

## Client Alert: MultiPlan Named As Central Figure In Antitrust Lawsuit Alleging Health Insurance Monopoly Scheme

The liquidating bankruptcy trust for Verity Health System of California recently filed a lawsuit in the Superior Court of the State of California, County of San Francisco, against third-party “re-pricer” MultiPlan, including its subsidiaries Viant and Data iSight, and more than a dozen of MultiPlan’s customers – including major commercial payers like Anthem, United Healthcare, Aetna, Cigna, and others – alleging antitrust claims under California’s Cartwright Act and Unfair Competition Law.

According to the lawsuit, MultiPlan acted as an unlawful “corporate hub” of a classic “hub, spoke, and rim” agreement among the re-pricer and its various insurance company clients, to “fix” the amounts that would be reimbursed to healthcare providers on out-of-network claims. The complaint alleges that reductions in reimbursement payments for healthcare services rendered by providers nationwide totaled approximately \$10 billion per year from 2012 to 2020, driving up profits for MultiPlan’s insurance company clients, and also for MultiPlan itself.

Indeed, the timing of the lawsuit is significant, as it comes on the heels of MultiPlan recently going public in one of the largest transactions of its type ever, with an \$11 billion company valuation.

Regarding the scheme at the center of the lawsuit, the complaint alleges that MultiPlan entered into a series of contracts with the various commercial payers, by which MultiPlan was paid to provide the commercial payers with the same artificially deflated payment data, which the commercial payers would all in turn utilize to reimburse their out-of-network healthcare providers at the same reduced rates. According to the complaint, MultiPlan’s commercial insurance customers implemented the identical MultiPlan-set reimbursement rates nearly all the time, and due to MultiPlan’s dominance in the industry, and the imbalance of power between individual healthcare providers and MultiPlan’s stable of insurance company clients, providers have bothered to appeal the MultiPlan rates only about 5% of the time going back to 2011. As the complaint puts it, healthcare providers “have no choice but to accept those prices, given the conduct at issue in this Complaint, as resistance would be futile.”

This lawsuit and its potential effect on the healthcare industry is reminiscent of the industry shake-up that occurred over ten years ago. In 2009, following an intensive investigation, the New York Attorney General’s Office issued a Report and subsequent enforcement action against then-United Healthcare subsidiary Ingenix that found that Ingenix “gathers billing data from the largest health insurers in the county . . . and then sends back schedules to these health insurers and others, based on the pooled data, which the insurers use . . . to set their reimbursement rates.” The Report further noted that the Ingenix databases “understate[d the] market rate by up to 28 percent [and caused] at least hundreds of millions of dollars in losses” for providers and consumers of the prior ten years. The New York AG’s Office forced the shut-down of Ingenix and helped pass a New York law prohibiting commercial insurers’ use of affiliated “repricing” businesses. The New York AG actions likewise led to several class action lawsuits, resulting in settlements totaling more than \$2 billion.

These claims of “Monopoly!” will likely resonate with healthcare providers of all types and practices, who have long felt powerless in the face of the increasingly behemoth insurance industry. That MultiPlan may now be at the center of it all is probably no surprise to many. Whether this new lawsuit – significantly, a private action as compared to the New York Attorney General’s Office investigation of Ingenix – can yield similar results remains to be seen. But the wheels have been set in motion, and perhaps this lawsuit will result in substantial movement towards a more equitable reimbursement model.

We invite you to [contact us](#) with any additional information you have obtained regarding this important matter.

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