Lawsuit accuses insurance company of using faulty AI to deny Medicare patient claims

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A class action lawsuit filed Tuesday claims UnitedHealth Group is using a faulty artificial intelligence algorithm to wrongly deny coverage for Medicare patients who need rehabilitation care following

hospitalizations.

The complaint was filed in the U.S. District Court of Minnesota after the news website STAT published an investigation into the company's use of the technology.

The lead plaintiffs are the families of two patients who lived in north central Wisconsin, about three hours east of the Twin Cities, and needed long-term care in post-acute facilities.

The lawsuit alleges that UnitedHealth's Medicare Advantage health plans denied payment for claims from the patients' medical caregivers, forcing up to $70,000 in out-of-pocket costs for continuing care.

"This putative class action arises from defendants' illegal deployment of artificial intelligence (AI) in place of real medical professionals to wrongfully deny elderly patients care owed to them under Medicare Advantage plans by overriding their treating physicians' determinations as to medically necessary care based on an AI model that defendants know has a 90% error rate," the lawsuit states.

Minnesota-based UnitedHealth Group runs UnitedHealthcare, one of the nation's largest health insurers. The company said the lawsuit is without merit.

"The tool is used as a guide to help us inform providers, families and other caregivers about what sort of assistance and care the patient may need both in the facility and after returning home. Coverage decisions are based on CMS coverage criteria and the terms of the member's plan," UnitedHealth said in a statement.

The company is the nation's largest seller of Medicare Advantage coverage—health plans that allow seniors the option of receiving their

benefits through a private insurer.

UnitedHealth Group limits the ability for its workers to deviate from the AI projections, according to the lawsuit. Citing the news article, the complaint says employees are disciplined and terminated, without regard to whether patients needed more care, if they don't follow the model.

"The fraudulent scheme affords defendants a clear financial windfall in the form of policy premiums without having to pay for promised care, while the elderly are prematurely kicked out of care facilities nationwide or forced to deplete family savings to continue receiving necessary medical care, all because an AI model 'disagrees' with their real live doctors' determinations," the lawsuit alleges.

UnitedHealth Group continues using the flawed AI model, the lawsuit contends, because so few patients typically appeal health insurance denials. The plaintiffs named in the lawsuit tried to appeal the company's decisions, but wound up paying significant out-of-pocket sums in order to receive care.

UnitedHealth Group uses a model known as "nH Predict," according to the lawsuit, to project how long it should take for patients to recover in facilities like nursing homes and other post-acute settings.

The complaint includes a sample report produced by NaviHealth, a Tennessee-based company that UnitedHealth Group acquired in May 2020. It assesses a patient's mobility, activity level and cognition scores to generated an anticipated length of stay in a skilled nursing facility.

"This report was provided to your patient's health plan for consideration in authorizing care and treatment," the report concludes.

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