

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

NORMAN MAURICE ROWE, M.D., M.H.A., L.L.C. &
EAST COAST PLASTIC SURGERY, P.C.

Plaintiffs,

Index No. 715808/2021

AMENDED COMPLAINT

- Against -

OXFORD HEALTH INSURANCE CO., INC.,
OXFORD HEALTH INSURANCE INC., OXFORD
HEALTH PLANS (NJ), INC.; OXFORD HEALTH
PLANS (NY), INC.; and OXFORD HEALTH PLANS
L.L.C.

Defendants.

Plaintiffs, NORMAN MAURICE ROWE, M.D., M.H.A., L.L.C. & EAST COAST
PLASTIC SURGERY, P.C., allege:

JURISDICTION AND VENUE

1) This Court has personal jurisdiction over the parties because Defendants, OXFORD HEALTH INSURANCE CO., INC., OXFORD HEALTH INSURANCE INC., OXFORD HEALTH PLANS (NJ), INC.; OXFORD HEALTH PLANS (NY), INC.; and OXFORD HEALTH PLANS L.L.C. are insurance companies licensed and authorized to do business in the State of New York; OXFORD HEALTH INSURANCE CO., INC., OXFORD HEALTH INSURANCE INC., OXFORD HEALTH PLANS (NJ), INC.; OXFORD HEALTH PLANS (NY), INC.; and OXFORD HEALTH PLANS L.L.C. violated New York Law while doing business in New York State.

2) OXFORD HEALTH INSURANCE CO., INC., OXFORD HEALTH INSURANCE INC., OXFORD HEALTH PLANS (NJ), INC.; OXFORD HEALTH PLANS (NY), INC.; and OXFORD HEALTH PLANS L.L.C. transact business in QUEENS County.

PARTIES

3) Defendants, OXFORD HEALTH INSURANCE CO., INC., OXFORD HEALTH INSURANCE INC., OXFORD HEALTH PLANS (NJ), INC.; OXFORD HEALTH PLANS (NY), INC.; and OXFORD HEALTH PLANS L.L.C. (hereinafter “OXFORD” or the “Insurer”), are insurance companies licensed and authorized to do business in the State of New York.

4) Plaintiffs, NORMAN MAURICE ROWE, M.D., M.H.A., L.L.C. & EAST COAST PLASTIC SURGERY, P.C. (hereinafter “ROWE” or the “Provider”), are Domestic Professional Services Companies that provide health services in the State of New York.

FACTUAL ALLEGATIONS

5) ROWE specializes in cosmetic and reconstructive surgery.

6) At all relevant times, OXFORD sold a health insurance product, or acted as an authorized agent of a health benefits plan, that provided medical benefits (the “Insurance Product”) to “M.A.,” which are the initials of a person to whom OXFORD

assigned Member ID number 1334596902, indicating that OXFORD is a payor of some or all of the healthcare costs incurred by “M.A.” (hereinafter “M.A.”).

7) In the healthcare industry, the price paid for a particular service by a payor is determined by whether the healthcare provider is in-network or out-of-network.

8) In the healthcare industry, the price paid by a payor to in-network provider for a particular service is based upon either an agreement between the healthcare provider and the payor, or a network agreement in which the payor participates (herein collectively “in-network rate schedules”); not agreements between the patient and payor.

9) The in-network rate schedules are neither trade secrets nor are they confidential.

10) The in-network rate schedules are in the exclusive custody of OXFORD and can be known through discovery.

11) At all times relevant, ROWE was not an in-network provider under the Insurance Product sold by OXFORD.

12) On or about November 15, 2019, ROWE contacted OXFORD and spoke to an individual in OXFORD's surgical pre-approval department or unit. ROWE identified itself as an out-of-network provider and requested that OXFORD issue a GAP exception for a breast reduction to be rendered to M.A..

13) In the healthcare industry, a GAP exception, also known as a benefit level exception, a clinical exception, or clinical GAP exception (hereinafter “GAP exception”) is an agreement to pay an out-of-network medical provider to render a

specific healthcare service or services during a specific period of time for a specific price – the in-network rate.

14) In the healthcare industry, GAP exceptions are not routinely issued. GAP exceptions are not “pre-authorizations” because GAP exceptions change the price paid by the payor from the out-of-network price to the in-network price; OXFORD has a routine business procedure for issuing GAP exceptions.

15) Upon issuing the GAP exception the payor is obligated to pay the healthcare provider the in-network rate if the specific service is rendered within the required time period.

16) Upon information and belief, OXFORD will issue a GAP exception only when it does not have a medical provider with the capacity to render a breast reduction to M.A. with the same capacity as ROWE’S surgeons within in its network or within the patient’s geographical vicinity. Additionally, the surgical services ROWE renders are unique because ROWE’S surgeons practice the latest innovative techniques to reduce scarring and trauma from surgery, short-scar mammaplasty, nipple-sparing mastectomy, and reconstruction procedures.

17) A GAP exception allows the patient to receive a healthcare service from an out-of-network provider with reduced out-of-pocket costs the patient is not otherwise entitled to receive.

18) On December 18, 2019, ROWE submitted to OXFORD clinical information and certain medical records concerning the surgery proposed for M.A., as requested by OXFORD.

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