

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

-----	x	Docket No.: 3:22-cv-504
MURPHY MEDICAL ASSOCIATES, LLC;	:	
DIAGNOSTIC AND MEDICAL SPECIALISTS	:	<b><u>COMPLAINT</u></b>
OF GREENWICH, LLC; and STEVEN A.R.	:	
MURPHY, M.D.,	:	<b><u>JURY TRIAL DEMANDED</u></b>
	:	
Plaintiffs,	:	
vs.	:	
	:	
CENTENE CORPORATION, FIDELIS CARE and	:	
WELLCARE HEALTH PLANS, INC.	:	
	:	
Defendant.	:	
-----	X	

Plaintiffs Murphy Medical Associates LLC, Diagnostic and Medical Specialists of Greenwich, LLC (collectively, “Murphy Practice”) and Steven A.R. Murphy, M.D. (“Dr. Murphy”), by their attorneys, Harris Beach, PLLC, for their Complaint against the Defendant, Centene Corporation ( “Centene”), Fidelis Care (“Fidelis”) and WellCare Health Plans, Inc. (“WellCare”)(collectively, “Defendants”), allege as follows.

**INTRODUCTION**

1. Plaintiffs bring this case because Centene, one of the largest publicly traded health plan issuers in the United States and two of its wholly owned managed care health insurance subsidiaries, Fidelis and WellCare, are blatantly defying federal and state law, as well as principles of equity, by refusing to reimburse Plaintiffs for COVID-19 testing that Plaintiffs provided to members and/or beneficiaries of Defendants’ health plans in the midst of a public health crisis.

2. In 2020, and in response to the COVID-19 pandemic and public health emergency, Congress twice passed statutes – the Families First Coronavirus Response Act (FFCRA) and the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) – requiring all fully-insured,

level-funded, and self-insured health plans, including those plans that Fidelis and WellCare administer, to cover such COVID-19 tests and related services, regardless of whether they are provided by in-network or out-of-network providers. Such coverage must be complete: copayments, deductibles, coinsurance and limits on coverage are not permitted.

3. The recent emergence of the highly transmissible BA.2 Omicron variant ensures that the need for continued, efficient COVID-19 testing persists. The Murphy Practice will continue to provide critical COVID-19 testing to uphold its Hippocratic Oath during this public health crisis.

4. Defendants, however, have refused to honor federal law and, instead, have issued outright denials or infinitesimal “reimbursement” of claims submitted by the Murphy Practice. The Murphy Practice has appealed every claim submitted to Fidelis and WellCare, which were summarily denied and later advised to the Murphy Practice that it has exhausted all appeal rights.

5. Plaintiffs, therefore, are left with no recourse against Defendants other than through this Court to hold Defendants accountable for their wrongful conduct during the current public health crisis.

### **PARTIES**

6. At all times relevant to this matter, Plaintiff Murphy Medical Associates LLC is a limited liability company organized under Connecticut law. Its principal place of business is located at 30 Buxton Farms Road, Stamford, Connecticut 06905.

7. At all times relevant to this matter, Plaintiff Diagnostic and Medical Specialists of Greenwich, LLC is a limited liability company organized under Connecticut law. Its principal place of business is located at 30 Buxton Farms Road, Stamford, Connecticut 06905.

8. At all times relevant to this matter, Plaintiff Steven A.R. Murphy, M.D. (“Dr. Murphy”) is a physician licensed to practice medicine in Connecticut and New York. His principal place of practice is located at 30 Buxton Farms Road, Stamford, Connecticut 06905.

9. Dr. Murphy, a board-certified internist, is the principal of the Murphy Practice.

10. Dr. Murphy completed his internship in medical genetics and pediatrics at Mount Sinai Hospital in New York. He subsequently served as the Chief Resident for Internal Medicine at Greenwich Hospital-Yale New Haven Health in Greenwich, Connecticut from July 2007 through May 2008. Prior to entering private practice, Dr. Murphy also served as a clinical fellow in medical genetics at Yale Medical School in New Haven, Connecticut from June 2008 until November 2008.

11. As a physician, Dr. Murphy specializes in general medical care, personalized medicine and genetics, weight loss medicine, adolescent care, and hereditary cancers. In addition, Dr. Murphy is an FAA Senior Aviation Medical Examiner, a United States Civil Surgeon, and an obesity medicine specialist.

12. Dr. Murphy also serves as an assistant professor of medicine, cell biology, and anatomy at New York Medical College in Valhalla, New York.

13. Dr. Murphy is the certified laboratory director for Plaintiff Diagnostic and Medical Specialists of Greenwich, LLC under the federal Clinical Laboratory Improvement Amendments (“CLIA”) and Connecticut law.

14. Upon information and belief, Defendant Centene is a publicly traded managed care company that issues and administrates various health plans with its principal place of business located at 7700 Forsyth Boulevard St. Louis, MO 63105.

15. Defendant Centene is multi-billion-dollar company and one of the largest health insurance providers in the United States with reported 2021 revenues of \$126 billion.

16. Upon information and belief, Fidelis is a corporation organized under New York law with its principal place of business located at 100 Willowbrook Office Park #100, Fairport, NY 14450. Fidelis is a wholly owned subsidiary of Defendant Centene.

17. Upon information and belief, WellCare is corporation organized under Florida law with its principal place of business located at 7700 Forsyth Boulevard St. Louis, MO 63105. WellCare is a wholly owned subsidiary of Defendant Centene.

### **JURISDICTION AND VENUE**

18. This Court has jurisdiction over this dispute under 28 U.S.C. § 1331 because the Murphy Practice asserts federal claims against Defendants under the Families First Coronavirus Relief Act, the CARES Act, the Affordable Care Act, and ERISA.

19. This Court also has supplemental jurisdiction over the Murphy Practice state law claims against Defendants because these claims are so related to the Murphy Practice's federal claims that the state law claims form a part of the same case or controversy. This Court accordingly has supplemental jurisdiction over these claims pursuant to 28 U.S.C. § 1367(a).

20. This Court also has personal jurisdiction over Defendant Centene because Centene carries on one or more businesses or business ventures in this judicial district; there is the requisite nexus between the businesses and this action; and Centene engages in substantial, and not isolated, activity within this judicial district.

21. This Court also has personal jurisdiction over Defendant Fidelis because Fidelis carried on one or more businesses or business ventures in this judicial district; there is the requisite nexus between the businesses and this action; and Fidelis engaged in substantial, and not isolated,

activity within this judicial district.

22. This Court also has personal jurisdiction over Defendant WellCare because WellCare carries on one or more businesses or business ventures in this judicial district; there is the requisite nexus between the businesses and this action; and WellCare engages in substantial, and not isolated, activity within this judicial district.

23. Venue is proper in this District under 28 U.S.C. § 1391(b)(2), because a substantial portion of the events giving rise to this action arose in this District.

### **FEDERAL LAW REQUIRES DEFENDANTS TO REIMBURSE PLAINTIFFS**

24. In March 2020, Congress, in recognition of the COVID-19 public health emergency and the desperate need to address it by making COVID-19 testing readily available to anyone who needed or wanted it, enacted two statutes that addressed the issue of payment for testing: the Families First Coronavirus Response Act (“FFCRA”) and the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

25. Specifically, through the FFCRA, Congress mandated that health plans, including large and small group plans, self-funded plans, managed care plans and individual market plans, such as Defendants’, must cover and reimburse providers for conducting COVID-19 testing, COVID antibody testing, and related testing and services.

26. In recognition of the public health crisis, Congress went much further than merely requiring health plans to cover testing. To ensure that no patient would be deterred from getting a COVID-19 test due to a concern for the cost, Congress required coverage for COVID-19 testing and related services to be provided without cost sharing, deductibles, copayments or coinsurance, or other medical management requirements, regardless of whether the COVID-19 testing and related services were provided by “in-network” or “out of network” providers.

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