

AMA Latest To Sue MultiPlan Over Out-of-Network Pricing

By **Celeste Bott**

Law360 (October 24, 2024, 9:08 PM EDT) -- The American Medical Association and the Illinois State Medical Society are the latest to accuse MultiPlan and the nation's largest health insurers of colluding through the use of the data firm's pricing tools to systematically underpay out-of-network providers, alleging in Illinois federal court Thursday that the "far-reaching and unlawful cartel" inhibits its members from offering critical care.

Instead of setting their out-of-network reimbursement rates independently, most insurers now outsource that function through MultiPlan, giving it the authority to set prices, pass those prices on to providers and prevent providers from negotiating those rates, according to the lawsuit.

"MultiPlan served as a crucial messenger and conduit between the other members of the cartel, helping them share confidential information with each other that made it easier for them to artificially suppress out-of-network rates," the AMA and Illinois State Medical Society said.

This effective elimination of competition for out-of-network provider services "constitutes naked price-fixing" that "directly harms providers and patients alike," they said.

Doctors have been forced to accept lower and lower payment amounts for the out-of-network services they provide, which often don't even cover their operating costs, according to the lawsuit.

"By undermining the economic viability of billing on an out-of-network basis, insurers strip physicians of this leverage, further entrenching lower in-network payment rates," the AMA and the Illinois group said. "These dynamics have forced many practices, particularly smaller ones, to shut their doors, cease offering certain services, or join massive hospital conglomerates, leaving patients with fewer and fewer healthcare options."

The **suit** alleges MultiPlan and the insurers, including Aetna, Cigna, UnitedHealth and Health Care Service Corp., have conspired to exchange extensive, current, confidential, and competitively sensitive pricing information with one another to lower what they must pay to providers, allowing them to reap higher profits.

"MultiPlan has a direct economic stake in suppressing out-of-network payment rates below fair levels," the organizations said. "For each claim it reprices, MultiPlan receives a fee from the insurer based on a percentage of the difference between the initial claim amount and what the insurer pays. In other words, MultiPlan gets paid more as physicians get paid less."

New York-based MultiPlan has seen revenues for its repricing services skyrocket from \$23 million in 2012 to \$709 million in 2021, according to the complaint.

The AMA and Illinois State Medical Society contend that MultiPlan makes offers of payment to physicians on a "take-it-or-leave-it basis," giving them less than 10 days to respond and threatening not to pay if the doctor doesn't accept. If a negotiation is attempted, MultiPlan will say it's not the insurer and is not authorized to go any higher, and if the insurer is asked how MultiPlan calculated the payment, the company will say it isn't responsible for MultiPlan's pricing, according to the suit.

MultiPlan then conditions its payment on the physician's promise not to bill the patient for any difference between the charges that were billed and what it has agreed to pay, the suit says.

"MultiPlan knows it can force this ultimatum on physicians because virtually every commercial healthcare payer has agreed to use its repricing methodology, leaving physicians with no practical option but to accept the "repriced" payment amount that MultiPlan imposes," the AMA and the Illinois group said.

Counsel for the organizations said in a statement Thursday that MultiPlan and major health insurers "have orchestrated one of the largest price-fixing cartels in American healthcare history."

"By eliminating competition in the commercial reimbursement market, this cartel has devastated healthcare providers across America, particularly threatening the survival of rural and independent medical practices that millions of patients depend on," said attorneys Matthew Lavin, Hunter Shkolnik, and Christopher Seeger, who were recently appointed co-lead counsel in the multidistrict litigation over MultiPlan's practices in Illinois federal court.

Counsel for MultiPlan could not be immediately reached for comment Thursday.

Concerns that MultiPlan allows health insurance companies to effectively collude through the cost management services that it provides **caught the attention** of Congress this year, with lawmakers saying the use of the tools may be allowing major insurers to systematically underpay out-of-network providers.

That led to multiple proposed class actions targeting MultiPlan and major insurance companies, and in August, the Judicial Panel on Multidistrict Litigation centralized in Chicago **six such lawsuits**. Several new lawsuits have been added to the MDL since then.

The AMA and ISMS are represented by Matthew Lavin of Arnall Golden Gregory LLP, Hunter Shkolnik of Napoli Shkolnik and Christopher Seeger of Seeger Weiss LLP.

Multiplan is represented by Latham & Watkins LLP and Phelps Dunbar LLP.

The case is American Medical Association et al. v. MultiPlan Inc., case number 1:24-cv-10959, in the U.S. District Court for the Northern District of Illinois.

--Additional reporting by Lauraann Wood and Matthew Perlman. Editing by Linda Voorhis.