

## Medicaid

### Nursing Homes Seek Overdue Ill. Medicaid Managed Care Payments

Skilled nursing facilities are attempting to hold several Illinois Medicaid managed care organizations liable for foot-dragging on paying for beneficiaries' care.

The case filed by Aperion Care Inc., Bria Health Services LLC, Everest Care Group LLC and others is one of the first brought by skilled nursing facilities against managed care organizations, which contract with state Medicaid agencies to ensure beneficiaries receive needed treatment. More than 50 percent of all Medicaid beneficiaries throughout the country receive care from risk-based MCOs, according to the Henry J. Kaiser Family Foundation.

Aperion and the other SNFs filed their complaint recently in the U.S. District Court for the Northern District of Illinois. They accused the managed care organizations—including Aetna Better Health Inc., Meridian Health Plan, Humana Inc., and Molina Healthcare of Illinois Inc.—of violating federal law. The complaint says the MCOs have the same payment obligations as state Medicaid agencies. That is, beneficiary applications must be processed timely and bills for patients approved for benefits must be at least 90 percent paid within 30 days of submission. The MCOs haven't lived up to their obligations, the facilities said.

The Illinois case follows the August filing by a group of Florida SNFs that sued MCOs, including affiliates of Humana, United HealthCare, and Coventry HealthCare, in an attempt to collect overdue payments.

**'Worst Seen'** Chadwick Bogar, managing partner of sb2 Inc. in Harrisburg, Pa., whose firm is representing the plaintiffs, told Bloomberg Law that complaints about MCOs' delayed payments usually are resolved quickly by state Medicaid agencies, but the backlog in Illinois "is the worst we've seen." His clients are owed tens of millions of dollars, he said.

For several years, Illinois didn't have a state budget, and state officials gave priority to funding programs other than Medicaid. A frustrated federal court judge in

June ordered the state to pay \$586 million per month to Medicaid providers for vouchers submitted after June 30, and an additional \$2 billion toward reducing the backlog of unpaid vouchers.

Earlier that month, Bogar's firm won the right to continue pursuing a lawsuit brought by nursing homes against the state to force it to timely review applications and pay Medicaid benefits. Illinois's Medicaid backlog "directly impedes the ability for these facilities to care for their residents," Bogar told Bloomberg Law at the time.

The current complaint makes several of the same arguments. It contends the nursing facilities will be unable to continue caring for their Medicaid residents unless they are paid, meaning the beneficiaries will be unable to find competent care. SNFs have very slim operating margins, Bogar said.

They are asking only for payments to which they are entitled under the law, he said.

**Domino Effect** The Medicaid money ultimately must come from the state. Bogar said it is possible the MCOs may bring separate claims against the state to collect the money.

The SNFs, for purposes of their claims, are asking the court to treat the MCOs as standing in the place of the state. That is, they are arguing that the MCOs have the same obligations as the state under state and federal Medicaid law, including the timely review and payment requirements.

Spokeswomen for Aetna and Molina told Bloomberg Law their companies don't comment on pending litigation. Humana didn't respond to Bloomberg Law's request for comments.

The case is *Aperion Care, Inc. v. Norwood*, N.D. Ill., No. 17-cv-8920, filed 12/12/17

By MARY ANNE PAZANOWSKI

To contact the reporter on this story: Mary Anne Pazanowski in Washington at [mpazanowski@bloomberglaw.com](mailto:mpazanowski@bloomberglaw.com)

To contact the editor responsible for this story: Peyton M. Sturges at [psturges@bloomberglaw.com](mailto:psturges@bloomberglaw.com)

The complaint is at <http://src.bna.com/u6a>.

To request permission to reuse or share this document, please contact [permissions@bna.com](mailto:permissions@bna.com). In your request, be sure to include the following information: (1) your name, company, mailing address, email and telephone number; (2) name of the document and/or a link to the document PDF; (3) reason for request (what you want to do with the document); and (4) the approximate number of copies to be made or URL address (if posting to a website).