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Lawsuit Accuses S.F. Hospital of Unfair Billing

By Evan George

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San Francisco General Hospital has become the latest in a string of facilities accused of illegally "balance billing" insured patients, making them fork over whatever their insurance company refuses to pay.

The charge stems from a lawsuit filed this month by a San Francisco man who claims he was unfairly charged last year for an emergency surgery to re-attach his thumb. The suit seeks class action status to secure a refund for him and any other residents who supposedly overpaid medical bills over a four-year period.

The 383-bed community hospital is the first public institution accused of balance billing since the state Supreme Court ruled the practice illegal in January, after the incident involving the thumb surgery occurred. At least two other class action lawsuits have been filed against private hospitals in Southern California seeking compensation and damages.

The new lawsuit hits at a time when state-funded emergency rooms are stressed and crunched for cash.

Tough times or not, San Francisco resident Gilles Combrisson wants the \$828 he had to pay the hospital after doctors in the emergency room re-attached one of his thumbs last August. Combrisson has medical coverage with Anthem Blue Cross, as part of a preferred provider organization, or PPO plan.

The hospital billed Blue Cross \$2,059 for the surgery, but, according to the complaint, the insurance company said the procedure should cost \$1,231 and sent a check for only that amount.

Insurers and providers often disagree on what medical care costs and the courts have not ruled on what constitutes reasonable rates for care.

But because San Francisco General is not a contracted provider with Blue Cross, the two were at loggerheads. Rather than fight Blue Cross, the hospital billed Combrisson for the difference. He paid the \$828 bill last October.

Now he wants the money returned, along with the promise that the hospital has stopped putting patients in the middle of billing disputes, his lawyer said.

"The main thing we're trying to do is stop this practice going forward," said Nicholas Carlin, an attorney with Phillips, Erlewine & Given in San Francisco. "We are seeking to recover payments people have made as far back as we can."

Combrisson could not be reached for comment.

San Francisco General Hospital spokeswoman Rachael Kagan said she couldn't comment on pending cases. But she did dispute that the hospital broke the law.

"We are aware of the balance billing state laws and regulations and to our knowledge we are in full compliance," Kagan said.

The complaint names hospital executives as defendants, as well as the director of the San Francisco Department of Public Health.

Legal watchers said the class action is significant because the plaintiffs argue refunds should go back several years, even before the recent Supreme Court ruling came down.

A trade group for emergency physicians said that could seriously jeopardize the state's fragile ER system because

providers could be on the hook for hundreds of millions of dollars in collective refunds to patients they billed several years ago, especially if lawyers file a wave of class actions.

"It will mean that hospitals will close ER departments and emergency groups will have to change the way they staff emergency rooms, which in practical sense means fewer doctors on a shift and longer waits," said Elena Lopez-Gusman, director of governmental affairs for the California chapter of the American College of Emergency Physicians.

"My concern at the outset was that there was going to be an onslaught of these cases," after the Supreme Court ruling, Lopez-Gusman said.

The court found that the state's Health and Safety Code does not allow balance billing but refused to dictate what health plans should pay. *Prospect Medical Group v. Northridge Emergency Medical Group, 2009 DJDAR 347.*

Also new to the recent case is the fact that the plaintiff had PPO insurance, while the appellate case dealt specifically with HMO policies. A state judge may have to decide whether the ruling applies to PPO plans.

Insurance companies appear to have largely escaped any complaints over the billing issue since the ruling. Combrisson, for example sued only the hospital even though his initial argument seemed to be with Blue Cross.

"They denied almost every single claim submitted to them by the various providers that worked on me," Combrisson wrote about Blue Cross in October on a site called *Complaintsboard.com*. "I can only imagine the pain and desperation caused by this company to people who have a much more serious illness."

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