

EXHIBIT A

RETURN DATE: August 17, 2021

| | |
|---|----------------------------|
| -----X | : |
| NORTHEAST EMERGENCY MEDICINE | : SUPERIOR COURT |
| SPECIALISTS, LLC, | : JUDICIAL DISTRICT OF NEW |
| | : NEW HAVEN |
| Plaintiff, | : |
| | : AT NEW HAVEN |
| Vs. | : |
| | : |
| HARVARD PILGRIM HEALTH CARE OF | : |
| CONNECTICUT, INC.,and HEALTH PLAN | : |
| HOLDINGS, INC. n/k/a POINT32HEALTH, Inc., | : |
| Defendants. | : |
| -----X | : |

COMPLAINT

Plaintiff Northeast Emergency Medicine Specialists, LLC (“Plaintiff Doctors”) by and through undersigned counsel, as and for its Complaint against Defendants Harvard Pilgrim Health Care of Connecticut, Inc. and Health Plan Holdings, Inc. k/n/a Point32Health, Inc. (collectively the “Insurance Company”), alleges as follows:

PARTIES

1. Plaintiff Northeast Emergency Medicine Specialists, LLC is a Connecticut limited liability company that staffs the emergency departments at Windham Hospital, Johnson Memorial Hospital, and the Hospital of Central Connecticut, Bradley Memorial Campus (collectively the “Hospital”) with emergency medicine physicians and advance practice providers. The plaintiff also has a place of business in New Haven, Connecticut.

2. Defendant Harvard Pilgrim Health Care of Connecticut, Inc. is a corporation organized under the laws of the State of Connecticut. Upon information and belief, its principal place of business in Connecticut is 185 Asylum Street, Hartford, Connecticut.

3. Upon information and belief, Harvard Pilgrim Health Care of Connecticut, Inc. merged with Health Plan Holdings, Inc. and the merged entity is about to be or has been renamed Point32Health, Inc. Health Plan Holdings, Inc. n/k/a Point32Health, Inc. is located at 705 Mt. Auburn Street in Watertown Massachusetts.

4. The Insurance Company provides health insurance to Connecticut residents.

BACKGROUND

5. Plaintiff Doctors provide emergency care to tens of thousands of Connecticut and American citizens each year. Unlike most physicians, who can choose the patients they treat, these doctors cannot. Under compulsion of federal law (The Emergency Medical Treatment and Labor Act, 42 U.S.C. § 1395dd (“EMTALA”)), Plaintiff Doctors are obligated to treat all patients who present to their emergency departments. *See also*, Conn. Agency Regs., § 19-13-D3(j).

6. Plaintiff Doctors provide high-quality emergency services, every day and night, on every weekend, on Christmas and other holidays, during long shifts, and under stressful conditions.

7. Patients come to a hospital’s emergency department because they need immediate help to treat an emergent medical condition. Patients put their lives and their trust in the hands of Plaintiff Doctors.

8. In recognition of the nature and critical importance of these services, and to protect patients from surprise bills, the legislature enacted a surprise billing law that creates a legal duty independent of ERISA and ERISA plans, and that law compels the Insurance Company to pay Plaintiff Doctors the amount specified by statute (for the care provided, the greatest of (i) the in network fee; (2) the usual, customary and reasonable rate as set forth in the Fair Health database; or (3) the Medicare rate).¹ This portion of the statute only applies to emergency department services where there is no contractually agreed upon rate for such services. *See* Conn. Gen. Stat. Ann. § 38a-

¹ In circumstances applicable to this case, the FAIR Health database has the highest rate of the three specified in the statute for the Current Procedural Terminology (“CPT”) codes at issue.

477aa (the “Surprise Billing Law”). The Insurance Company violated the Surprise Billing Law and illegally failed to pay Plaintiff Doctors.

9. Similarly, the Patient Protection and Affordable Care Act requires group health plans and managed care companies that provide or cover benefits with respect to services in an emergency department of a hospital, to cover all emergency services without the need for prior authorization, without regard to the provider’s status as an out-of-network provider, and in a manner that ensures that the patient’s cost-sharing requirement is the same requirement that would apply if such services were provided in-network. *See* 42 U.S.C. § 300gg-19a(b)(1).

10. Typically, physician groups enter into provider agreements with insurers that specify the amount the insurer is supposed to pay the provider for each CPT code billed. Physician services are summarized using CPT codes for billing purposes. There are seven common CPT codes for emergency department care, 99281-99285 and 99291 and 99292 (critical care). In addition, there are observation codes for observation status and codes for procedures performed in the emergency department.

11. Generally, when a physician group provides medical services to a patient, and the physician group has signed a provider contract with the patient’s insurer or an affiliate, the services are considered in-network and are paid by the insurer or patient (if there is a deductible or co-insurance) at the contracted rate. Conversely, when there is no applicable provider agreement and therefore no contracted rate for the applicable CPT code(s), the medical services are out of network.

12. While Plaintiff Doctors are under contract, directly or indirectly, with most payors, including, for example, Anthem, United, Cigna, Aetna (either directly or through Multiplan), they have elected not to participate with the Insurance Company. From Plaintiff Doctors’ perspective, the Insurance Company offered to pay Plaintiff Doctors below market rates and its subscribers have comparatively high deductibles. Many patients do not pay their deductibles and they can be difficult,

even costly, to try to collect. Plaintiff Doctors are unable to collect a substantial percentage of unpaid deductibles. As a result of these problems, Plaintiff Doctors elected not to participate in the Insurance Company's network of healthcare providers.

13. One purpose of the Surprise Billing Law is to protect patients from the cost of uninsured care. Another purpose of the statute is to protect emergency medicine providers. For the reasons described below, absent the Surprise Billing Law, they would not necessarily be paid anything by the Insurance Company for the mandatory and lifesaving services Plaintiff Doctors provide.

The Treatment and Billing Process

14. Every day and night, Plaintiff Doctors provide emergency medical services at the Hospital.

15. Plaintiff Doctors provide their patients with a wide variety of emergency medical services (in many instances, life-saving services), including treatment of conditions ranging from cardiovascular emergencies to unstable multi-system trauma, stroke, diabetic ketoacidosis and shock, perforated viscus, and obstetrical emergencies.

16. At great risk to themselves and their families, Plaintiff Doctors treated COVID-19 patients when little was known about the disease. Their communities rely on Plaintiff Doctors.

17. At times, with limited pre-natal care, delivering mothers present, out of the blue, to the Emergency Department, in labor, sometimes in breach presentation. Cases like these are highly dangerous, anxiety producing and are categorically different from the daily work life most people experience. The unpaid claims in this case fit within the broad spectrum of care that Plaintiff Doctors must provide on a moment's notice.

18. No matter how busy the Emergency Department can be, there is a regular professional workflow for all patients. Less emergent patients are registered by the Hospital,

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.