



ATTORNEYS AT LAW

## **Court Dismisses Out-of-Network Provider Lawsuit Against Health Plans**

The United States District Court for the District of New Jersey recently dismissed a lawsuit brought by out-of-network orthopedic providers against various insurers of (and claims administrators for) employer-sponsored health benefit plans. Michael E. Holzapfel, Esq. of Becker LLC represented the lead defendant.

Plaintiffs disagreed with the quantum of out-of-network benefit payments allowed under the defendants' respective plans. Plaintiffs filed suit arguing that, as out-of-network providers, the plans had an obligation to pay plaintiffs' usual, customary and reasonable (UCR) rates. Plaintiffs prosecuted their claims as alleged assignees of their patients' plan benefits, or, alternatively, as alleged attorneys-in-fact for their patients under powers-of-attorney. Plaintiffs advanced their claims for additional reimbursement under both state law and the Employee Retirement Income Security Act of 1974 (ERISA).

Becker LLC raised several objections to the complaint as it pertained to the firm's client. First, plaintiffs' state law claims were preempted under ERISA, given that they related to and were premised upon the existence of employer-sponsored ERISA plans.

Second, several plans contained non-assignment provisions, which precluded members from transferring standing to the providers for the purpose of filing a lawsuit seeking additional benefits. Further, as to plaintiffs' alternate argument that they had standing through powers-of-attorney, the firm argued (among other things) that medical provider organizations are incapable of being attorneys-in-fact under New Jersey statutory law.

Third, even if plaintiffs had standing to assert ERISA claims, the providers' complaint failed to plausibly assert that the plans vested them with a right to benefits in the amount of the providers' UCR rates. The firm argued that the complaint failed to make a plausible showing that the terms of the plans actually required reimbursement of the providers' UCR rates.

The Court agreed with the firm's arguments, holding that (1) the providers' state law claims were preempted by ERISA; (2) the non-assignment provisions in the plans foreclosed provider standing-by-assignment, and the providers (who did not qualify as attorneys-in-fact under state law in any case) could not make an end-run around the non-assignment provisions through a power-of-attorney; and (3) even if the providers had standing under ERISA, the providers failed to make a plausible showing that the plans' terms vested the providers with a right to UCR reimbursement.

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The Court also dismissed ancillary claims, including the providers' claim that the firm's client failed to provide plan documents to plaintiffs in violation of ERISA Section 502(c). Citing prior case law, the Court concluded that Section 502(c) applies only to plan "administrators," a term that has a specific statutory definition. The Court found that plaintiffs' pleading failed to plausibly demonstrate that the firm's client met that definition.

The Court's opinion correctly applied existing case law, including case law originating from Becker LLC cases. Please contact *Michael E. Holzapfel, Esq.*, a member of the Becker LLC Litigation Group for more information on this case and the range of legal services the group provides to health insurance plans and plan administrators.



**About Michael E. Holzapfel:** Michael E. Holzapfel is a member of the firm. He has practiced in the firm's Litigation Department for 16 years and heads the department's healthcare and construction litigation practice groups. He has represented clients ranging from Fortune 500 companies to closely-held family businesses and sole proprietorships. He has served as lead and local counsel in numerous cases before the state and federal courts at all levels throughout New Jersey, in which he has created favorable law for his clients through several decisions.

Mr. Holzapfel is an elected member of the Council of the Borough of Little Silver and an appointed member of the Borough's Planning and Zoning Boards, and he has extensive experience working with state and municipal agencies on various regulatory issues.

### About Becker

Becker LLC is a premier mid-market firm with offices in New York, New Jersey, Philadelphia and California. The firm provides the complete spectrum of legal services from litigation, transactional, labor and employment, and bankruptcy law counseling, to intellectual property, real estate and construction law related advice. Our size and regional footprint allows us to provide sophisticated services in a manner not only focused on results, but also on our client's return on their investment.

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