

# KOEHLER FITZGERALD

## | REFERENCE-BASED PRICING NEWSLETTER |

### **Koehler Fitzgerald**

Koehler Fitzgerald LLC provides highly specialized legal services to TPAs, HCSMs and Plan Sponsors offering reference-based medical plans.

Central to those services are the defense of balance billing claims, from provider billing to jury trial, utilizing the firm's highly rated trial lawyers, nationally recognized experts and affiliated local counsel throughout the U.S.

Koehler Fitzgerald's multilingual services are supported by the use of proprietary and customized software to track and support group calendaring, task management, contact management, conflicts checking, integrated document assembly and customized weekly reports of the status of claims and activity.

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### **Envision Class Litigation**

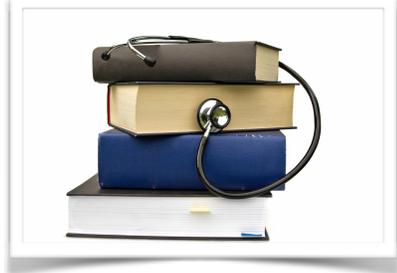
On February 8, 2018, a class action was filed in the U.S. District Court for the Middle District of Florida (Case 8:18-cv-00341-VMC-CPT) against Envision Healthcare Corp., et al. seeking relief with respect to balance-billing for emergency services.

The case rests upon Fla. Stat. § 627.64194, which provides in pertinent part, "An insurer is solely liable for payment of fees to a nonparticipating provider of covered emergency services provided to an insured in accordance with the coverage terms of the health insurance policy, and such insured is not liable for payment of fees for covered services to a nonparticipating provider of emergency services, other than applicable copayments, coinsurance, and deductibles."

The class action complaint seeks certification of a class of plaintiffs defined as "All commercially insured beneficiaries that live or reside in Florida who sought emergency medical care at an in-network hospital managed by Defendants and who were subsequently balance-billed for the cost of that care."

The named plaintiff was treated at the Medical Center of





## Minnesota's All-Payer Claims Database Findings

Minnesota has implemented an All-Payer Claims Database as part of its effort to analyze the complexity of healthcare pricing. The first in a series of reports "examines case price variation among four common, clinically uncomplicated inpatient treatments in orthopedic and obstetric care." The data examined is from the period July 2014 through June 2015. For total knee replacements, the average price was \$23,997, the lowest price \$6,186, and the highest price \$46,974. The ratio between the high and low was 7.6. For total hip replacements, the average price was \$24,335, the lowest price \$6,666, and the highest price \$43,359. The ratio between the high and low was 6.5.

For normal deliveries, the average price was \$5,975, the lowest price \$2,872, and the highest price \$12,303. The ratio between the high and low was 4.3. For C-Section deliveries, the average price was \$10,234, the lowest price \$4,693, and the highest price \$22,831. The ratio between the high and low was 4.9.

"To permit fair comparisons between hospitals, the report is limited to cases of minor and moderate severity, which are less complicated clinically but still account for the majority of these procedures and significant spending."

Trinity, an in-network facility, in April 2014. However, the emergency department, operated by defendant Baxter Emergency Physicians, did not participate in the network established by United Healthcare, the plaintiff's insurer. Allegedly, the plaintiff paid a balance-bill in the amount of \$2,255.01 to avoid being turned over to a collection agency and facing a potentially adverse impact upon his credit rating.

In order for a class of plaintiffs to be certified under federal law, several requirements must be satisfied. The Federal Rules of Civil Procedure require that (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law or fact common to the class; (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will fairly and adequately protect the interests of the class. In most class actions, it must also be established that questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The case was filed by the firm of Kaplan Fox, a firm known for the prosecution of numerous antitrust and securities fraud actions. Kaplan Fox has offices in New York, San Francisco, Los Angeles, Chicago and New Jersey.

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