

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-10417

D.C. Docket No. 1:17-cv-04656-AT

W. A. GRIFFIN, MD,

Plaintiff - Appellant,

versus

COCA-COLA REFRESHMENTS USA, INC.,
UNITED HEALTHCARE INSURANCE COMPANY,

Defendants - Appellees,

UNITED HEALTHCARE OF GEORGIA, INC.,

Defendant.

No. 18-10418

D.C. Docket No. 1:17-cv-04657-AT

W. A. GRIFFIN, MD,

Plaintiff - Appellant,

versus

DELTA AIR LINES, INC.,
UNITED HEALTHCARE INSURANCE COMPANY,

Defendants - Appellees,

UNITED HEALTHCARE PLAN OF GEORGIA, INC.,

Defendant.

Appeals from the United States District Court
for the Northern District of Georgia

(February 24, 2021)

Before BRANCH and MARCUS, Circuit Judges, and UNGARO,* District Judge.

BRANCH, Circuit Judge:

Dr. Wakitha Griffin, a dermatologist in Atlanta, Georgia, has filed many appeals in this Court in recent years, all of which have involved her attempts to receive in-network payments despite being an out-of-network provider. Our other opinions have been unpublished; we choose to publish today in hopes of resolving this recurring litigation.

* The Honorable Ursula Ungaro, United States District Court for the Southern District of Florida, sitting by designation.

These consolidated appeals arise from Griffin's treatment of two patients who were insured under two separate employee welfare benefit plans which are administered by United Healthcare ("United"). The Employee Retirement Income Security Act of 1974 ("ERISA") covers both plans. Because Griffin does not have a contract with United whereby she provides services in exchange for reimbursement at a negotiated rate, she is an out-of-network provider under both plans. Generally, patients are reimbursed at lower rates when receiving healthcare services from out-of-network providers rather than in-network providers.

Eschewing a contractual relationship with United and payment from her patients, Griffin instead requested that the two patients assign their benefits under their plans to her. They obliged. Griffin then attempted to collect from United the same payment that she would have received had she been an in-network provider. When United only paid her the benefits she was entitled to as an out-of-network provider, Griffin brought two separate lawsuits—one against Coca-Cola Refreshments, Inc. ("Coca-Cola") and United and the other against Delta Air Lines, Inc. ("Delta") and United (collectively, "Defendants")—asserting various ERISA violations. The district court dismissed both cases for failure to state a claim because the plans' anti-assignment clauses prevented Griffin from obtaining statutory standing under ERISA to sue on behalf of her patients. Griffin appealed both cases to this Court.

These consolidated appeals raise an unsettled issue about whether an ERISA plan administrator or its claims agent may waive its right to rely on an anti-assignment provision in an ERISA-covered plan. We need not reach that issue, however. Even assuming that waiver is available in the ERISA context, Defendants did not waive their ability to assert the anti-assignment provisions as a defense. And regardless of waiver, Griffin's lawsuit still fails to state a claim: United paid her in full, both under the terms of the patients' assignments and the provisions of the healthcare plans. We therefore affirm the district court's orders.

I. Background

Although these consolidated appeals implicate two distinct health benefit plans, patients, and assignments, the facts giving rise to Griffin's claims in each case are largely the same. A few years ago, Griffin provided medical treatment for two patients: Patient J.J., who was insured under the Coca-Cola Plan, and Patient G.A., who was insured under the Delta Plan.¹ United is the Coca-Cola Plan's Claims Fiduciary and the Delta Plan's Claims Administrator. Under the terms of both plans, Griffin is an "out of network" physician. Generally, the plans reimburse the beneficiary at a higher percentage when he visits an in-network physician rather than an out-of-network physician. For example, the Coca-Cola

¹ The Coca-Cola Company Benefits Committee is the Coca-Cola Plan Administrator and the Administrative Committee of Delta Air Line, Inc. is the Delta Plan Administrator.

Plan provides that when a beneficiary has an office visit with an out-of-network physician, the plan pays 60 percent of the cost of service and the beneficiary pays 40 percent. By contrast, if the beneficiary has an office visit with an in-network physician, the plan pays at least 80 percent.

In exchange for medical treatment and in lieu of payment, the two patients executed an assignment of their plan benefits to Griffin. Both assignments are identical. By signing, the patient acknowledges that the document is “a direct legal assignment of my rights and benefits under this policy and designation of authorized representative” and “authorize[s] any plan administrator or fiduciary, insurer, and my attorney to release to such provider(s) any and all plan documents.” The assignment further provides that the patient has assigned “all medical benefits and/or insurance reimbursement, if any, otherwise payable to [the patient] for services rendered from such provider(s), regardless of such provider’s managed care network participation status.”

Griffin believed that the assignments entitled her to full payment for her services, as if she were an in-network provider. She submitted claims to United, which she alleges United only partially paid. Griffin appealed United’s payment determinations. In her appeals, Griffin made numerous requests, including: (1) that United disclose the plan’s unambiguous anti-assignment provision, should the

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