

THOUGHT LEADERSHIP

News

U.S. DISTRICT COURT GRANTS MOTION TO EXCLUDE TESTIMONY OF DEFENDANT'S EXPERT ON REASONABLENESS OF PAST MEDICAL EXPENSES

Newsbrief

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Last week, the United States District Court for the Western District of Texas concluded that the Defendant's medical billing and coding expert was not qualified to render opinions on the reasonableness of medical charges, and the Court granted the Plaintiff's motion to exclude the expert's testimony. In *Cantu v. Wayne Wilkens Trucking, LLC, et. al*, No. 5:19-CV-1067-XR, 2020 WL 5948267 (W.D. Texas [San Antonio Division], Oct. 7, 2020, mem. op.), the Plaintiff brought suit arising from a motor vehicle collision. After the collision, Plaintiff visited an orthopedic surgeon and underwent multiple procedures, including two lumbar spine epidural steroid injections and a spinal surgery. Plaintiff designated the surgeon as an expert who would opine on the reasonableness of her medical bills. In response, the Defendant, pursuant to Texas Civil Practice & Remedies Code § 18.001, filed a controverting affidavit from medical business administrator, Paul Marcus Murphy, challenging the reasonableness of Plaintiff's medical expenses. Plaintiff subsequently filed a motion to exclude the testimony of Mr. Murphy, claiming that Mr. Murphy was not qualified to testify as an expert on medical charges.

The Western District initially noted that it surveyed the split between Western District courts on the issue of whether § 18.001 is applicable in federal court cases, and concluded that "§ 18.001 is purely procedural and not applicable in Federal Court." Consequently, the Western District treated the Defendant's controverting affidavit as an expert disclosure under the Federal Rules of Evidence.

Next, the Western District analyzed whether Mr. Murphy was qualified to testify as an expert under Federal Rule of Evidence 702. After reviewing Mr. Murphy's background (Bachelor of Business Administration, work helping providers get paid for the work they did, extensive expertise in CPT Codes, certification as a coding specialist, experience negotiating contracts between providers and insurance companies, etc.), the court concluded that Mr. Murphy was qualified to opine on the *payments that providers receive* from insurance companies, but he was not qualified to opine on whether a price chosen by a medical provider to *charge* a patient is reasonable. The court reasoned that although Mr. Murphy had extensive experience in collecting payments from insurance companies, his only experience dealing with patient billing was negotiating payment agreements with uninsured patients. Moreover, "absent from [Mr. Murphy's statements about his experience] was an affirmative statement that he was responsible for charging patients for the services rendered by a physician." "Mr. Murphy does not need to be a doctor to opine on the reasonableness of Plaintiff's charges, but he must have an expertise in charging or billing patients."

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Therefore, the Western District granted the Plaintiff's motion to exclude the opinion testimony of Mr. Murphy.