

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Scott M. Archer,

Plaintiff,

vs.

Rehabilitation Institute of Chicago dba as Shirley
Ryan Ability Lab, an Illinois non-profit
corporation,

Defendants.

Case No.: 1:22-cv-00700

The Honorable Robert M. Dow, Jr.

PLAINTIFF'S SECOND AMENDED COMPLAINT

Plaintiff Scott Archer ("Scott") for his Complaint against the Rehabilitation Institute of Chicago DBA Shirley Ryan Ability Lab ("SRALab") alleges as follows:

PARTIES

1. Scott is a resident of Maricopa County, Arizona. Scott is married to Carol Archer ("Carol").
2. Defendant Rehabilitation Institute of Chicago dba as Shirley Ryan Ability Lab is an Illinois non-profit corporation with its principal place of business in Chicago, Illinois.

JURISDICTION AND VENUE

3. This Court has jurisdiction over SRALab and the subject matter of this claim under 28 U.S.C. § 1332.
4. This Court is the proper venue for the matter based on an order from Arizona District Court, dated February 7, 2022.

FACTUAL BASIS

Archer's Health Insurance Coverage

5. At all relevant times, Scott and his family were covered by an employer-provided health insurance plan underwritten by All Savers Insurance Company, a wholly-owned subsidiary of United HealthCare Services, Inc. In the Arizona District Court action, the Complaint named several United Health entities, including All-Savers Insurance Company, United HealthCare Services, Inc., UnitedHealthGroup, Inc. and UnitedHealthcare. For purposes of this Complaint, these entities will be collectively identified as UHC.

6. Barclay provided insurance under a “self-insured” plan that covered the first \$15,000 in medical bills for any individual during a plan year. Barclay also purchased a stop-loss insurance policy from All Savers that covered everything after the first \$15,000.

7. Scott is a principal at Barclay Group Development Services, LLC (“Barclay”) and he continues to work for Barclay.

8. Scott had a history of lumbar back problems including multiple surgeries and ongoing difficulties with pain. As part of his treatment for ongoing lumbar pain, he underwent a protein-rich plasma/Fibrin injection in Texas on December 5, 2017.

9. After the injection Scott experienced uncontrolled pain at the injection site.

10. On December 14, 2017, Scott arrived at the Banner University Medical Center (“Banner”) ER in Phoenix, Arizona, complaining of progressive upper and lower extremity weakness and decreased motor function. Scott’s knees were buckling, and he was having uncontrolled pain.

11. Testing and examination revealed that Scott had diffuse cervical and thoracic edema with osteomyelitis.

12. On December 15, 2017, Scott underwent an emergent C4-T1 laminectomy and C4-T2 fusion.

13. Scott's recovery course was complicated. Scott had acute neurological symptoms, weakness, and was unable to walk. He required significant assistance in performing his activities of daily living.

14. Given his condition, Banner discharged Scott to its acute inpatient rehabilitation ("AIR") facility. By definition, an AIR facility requires the patient to participate in intensive rehabilitation, typically three hours of therapies daily, or be expected to progress to participating in three hours per day. An AIR provides continuous medical supervision and coordinated care between doctors, occupational therapists and physical therapists.

15. Scott's medical team at Banner certified that he had a medical condition that qualified for AIR, and Scott was transferred to Banner's AIR on December 23, 2017.

16. While in AIR, Scott's upper extremity strength improved, but his lower extremity strength did not. Scott was making slow progress.

17. UHC was actively conducting utilization review and approving his continued stay a few days at a time.

18. Scott's lack of progress led UHC to challenge whether he met the criteria for acute rehabilitation.

19. UHC advised Carol that Scott could be discharged home and cared for in an outpatient setting.

20. Since UHC continued to deny acute rehabilitation and the prospect of taking care of Scott at home petrified Carol, she began researching alternative options for acute rehabilitation.

21. Carol contacted SRAlab. SRAlab obtained Scott's records and determined that Scott was medically capable of participating in acute inpatient rehabilitation and agreed to admit him. SRAlab sought authorization for inpatient rehabilitation on January 11, 2018, and UHC denied that request.

22. UHC confirmed its decision in a letter dated January 12, 2018. UHC determined that Scott's ability to perform self-care had plateaued and that outpatient rehabilitation was the proper setting for his care.

23. Unfortunately, Scott's condition worsened while at Banner's AIR. He ended up back at Banner on January 20, 2018, to treat blood clots, pulmonary emboli and a pressure sore.

24. Scott recovered and was ready for discharge from Banner on January 27, 2018. Scott's physicians advised UHC that inpatient rehabilitation was necessary for Scott and he was fully capable of participating in the required level of therapies.

25. Carol and Banner lobbied UHC to return Scott to Banner's AIR.

26. UHC again refused to transfer Scott back to AIR because he was not an appropriate candidate for its services.

27. Carol renewed contact with SRAlab to determine whether it would still accept Scott as a patient. SRAlab agreed to admit Scott.

28. Before transferring Scott to SRAlab, Carol confirmed that SRAlab was a UHC-contracted facility.

29. SRAlab indicated that it could enter into a self-pay agreement since UHC denied preauthorization. It required a \$130,928 payment for the first 28 days of care at SRAlab.

30. Carol attempted to negotiate a lower self-pay rate; however, SRAlab advised her that it was the "standard" rate.

31. Carol was clear throughout the admission process that they intended to self-pay so Scott could get better, but they fully intended to pursue appeals and payment from UHC.

32. SRAlab agreed to refund any funds due back to Scott if UHC overturned its denial.

33. Carol executed the Self Pay Agreement and wired \$130,928.00 to SRAlab.

34. SRAlab admitted Scott on January 28, 2018.

35. Scott's recovery followed a complicated course, but he obtained significant recovery after remaining at SRAlab for 57 days through March 26, 2018.

36. Scott executed three additional self-pay agreements to cover Scott's 56 days at SRAlab that each required additional payments. Scott paid SRAlab \$283,276.00.

37. While at SRAlab, Scott appealed UHC's denial several times.

38. SRAlab also filed a provider appeal to UHC on April 30, 2018.

39. On May 22, 2018. UHC denied SRAlab's appeal.

40. Scott required follow-up MRIs to continue his treatment. SRAlab failed to obtain proper orders for follow-up MRIs and failed to have the MRIs conducted at a contracted facility so that UHC would pay the claims.

41. SRAlab sent Scott a bill for \$46,088.95 on August 1, 2018 for these MRIs.

42. After one of Scott's appeals to UHC, it finally decided that the time from January 28, 2018 to February 12, 2018 was covered. But UHC never processed payment for the claim and SRAlab never requested payment.

43. In fact, SRAlab did not file its claim for services provided to Scott with UHC until December 12, 2018, nearly nine months after Scott's discharge. SRAlab's claim was for \$329,364.95.

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