

In a fight over denied claims, HCA sues out-of-state Blue Cross Blue Shield plan

Legal fight highlights the battles over medical necessity and prior authorization

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Sept. 18, 2026

Business of Health Care Reporter

Several hospitals in Texas owned by the giant for-profit chain HCA Healthcare are suing Independence Blue Cross, a large Blue Cross Blue Shield plan based in Philadelphia, for more than \$345,000 in unpaid medical claims that involved care from roughly four years ago.

The dispute highlights the contentiousness that still exists over prior authorization and the varying standards for determining whether care is medically necessary. It also provides a snapshot into the high prices hospitals charge Blues plans.

Prior authorizations, which are requests to insurance companies to preapprove care, exist to reduce wasteful and unnecessary care. But providers, patients, and policymakers have condemned insurers, saying they are using those policies to cut costs and increase profit. Some have called for a ban of the practice. In response, health insurers have made some voluntary pledges to cut down.

The lawsuit between HCA and Independence Blue Cross features eight patient cases, all of which were not paid by the insurer due to a “lack of authorization” or “lack of medical necessity,” according to the complaint, which was filed in a federal district court in Pennsylvania this month.

BCBS insurers across the country are affiliated with each other, but operate separately. Blues plans in different parts of the country are supposed to interact with each other through a program called BlueCard.

In this case, these patients had Independence Blue Cross insurance but got care in Texas, meaning the local BCBS of Texas insurer handled the medical claims and determined how much the hospitals should get paid.

Independence Blue Cross is still financially responsible for every transaction and makes the final call on approving or denying payment.

The alleged unpaid cases ranged in severity, with most involving inpatient stays. One patient, a 59-year-old male, collapsed at his nephrologist's office from cardiac arrest. He was rushed to HCA's hospital in San Antonio and was in the intensive care unit for seven days before he died, the lawsuit said.

BCBS of Texas told the hospital that Independence Blue Cross denied the claim "based on a purported lack of authorization," according to the complaint. The hospital appealed the denial twice. During the second appeal, BCBS of Texas told the hospital that Independence Blue Cross "required consent from the member" — who had died — to continue the appeal.

The lawsuit did not say whether HCA sent the cases to an independent medical reviewer. Independence Blue Cross spokesperson Grant Gegwich said in a statement that the company "does not comment on pending litigation." HCA did not respond to requests for comment.

Paul von Ebers, a health care consultant, used to be the CEO of BCBS of North Dakota and a board member of the Blue Cross Blue Shield Association. He said the lawsuit exemplifies the controversy around prior authorization.

There is a lot of variation in the ways physicians treat similar patients, which makes it difficult for insurers to know what care is justified. "In the same way, large variation among insurers in what requires prior auth cannot be based on good medical science," von Ebers said.

He said there's no reason insurers should have their own criteria for deciding whether to approve or deny care, especially if it's a group of affiliated insurers like BCBS plans.

"There is little justification for these policy variations, and it would cut the hassle factor for providers if Blue plans all agreed on the same criteria," said von Ebers. "Medical care should vary from patient to patient based on unique patient situations, but medical care and medical policy should not vary by region unless there is truly something unique in the population in that region."

HCA's lawsuit also shows how lucrative its contracts with BCBS plans can be.

Only one case listed in the complaint involved outpatient care. A 58-year-old man with a disorder that causes painful "penile curvature" underwent a procedure to place a device inside his penis. The patient was "discharged home in stable condition on the same day," the complaint reads.

Independence Blue Cross denied the claim based on missing medical codes.

Under its contract with BCBS of Texas, HCA is demanding more than \$68,000 for the procedure. Medicare pays roughly \$20,000 for the same service.