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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

_____	:	
JOHN D. LIPANI, M.D., as an assignee,	:	
authorized representative, and attorney-in-fact	:	Civil Action No.: 3:21-cv-16851
of his patient S.L.,	:	
	:	
<i>Plaintiff,</i>	:	
	:	COMPLAINT
- v. -	:	
	:	
CIGNA HEALTH AND LIFE INSURANCE	:	
COMPANY,	:	
	:	
<i>Defendant.</i>	:	
_____	:	

Plaintiff JOHN D. LIPANI, M.D. as an assignee, duly-appointed authorized representative, and attorney-in-fact of his patient S.L., by way of this Complaint against CIGNA HEALTH AND LIFE INSURANCE COMPANY, hereby alleges upon personal knowledge as to himself and his own acts, and upon information and belief as to all other matters, based upon, *inter alia*, the investigation made by and through his attorneys, as follows:

PARTIES

1. Dr. John D. Lipani, MD, PhD, FAANS, FACS, is a board certified, fellowship-trained neurosurgery specialist in brain surgery and spine surgery. Dr. Lipani’s neurosurgery specialties include complex and minimally invasive spine surgery and non-invasive brain and spine radiosurgery. Dr. Lipani also specializes in revision spinal surgery including correction of

cervical and lumbar fusion and cervical disc replacement surgery. He is the sole owner and operator of Princeton Neurological Surgery, P.C. (“PNS”).

2. PNS is a New Jersey professional corporation with a principal place of business located at 3836 Quakerbridge Road Suite 203 Hamilton, New Jersey 08619, which owns and operates a neurological surgery practice that specializes in brain tumor treatment, treatment of intracranial conditions, complex brain surgery, brain tumor surgery, complex spine surgery, and minimally invasive surgery.

3. Upon information and belief, Cigna Health and Life Insurance Company (“Cigna”) is an operating subsidiary of Cigna Corporation with a principal place of business of Two Chestnut Place, 1601 Chestnut Street, Philadelphia, PA 19192.

4. Upon information and belief Cigna underwrites and/or administers certain commercial health plans (“Plan” or “Plans”), through which healthcare expenses incurred by Plan insureds (“Insureds”) for services and/or products covered by the Plans (“Covered Services”) are reimbursed by and/or through Cigna, subject to each Plan’s terms.

5. At all times relevant hereto, S.L. was a “beneficiary,” as defined by 29 U.S.C. § 1002(8), in an “Employee Health Benefit Plan,” as defined by 29 U.S.C. § 1002(1) administered by Cigna, through her Employer Prudential Insurance Company of America. S.L. received health benefits through the Prudential Insurance Company of America Medical Plan (the “Plan”).

6. Dr. Lipani is authorized pursuant to an assignment to bring this claim on his own behalf, or alternatively on behalf of S.L. as her authorized representative and attorney-in-fact to the extent her Plan contains an “anti-assignment clause.”

JURISDICTION AND VENUE

7. Cigna’s actions in administrating the Plans are governed by the Employee

Retirement Income Security Act of 1974, 29 U.S.C. § § 1001 to 1461 (“ERISA”). This Court, therefore, has subject matter jurisdiction over the claim for benefits brought under 29 U.S.C. § 1132(a)(1)(B) herein pursuant to 29 U.S.C. § 1132(e).

8. Venue in this District is appropriate pursuant to 28 U.S.C. § 1391, as the District of New Jersey is the District where a substantial amount of the activities forming the basis of the Complaint occurred.

9. This Court has personal jurisdiction over Cigna because Cigna has substantial contacts with, and regularly conducts business in, New Jersey.

STANDING

10. As a beneficiary of the Plan as that term is defined in 29 U.S.C. § 1002(8), S.L., has standing to bring this action under 29 U.S.C. § 1132(a)(1)(B).

11. By and through an assignment of benefits, S.L, has assigned her right to bring this action to Dr. Lipani, who therefore has standing to bring this action under 29 U.S.C. § 1132(a)(1)(b). The instrument S.L. executed in favor of Dr. Lipani incorporates, *inter alia*, the below language:

I hereby assign all applicable health insurance benefits to which I and/or my dependents are entitled to [PNS] and/or [Dr. Lipani] . . . I hereby authorize the [PNS] and/or [Dr. Lipani] to submit claims, on my and/or my dependent’s behalf, to the benefit plan.

12. The assignment of benefits and claims also states, in relevant part:

I hereby designate, authorize, and convey to [PNS] and/or [Dr. Lipani] to the full extent permissible under law and under any applicable insurance policy and/or employee health care benefit plan. . . the right and ability to act as my Authorized Representative in connection with any claim, right or cause in action said that I may have under such insurance policy insurance policy and/or benefit plan.

13. S.L. has also designated Dr. Lipani as her “authorized representative,” as defined in 29 C.F.R. § 2560.503-1, and Dr. Lipani may, therefore, bring this action on behalf of S.L. under

29 U.S.C. § 1132(a)(1)(B). The instrument S.L. executed in favor of Dr. Lipani incorporates, *inter alia*, the below language:

I hereby designate, authorize, and convey to [PNS] and/or [Dr. Lipani] to the full extent permissible under law and under any applicable insurance policy and/or employee health care benefit plan: (1) the right and ability to act as my Authorized Representative in connection with any claim, right, or cause in action that I may have under such insurance policy and/or benefit plan; and (2) the right and ability to act as my Authorized Representative to pursue such claim, right, or cause of action in connection with said insurance policy and/or benefit plan (including but not limited to, the right and ability to act as my Authorized Representative with respect to a benefit plan governed by the provisions of ERISA as provided in 29 C.F.R. §2560.5031(b)(4) with respect to any healthcare expense incurred as a result of the services I received from Provider and, to the extent permissible under the law, to claim on my behalf, such benefits, claims, or reimbursement, and any other applicable remedy, including fines.

14. S.L. also designated Dr. Lipani as her “attorney-in-fact” for purposes of pursuing this claim. The instrument S.L. executed in favor of PNS incorporates, *inter alia*, the below language:

I hereby designate, authorize, and convey to Provider to conduct insurance transactions and to demand, sue for, collect, recover and receive all goods, claims, debts, monies, and demands whatsoever now or shall hereafter become due, owning or belonging to me (including the right to institute any action, suit or legal proceedings, for the recovery of any claims or any part, or parts, thereof, to the possession whereof I may be entitled), to have and take all means for the recovery thereof, by action at law, suits in equity, or otherwise, and to compromise and agree for the same, and to make, execute and deliver receipts, releases, acquittances or other sufficient discharges therefore, and to sue and to settle suits of any kind in my name or on my behalf. This Power of Attorney extends to the power to conduct litigation and other legal proceedings, including the acceptance of service of process on my behalf, related to any insurance transactions.

This Power of Attorney includes the power to conduct health care billing, recordkeeping and payment, which authorizes the Provider to act as my representative pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), sections 1171 through 1179 of the Social Security Act, 42 U.S.C. Section 1320d, and applicable regulations, in order to take action including but not limited to obtaining access to my health care information.

Provider shall follow my instructions as set forth in this Assignment of Benefits. The Provider shall not be authorized to make any health care decisions on my behalf. Furthermore, I do not authorize the Provider to: (a) make gifts or gratuitous transfers, including but not limited to gifts or gratuitous transfers of my property to the Provider; or (b) designate, change or revoke the beneficiary designations in any life insurance, annuity, or similar contract, employee benefit or plan or retirement benefit or plan, payable on death or transfer on death account, or any other account or benefit; or (c) make, amend, alter, revoke or terminate any inter vivos trust, registration of my securities in beneficiary form, or any provisions for nonprobate transfer at death or to open, modify or terminate a transfer on death account; or (d) make transfers of property, money or other assets to any trust; or (e) disclaim property or disclaim a power of appointment or discretion held by me as executor or trustee or in a similar fiduciary capacity; or (f) open or close any account of mine including an account naming the Provider and I as joint owners unless the change in account status is solely ministerial in nature; or (g) create or change rights of survivorship; or (h) renounce my designation as fiduciary for another person; or (i) reject, renounce, disclaim, release, or consent to a reduction in or modification of a share in or payment from an estate, trust or other beneficial interest; or (j) delegate to others any one, more or all of the powers that have been conferred on the Provider.

15. The Power of Attorney is duly witnessed and notarized, and therefore comports with the New Jersey Revised Durable Power of Attorney Act, N.J.S.A. 46:2B-8.1 to -17 (“RDPA”). It is attached hereto as Exhibit A.

S.L.’S CLAIM FOR BENEFITS

16. S.L. presented to Dr. Lipani with a long-standing history of low back pain and prior lumbar decompression and fusions. She was complaining of unremitting mechanical low back pain, in addition to neurogenic claudication.

17. After an extensive review of the patient’s history, medical records and imaging studies, Dr. Lipani identified adjacent level disease at L3-4 where there was a 6 mm degree of spondylolisthesis and severe central canal stenosis as a consequence of bilateral hypertrophied facet joints. Additionally, S.L. suffered from severe sclerotic degenerative disease at L1-2, where there was bone-on-bone and moderate central canal stenosis. Lastly, a CT scan of the lumbar spine

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