

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS
TENTH JUDICIAL CIRCUIT

Susan Stanfield, on behalf of)
herself and all others similarly)
situated,)

Civil Action No.: 2004-CP-04-3017

Plaintiff,)
v.)

AMENDED
CLASS ACTION COMPLAINT
(Jury Trial Demanded)

TRUE COPY

Anderson Area Medical Center, Inc.,)
d/b/a Anderson Area Medical Center,)

FEB 18 2005

Defendant.)

Caryn M. Phillips
CLERK OF COURT

Plaintiff Susan Stanfield brings this action against Defendant Anderson Area Medical Center, Inc. on behalf of herself and the Class of similarly situated persons and alleges as follows:

NATURE OF THE ACTION

1. Plaintiff brings this action pursuant to Rule 23 of the South Carolina Rules of Civil Procedure, on behalf of herself and as the representative for similarly situated uninsured individuals who were treated at Anderson Area Medical Center and/or any other hospitals owned or managed by Anderson Area Medical Center, Inc. in the State of South Carolina (hereinafter referred to as "AAMC"). Plaintiff and members of the Class are primarily working-class individuals who do not qualify for Medicaid, Medicare, or charity care, but who cannot afford private health insurance and/or cannot obtain health insurance through their employers. Because of her insurance status, Plaintiff fell prey to an unconscionable two-tier pricing scheme created by Defendant.

2. Under that pricing scheme, Defendant charged dramatically different prices for identical health care services. Specifically, Defendant developed and implemented a pricing

scheme under which its charges for identical services are: (1) lower for patients covered by health insurance; and (2) higher for patients not covered by health insurance. This pricing scheme allowed AAMC to charge Plaintiff rates that were often several times higher than the rates charged to insured patients. On information and belief, these rates were generally many times the actual cost of providing care. By forcing this pricing scheme upon Plaintiff without her knowledge, Defendant breached its duty to charge reasonable rates for services and materials, breached its covenant of good faith and fair dealing, and/or unjustly enriched itself at the expense of the Plaintiff Class.

3. The Class does not include those persons who are fully insured through either a government or private health care plan. Instead, the Class includes those who do not qualify for such programs or do not have health insurance and are required to pay for services received from AAMC at unreasonable and unconscionable rates. While Plaintiff and members of the Class are in the most economically vulnerable position with regard to medical charges, i.e. they have the least ability to pay, Defendant has charged them rates far in excess of those charged to patients covered by private health insurance or government insurance programs for the same services.

4. Defendant conceals its debilitating pricing scheme behind a veil of secrecy. Like most hospitals, AAMC never publishes prices charged to uninsured patients for services or materials. Instead, AAMC treats its price list, sometimes referred to as the "Chargemaster," as a closely guarded secret. In fact, uninsured patients do not know the prices AAMC will charge them until after the services are rendered and they receive a bill.

5. Defendant facilitates its overcharges to the uninsured by using adhesive form agreements. The standard agreements that AAMC uses require Plaintiff and members of the Class to sign the agreements as a condition of hospital admission, and those agreements bind

them to pay the undefined charges levied by the hospitals. Since the actual price term is not disclosed, Plaintiff and members of the Class must rely on the hospital's good faith in charging reasonable and proper fees for services rendered. Unfortunately, AAMC breached the trust placed in it by Plaintiff and members of the Class by charging them unreasonably high rates for services.

6. The rates charged by Defendant vary depending on the particular patient's insurance status. On information and belief, hospitals generally separate patients into four rate categories: (1) patients covered by government health programs who are charged rates determined by statutory formulas based on the hospital's costs; (2) patients covered by private health insurance who are charged rates for services negotiated by their insurance providers; (3) indigent patients who are given charity care at no cost; and (4) uninsured "self-pay" patients who are charged the hospital's highest rates based on undisclosed Chargemaster prices.

7. AAMC does not negotiate rates with uninsured patients. As a result, uninsured patients are unknowingly charged rates for services designed to make up for the rates charged to other categories of patients at lower profit margins. In effect, AAMC subsidizes the patient care provided to other patients by overcharging the uninsured, which include Plaintiff and members of the Class.

8. The decision by Defendant to charge the uninsured inflated prices is not supported by any rational pricing analysis. Instead, the rates charged Plaintiff and members of the Class are the result of the Defendant's policy of establishing inflated Chargemaster prices and refusing to discount prices to those who have no ability to negotiate. By establishing such high Chargemaster prices, the Defendant is able to maximize revenues received from patients covered by government and private health insurance as described below.

9. Like all hospitals, AAMC receives reimbursements for care given to patients covered by Medicare. In order to determine the rate of Medicare reimbursement, AAMC must first determine its Cost to Charge Ratio (the "CCR"). A hospital's cost to charge ratio is its costs over its charges as reported to the Center for Medicare and Medicaid Services. For instance, if a hospital's costs are 50 and the charges listed on its Chargemaster are 100, the hospital's CCR is 0.5. The lower the CCR, the larger the gap between the Chargemaster prices paid by the uninsured and the discounted prices paid by Medicare patients. The CCR also gives a fair estimate of the gap between rates paid by the uninsured patients and those paid by private insurance patients, who rarely pay more than 25% more than the Medicare reimbursement rate.

JURISDICTION AND VENUE

10. Plaintiff brings this action pursuant to the Uniform Declaratory Judgments Act and the common law of breach of implied contract, including breach of the covenant of good faith and fair dealing, to recover damages as well as pre-judgment interest, costs, and attorneys' fees for Defendant's wrongful conduct as set forth herein. Jurisdiction over this class action is also proper because Defendant's activities giving rise to Plaintiff's claims occurred in South Carolina. Defendant maintains its principal place of business, and maintains an office and agent for the transaction of business, in Anderson County; therefore, venue is proper in said County.

THE PARTIES

11. Plaintiff Susan Stanfield is a resident of Anderson County, South Carolina and has been at all times relevant herein. Plaintiff has been a victim of the practices complained of in this action, all of which occurred in South Carolina.

12. On information and belief, Defendant is a corporation organized and existing under the laws of the State of South Carolina with its principal place of business located in Anderson County, South Carolina.

FACTUAL BACKGROUND

13. On or about June 3, 2002, Plaintiff was admitted to AAMC for treatment. Because she had no health insurance, Plaintiff was admitted and/or treated as a “self-pay” patient.

14. As a condition for the treatment received at AAMC, Plaintiff was required to execute the Defendant’s standard admission forms and agreed to pay for its charges. Included in those forms was the Defendant’s standard agreement in which Plaintiff agreed to pay the charges relating to her care (the “Agreement to Pay”).

15. On information and belief, all members of the Plaintiff Class are parties to Agreements to Pay that are substantially similar to the Agreements to Pay between Plaintiff and AAMC.

16. After Plaintiff was discharged from AAMC, she received bills for health care services totaling approximately \$627.00. At no time prior to receiving these bills was Plaintiff advised of the costs AAMC would charge for its services.

17. On information and belief, the rates at which Defendant billed Plaintiff are exponentially greater than the actual cost of providing the rendered medical services and are an unreasonable multiple of the amount that would have been charged had Plaintiff had insurance.

18. While the Agreement to Pay obligates Plaintiff to pay reasonable charges for her medical care, Defendant never disclosed the actual charges for the services to be rendered, and Plaintiff did not, and could not, have known what those charges would be.

19. Because there was a purported contract between the parties with an undefined price term, the law implies a commercially fair and reasonable price may be charged. The amounts charged Plaintiff were well beyond reasonable by any measure. The amounts were far in excess of what would be billed to a private insurance company for the same services, and they were far in excess of what Medicare pays for the same services.

20. Alternatively, the lack of a price term in the contract is of such prominence that no contract was formed. In such a case, the Defendant is only permitted to charge the reasonable value of its services, not some multiple thereof.

21. Plaintiff has been improperly billed for Defendant's services; however, she does not have the ability to pay the inflated charges.

22. The forms Plaintiff signed governing her agreement with AAMC are form agreements that all non-emergent patients entering the hospital must sign before treatment. Similarly, the collection process is uniform, and the actions taken by Defendant to collect its inflated charges are uniform and mandated by Defendant's policies and procedures.

CLASS ALLEGATIONS

23. Plaintiff adopts the allegations of the above paragraphs and incorporates the same herein by reference as if stated verbatim.

24. Plaintiff brings this action pursuant to Rule 23, SCRPC, on her own behalf and on behalf of a Class of all persons similarly situated, defined as follows:

All uninsured patients who:

- (a) have received medical treatment from any hospitals owned or managed by AAMC in the State of South Carolina who were charged an undiscounted rate for medical care during the period of three (3) years prior to the commencement of this civil action;

- (b) have made a payment during the period three (3) years prior to the commencement of this civil action on an undiscounted charge incurred as a result of medical treatment from any hospitals owned or managed by AAMC in the State of South Carolina; or**
- (c) will receive medical treatment from any hospitals owned or managed by AAMC in the State of South Carolina in the future.**

25. The members of the Class are so numerous that joinder of all members is impractical and inefficient such that the requirements of Rule 23(a)(1), SCRCF, are met. Plaintiff does not know the exact number of Class Members, but she is informed and believes that thousands of uninsured patients have been charged unreasonably high prices by Defendant and qualify as members of the Class. Many Class Members have also been subjected to unconscionable collection practices by Defendant and/or its agents. Plaintiff is informed and believes that the identities of the Class Members may be ascertained from the files and records of AAMC and other information sources.

26. Plaintiff believes the requirements of Rule 23(a)(2), SCRCF, are met since there are common questions of law and fact effecting members of the Class, including but not limited to the following:

- a. whether the agreements between AAMC and members of the Class constitute enforceable contracts;
- b. whether members of the Class were charged prices by any hospitals owned or managed by AAMC in the State of South Carolina that violated the implied contracts between AAMC and members of the Class;
- c. whether members of the Class were charged prices by any hospitals owned or managed by AAMC in the State of South Carolina that were so high as to be unreasonable and unconscionable;

- d. whether any hospitals owned or managed by AAMC in the State of South Carolina have been unjustly enriched by charging members of the Class unreasonably high rates for services and materials and using unconscionable methods to collect those bills;
- e. whether any hospitals owned or managed by AAMC in the State of South Carolina breached a contractual relationship with Plaintiff and members of the Class, including breach of the covenant of good faith and fair dealing, by charging members of the Class exorbitant and unreasonable prices for medical services and materials;
- f. whether Plaintiff and members of the Class are entitled to restitution of overcharges collected by any hospitals owned or managed by AAMC in the State of South Carolina; and
- g. whether the Court should grant injunctive relief to members of the Class to prevent the continuation of the foregoing acts and conduct of Defendant.

27. The requirements of Rule 23(a)(3), SCRCF, are also met since the claims of the representative Plaintiff are typical of the claims of the Class as a whole. Plaintiff and members of the Class have suffered harm due to the unfair, deceptive, and unconscionable pricing and collection practices of Defendant.

28. The representative Plaintiff will fairly and adequately protect the interest of the Class pursuant to Rule 23(a)(4), SCRCF. The interests of the representative Plaintiff are consistent with and not antagonistic to the interests of the Class. The Class Representative has retained counsel experienced in prosecuting class actions and complex consumer litigation.

29. Rule 23(a)(5), SCRCF, is also met because Plaintiff and members of the Class have suffered damages exceeding \$100.00.

30. Plaintiff believes the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class, would establish incompatible standards of conduct for the parties

opposing the Class, and would substantially impair or impede the interests of the other members of the Class to protect their interests.

31. Plaintiff is informed and believes, and thereon alleges, the Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive or declaratory relief with respect to the Class as a whole.

32. This class action is superior to other available methods for the fair and efficient adjudication of the controversy between the parties. Plaintiff is informed and believes, and thereon alleges, the interest of members of the Class in individually controlling the prosecution of a separate action is low, in that most members of the Class would be unable to individually prosecute any action at all. Plaintiff is informed and believes, and thereon alleges, the amounts at stake for individuals are sufficiently small for most or all Class Members and separate suits would be impracticable, and most members of the Class would not be able to find counsel to represent them. Plaintiff is informed and believes, and thereon alleges, it is desirable to concentrate all litigation in one forum because it will promote judicial efficiency to resolve the common questions of law and fact in one forum rather than multiple courts.

33. Individualized litigation also presents a potential for inconsistent or contradictory judgments. By contrast, the class action device presents far fewer management difficulties, allows the hearing of claims that might otherwise go unaddressed because of the relative expense of bringing individual lawsuits, and provides the benefits of single adjudication, economies of scale, and comprehensive supervision by a single court.

34. Plaintiff is informed and believes, and thereon alleges, the files and records of the Defendant contain, in computer readable format, a last known address, other identifying information for members of the Class, and information necessary and convenient to identify

members of the Class, determine their economic damages, and prosecute this case expeditiously as a class action.

CAUSES OF ACTION

FOR A FIRST CAUSE OF ACTION: DECLARATORY AND INJUNCTIVE RELIEF

35. Plaintiff adopts the allegations of the above paragraphs and incorporates the same herein by reference as if stated verbatim.

36. Plaintiff is a person interested under the agreement constituting a contract and brings this action pursuant to the Uniform Declaratory Judgments Act, S.C. Code Ann. §§ 15-53-10 to -140 (Law Co-op. 1976), to determine the validity of and her legal rights arising under that agreement.

37. The agreement between Plaintiff and Defendant, like the agreements between members of the Class and Defendant, does not contain a defined price term, which is necessary to the formation of an enforceable contract. As such, Plaintiff seeks an order from the Court that the purported contract between Plaintiff and Defendant, and also including those contracts between members of the Class and Defendant, is unenforceable.

38. On information and belief, in the absence of an enforceable contract, Defendant is entitled to receive the fair and reasonable value of the benefits bestowed upon members of the Class. The charges billed by Defendant to members of the Plaintiff Class greatly exceeded the reasonable value of the benefit bestowed. As a result, Defendant has been unjustly enriched by the overcharges it has levied against members of the Class through the improper and/or illegal acts alleged in this Complaint.

39. Plaintiff and members of the Class seek the disgorgement of Defendant's illicit profits, and restitution in the amount of excess charges levied by Defendant and other relief as set forth in the prayer below.

40. As a result of Defendant's discriminatory, improper, and unconscionable charging and collection practices as described above, Plaintiff and all members of the Class have suffered, and will continue to suffer, severe and irreparable harm and injury.

41. Accordingly, Plaintiff and members of the Class respectfully ask the Court to enter a preliminary and/or permanent injunction ordering Defendant to cease and desist its practice of charging Plaintiff and members of the Class unconscionable and/or unreasonable prices for medical care, at rates far in excess of rates charged to insured patients, and utilizing abusive and harassing tactics to collect those exorbitant bills.

42. Plaintiff and members of the Class further seek a prospective order from the Court requiring Defendant to: (1) cease the charging of unreasonable rates to uninsured hospital patients; and (2) to cease its attempts to collect outstanding medical bills beyond what are reasonable charges from members of the Class.

FOR A SECOND CAUSE OF ACTION:
BREACH OF IMPLIED CONTRACT

43. Plaintiff adopts the allegations of the above paragraphs and incorporates the same herein by reference as if stated verbatim.

44. Plaintiff and members of the Class signed a standard form agreement containing material terms substantially similar to all such agreements used by AAMC. These agreements obligated Plaintiff and members of the Class to pay Defendant the fair and reasonable charges for its services.

45. Prior to sending Plaintiff and members of the Class a bill, Defendant never disclosed the rates it intended to charge for its services and materials. As these agreements contained an undefined price term, they constituted an implied contract, and Defendant was obligated to charge the fair and reasonable value of the services and materials it provided to Plaintiff and each member of the Class.

46. Instead of charging Plaintiff and members of the Class the fair and reasonable value of its services and materials, Defendant breached the implied contracts, including breach of the covenant of good faith and fair dealing, by charging the inflated prices set forth in its Chargemaster.

47. By any measure, the prices charged by Defendant to Plaintiff and members of the Class for hospital services were unreasonable. The Chargemaster prices established by Defendant bear no relationship to the cost of providing hospital services or to what parties who agree on price terms (third-party payors) pay as the result of informed, arms-length negotiations. Instead, the prices Defendant charged Plaintiff and members of the Class were an unconscionable multiple of the prices charged to patients covered by health insurance.

48. As a result of Defendant's breach of the implied contracts, Plaintiff and members of the Class have incurred damages in the amount of the overcharges levied by Defendant. Plaintiff and members of the Class are therefore entitled to actual damages, pre-judgment interest, and such other relief as set forth in the prayer below.

PRAYER FOR RELIEF

WHEREFORE, based on the foregoing claims, Plaintiff, on behalf of herself and all members of the Class she represents, seeks judgment and relief against the Defendant as follows:

- a. for an order certifying the Class, designating Plaintiff as the Class Representative and Plaintiff's attorneys as Class Counsel;

- b. for judgment on each claim against the Defendant on behalf of the Plaintiff Class;
- c. for compensatory and all other allowable damages under the causes of action asserted herein, including pre-judgment interest;
- d. for an order requiring restitution of overpayments made by members of the Plaintiff Class to Defendant, and disgorgement of the money the Defendant has improperly collected;
- e. for permanent injunctive relief enjoining the Defendant from continuing in the improper and/or unlawful acts alleged herein;
- f. for reasonable attorneys' fees; and
- g. for such other and further relief as the Court may deem appropriate.

REQUEST FOR JURY TRIAL

Plaintiff, on behalf of herself and the Class, requests trial by jury on all claims so triable.

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February 17, 2005
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CLERK OF COURT