

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

CASE NO.:

SURGERY CENTER OF VIERA, LLC,

Plaintiff,

v.

UNITEDHEALTHCARE INSURANCE
COMPANY, BROOKDALE SENIOR LIVING,
INC., and BROOKDALE SENIOR LIVING
WELFARE PLAN,

Defendants.

COMPLAINT

Plaintiff, Surgery Center of Viera, LLC (“SCV”), as medical provider, authorized representative, and assignee of patient / insured, T.T., sues Defendants, UnitedHealthcare Insurance Company (“UHC”), Brookdale Senior Living, Inc. (“Brookdale”), and Brookdale Senior Living Welfare Plan (the “Plan”),¹ as follows:

¹ The 2019 Plan document provided to SCV by UHC pre-suit is attached hereto as **Exhibit A** and incorporated fully herein by reference. The date of service at issue was January 25, 2019. This Plan appears to be self-funded / self-sponsored. So, if Brookdale had nothing to do with pre-suit claim and / or appeal decision-making as to the unreasonably low rate of payment at issue here (*i.e.*, the liability component of Counts I-III below), SCV is willing to dismiss without prejudice the Brookdale Defendants as to Counts I-III if it were to agree / stipulate as to the following: prompt satisfaction of monies deemed owed to SCV by the trier of fact; *i.e.*, prompt satisfaction of outstanding benefits when UHC’s claim / appeal decision-making as to the amount of medical service monies tendered to SCV is someday determined improper.

**NATURE OF THE ACTION, PARTIES,
JURISDICTION, AND VENUE**

1. This action arises, in part (Counts I-III), under state law for Defendants' wrongful, unsubstantiated underpayment of monies owed to SCV for medical services SCV provided to the patient / insured, T.T., on January 25, 2019, which such causes of action have absolutely nothing to do with "right of payment" / coverage (*i.e.*, have everything to do with unreasonably low "rate of payment" / benefits) and which such causes of action have to do with third-party re-pricing contracts separate and distinct from the insurance policy / plan document.

2. At all material times, SCV was a medical provider and a Florida limited liability company with its citizenship (*i.e.*, principal place of business / "nerve center") in Viera, Florida, Brevard County. SCV is *sui juris* in all respects. SCV's members are as follows: (a) Dr. Ara Deukmedjian, domiciled in Brevard County, Florida, (b) Sun Deukmedjian, domiciled in Brevard County, Florida, and (c) Dr. Bharat Patel, domiciled in Brevard County, Florida. At all material times, SCV was the authorized representative of T.T. with a power of attorney (in the authorized representative and assignee veins) as well,² having provided subject medical services to T.T. for which a proper amount of compensation (Counts I-III) was / is due and owing. And, again, Defendants honored such authorized representative / assignee / power of attorney capacities by, for examples, carrying

² All germane authorization / assignment / power of attorney paperwork in SCV's possession is attached hereto as **Exhibit B** (in redacted form) and incorporated fully herein by reference.

out pre-suit appeal with SCV (and / or SCV counsel) and tendering partial claim payment directly to SCV. At the very least, such pre-suit Defendants conduct constitutes a waiver and / or estoppel of any anti-assignment argument Defendants may try to *ex post facto* make in the courtroom.

3. At all material times, UHC was an insurance company with its state of incorporation and principal place of business / headquarters (“nerve center”) in the State of Minnesota and engaged in the business of selling insurance, administering insurance, and / or deciding and paying insurance claims throughout the country, including in the State of Florida.

4. At all material times, Brookdale was a corporation with its citizenship (*i.e.*, state of incorporation) in the State of Delaware and its principal place of business / headquarters (“nerve center”) in Tennessee and engaged (in pertinent part here) in the administration and / or sponsorship of the Plan. The Plan has the same citizenship and nerve center as Brookdale, Delaware and Tennessee, respectively.

5. This Court has jurisdiction pursuant to Title 28, United States Code, Section 1332, as complete diversity exists between the parties and the amount in controversy exceeds \$75,000.00 exclusive of interest, costs and attorney’s fees.

6. Venue is proper in the Middle District Court of Florida pursuant to Title 28, United States Code, Section 1391(b), since, for examples, (a) a substantial part of the events or omissions giving rise to the subject action occurred in this jurisdiction, namely the subject medical procedure, Defendants’

underpayment of the subject insurance claim both at the initial claim and subsequent pre-suit appeal stages (Counts I-III), and (b) the Orlando Division of this Court has personal jurisdiction due to Defendants' minimum contacts in this forum.

7. All conditions precedent to the institution of this action (*e.g.*, administrative pre-suit appeals) have occurred, been performed, been waived, or were futile.

COMMON ALLEGATIONS

8. The Plan's Group number was / is 709155. Again, a copy of the insuring agreement (which is separate and distinct from the re-pricing contract / agreement at issue in this lawsuit, *see* **Exhibit C** incorporated fully herein by reference, and whatever mystery re-pricing program UHC employed *via* Viant pursuant to the carrier's EOB) is attached as Exhibit A and incorporated fully herein by reference. Moreover, T.T.'s Member ID No. was / is 000613094. Moreover, UHC's assigned Transaction No. W1140241001.

9. At all material times, T.T. was covered (*i.e.*, coverage is not an issue here) by the Plan as evidenced by several things, with examples now discussed.

- a. If T.T. was not an eligible / covered insured, the subject claim would not have been paid by Defendants in any amount, and this eligibility and claim payment correlation reality is stated in the pre-authorization paperwork (Authorization No. A061652722) discussed below and attached as **Exhibit D**. Exhibit D, made up of a UHC

authorization letter / printout with the authorization date being December 28, 2018, according to same, is incorporated fully herein by reference.

- b. If the subject surgery (which such surgery was broken down by codes found in the HCFA found in SCV's initial claim submission packet) had not been covered,³ the subject claim would not have been paid by Defendants in any amount. Regarding coverage of the subject HCFA codes, Defendants' EOB furnished by UHC (further discussed below) is attached as **Exhibit F** and evidences Defendants' coverage decision. Exhibit F (made up of an EOB dated February 15, 2019) is incorporated fully herein by reference. As one can plainly see from the UHC-issued EOB, Defendants unilaterally re-priced the subject claim and did not deny any aspects of the claim on coverage grounds (*e.g.*, medical necessity, experimental / investigational). To this day, we really have no idea how UHC came up with payments totaling \$16,125.56 (on a billed amount of \$193,438.00) because at every turn (SCV's requests and undersigned counsel's requests), Defendants have secreted how they came up with the aforementioned rate of payment; *i.e.*, have never substantiated their determination that \$16,125.56 was a "reasonable" or "recognized" amount for of payment

³ The HFCA form was part of SCV's claim submission package to Defendants. SCV's claim submission package is attached hereto as **Exhibit E** and incorporated fully herein by reference.

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