractic practice asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON substance abuse rehabilitation facility asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON physician asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

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OON physician asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON chiropractor asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON physical therapy practice asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

OON chiropractor asserts antitrust claims associated with use of Multiplan pricing tools to determine OON reimbursement rates.

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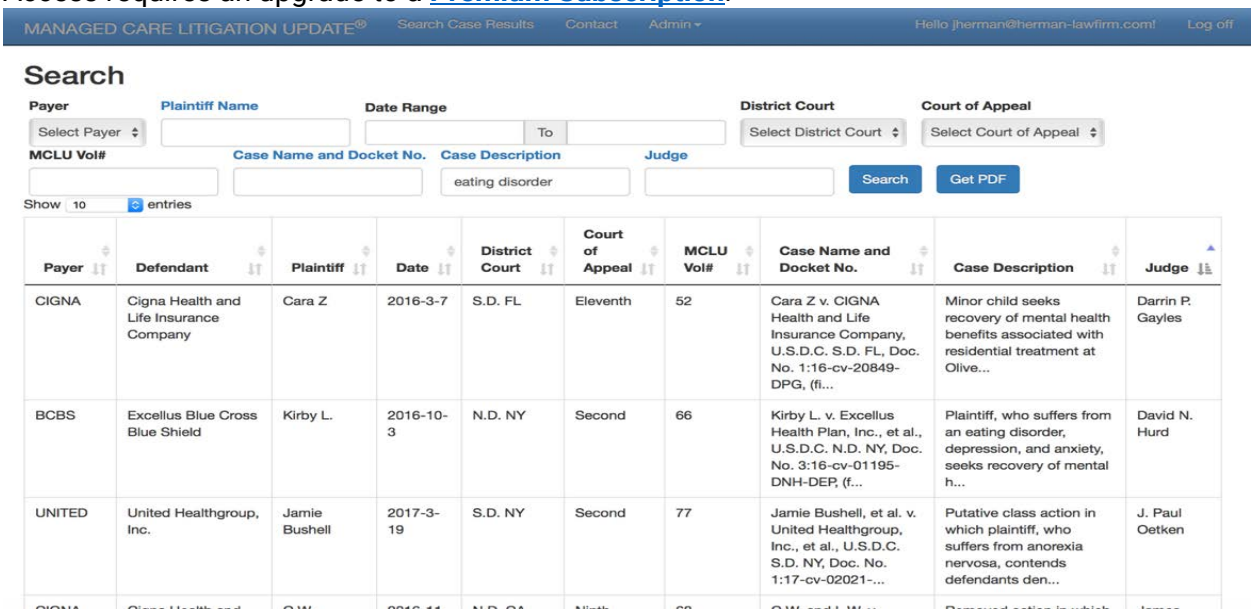

Payer	Defendant	Plaintiff	Date	District Court	Court of Appeal	MCLU Vol#	Case Name and Docket No.	Case Description	Judge
CIGNA	Cigna Health and Life Insurance Company	Cara Z	2016-3-7	S.D. FL	Eleventh	52	Cara Z v. CIGNA Health and Life Insurance Company, U.S.D.C. S.D. FL, Doc. No. 1:16-cv-20849-DPG, (fi...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

Kentucky Department for Medicaid Services issues rule implementing its 1915(c) Waiver requirements that expand services and eligibility for individuals with a diagnosis of autism, developmental disability, intellectual disability, or serious emotional disturbance. 1915(c) Kentucky's Community Health for Improved Lives and Development (CHILD) Waiver Program Requirements, 53 KY.R. 57, 907 KAR 2:720 (issued Jul. 1, 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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