

Lawsuit Seeks Class Action Against Health Insurer for Alleged Improper Denial of Coverage of Pain Management Device

Gianelli & Morris files class-action lawsuit against Anthem alleging unlawful blanket denials of coverage for percutaneous neuromodulation therapy (PNT) device.

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Robert Gianelli

the California insurance law firm Gianelli & Morris filed a class-action lawsuit in the United States District Court for the Central District of California. The case is Marie Fortier v. Anthem, Inc.; Anthem UM Services, Inc. Case No. 2:20-cv-4952. It seeks payment of insurance benefits, a determination of policyholders' rights under their policies, and relief for breach of fiduciary duty.

The heart of the complaint alleges that Anthem improperly denies coverage for pain management through the use of percutaneous neuromodulation therapy (PNT) devices. Under Anthem's internal coverage guidelines, Medical

Policy DME.00011, PNT is "considered investigational and not medically necessary for all indications."

According to the complaint filed in court, the plaintiff Marie Fortier has a history of right knee osteoarthritis and has undergone multiple surgeries for her condition, including a knee replacement and reconstruction in 2014, a revision surgery in 2015, and another revision surgery in 2016. The complaint describes the patient as suffering from chronic right knee pain and receiving opioid prescriptions to treat her pain.

According to court documents, the plaintiff's doctors recommended a seven-day trial of an FDA-approved Stimwave PNT device, through which the plaintiff found relief and was able to discontinue opioid use temporarily. This complaint was filed after the plaintiff's application for approval from Anthem to use PNT permanently was denied based on Anthem's medical policy guideline, which considered PNT experimental/investigational and not yet proven safe and effective for her symptoms in comparison to standard therapy.

The lawsuit challenges Anthem's characterization of the PNT device as investigational/experimental and not proven safe and effective by pointing to FDA approval of the device and at least 20 randomized, controlled trials demonstrating PNT treatments for musculoskeletal pain as safe and effective. The complaint further alleges that PNT devices are currently in use as a standard clinical practice in treating chronic pain. "The PNT devices allow people who suffer from chronic pain to return to a normal life and stop taking opioids," said Rob Gianelli, the lead attorney on the case. "The technology works and has been proven to work for more than 20 years."

The complaint alleges that as a result of Anthem's denial of coverage, the plaintiff has been living in constant pain, relying on drugs for temporary relief. The lawsuit seeks benefits due under the policy, a clarification of rights under the policy, and equitable relief for breach of fiduciary duty. The class-action complaint is brought on behalf of Marie Fortier and all others similarly situated who have been denied coverage for PNT by Anthem.

About Gianelli & Morris

Gianelli & Morris is a Los-Angeles based insurance law firm concentrating its practice in the representation of California insurance policyholders who have been denied benefits or otherwise been the subject of maltreatment by their insurance company.

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