

Petrychenko Physician P.C. v Health First PHSP, Inc.

2026 NY Slip Op 30020(U)

January 6, 2026

Supreme Court, New York County

Docket Number: Index No. 650777/2021

Judge: Arlene P. Bluth

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. ARLENE P. BLUTH PART 14

Justice

-----X

PETRYCHENKO PHYSICIAN P.C.,
Plaintiff,

- v -

HEALTH FIRST PHSP, INC., HEALTHFIRST HEALTH
PLAN, INC.

Defendants.

-----X

INDEX NO. 650777/2021

MOTION DATE N/A

MOTION SEQ. NO. 001

DECISION + ORDER ON
MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 6, 7, 8, 9, 10, 11, 12,
13, 14, 15, 18, 19, 20, 21

were read on this motion to/for DISMISS

Defendants' motion to dismiss is granted as described below.

Background

Plaintiff brings this case to recover what it claims are outstanding payments from
defendants, insurers that provide coverage to plaintiff's patients. It insists that it is within
defendants' network of service providers and that it has provided all required documentation to
defendants in order to receive the demanded payments. Plaintiff attaches a chart detailing the
\$252,520.90 it insists is due.

Defendants move to dismiss and point out that plaintiff filed a similar case in 2018 before
a different judge that was dismissed due to an inadequate complaint. They argue that the instant
complaint is nearly identical and that plaintiff has still failed to identify the contract at issue or
the specific provisions of the contract that defendants violated.

In opposition, plaintiff contends that there is an agreement between plaintiff and defendants and that defendants were obligated to pay plaintiff for services rendered to patients who were covered by defendants. Plaintiff contends that it has had an ongoing relationship with defendants for many years and have made payments to plaintiff during this time. Plaintiff's principal submits an affidavit in which he describes his procedure for submitted bills to defendants to get payments and emphasizes he is a provider within defendants' network.

In reply, defendants reiterate that plaintiff failed to identify a specific contract and that plaintiff did not establish that it has standing to bring this case. They stress that plaintiff did not differentiate between the two defendants and simply lumped them together.

Discussion

Before the Court addresses the motion on the merits, it must acknowledge the elephant in the room: this motion has been pending for way too long. It has been ready to be decided and has been fully briefed since June 2021. The judge previously assigned seems to have ignored it and even failed to issue a decision after counsel for plaintiff sent a perfectly appropriate letter about it in March 2022. Although this matter was assigned to the undersigned in mid-December, this Court apologizes profusely, on behalf of the Court system, for this unconscionable delay.

On the merits, the Court grants the motion only to the extent that the case is dismissed without prejudice. The complaint fails to state a cause of action as it did not adequately identify the contract or contracts that form the basis for its claimed outstanding payments. The Court recognizes that complaints need not include every conceivable detail, but a pleading must apprise the defendant of the "transactions, occurrences, or series of transactions and occurrences at

issue” (*Herrmann v CohnReznick LLP*, 155 AD3d 419, 419, 63 NYS3d 380 [1st Dept 2017] [internal quotations and citation omitted]; *see also* CPLR 3013)).

Plaintiff simply did not tell defendants which contracts it is suing under or the contractual basis under which plaintiff could submit claims to defendants despite vaguely referring to a contract in the pleading. In other words, plaintiff was not entitled to reference a contract repeatedly and then not actually identify it (even in opposition to this motion). Moreover, as defendants point out, the complaint is unfortunately imprecise at key points. It alleges that “Plaintiff and/or Dr. Petrychenko are within defendants' network of service providers” (NYSCEF Doc. No. 2, ¶ 8). But Dr. Petrychenko is not a party to this case and this only raises questions as to which party is actually seeking the outstanding payments.

And while plaintiff attached an Excel spreadsheet of the purportedly outstanding claims, the complaint makes no effort to explain how that compels defendants to pay. Plus, plaintiff did not make any distinction between the defendants in the pleading and so it is unclear whether (and on what basis) plaintiff seeks to hold defendants jointly and severally liable for all unpaid bills.

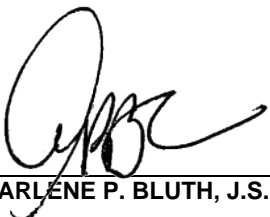
The Court observes that plaintiff brought a similar case before a different judge, who dismissed the complaint for similar reasons. That decision referenced CPLR 3013 and the judge emphasized that the complaint did not apprise defendant of the transactions or occurrences it intends to prove (NYSCEF Doc. No. at 6); that judge offered insight for how to improve the pleading. Despite receiving that decision, plaintiff’s instant complaint is not appreciably better and still does not tell defendants an adequate basis for its claims. It is not up to defendants to infer or guess its relationship with plaintiff and how plaintiff might be claiming that (which or both) defendants owe it more than a quarter of a million dollars.

However, the Court denies the portion of the motion that seeks to dismiss with prejudice. Given the significant amount of money alleged and the fact that this motion was pending for so long, it would be inequitable for this Court to deny plaintiff a chance to try again should it desire. Plaintiff is not an eleemosynary institution; if it was a participating provider and provided services to patients who were insured by defendants pursuant to a contract, then appropriate payments should be made. But there is more than one defendant so there may be more than one contract, and there are certainly many, many patients. Here, the defendants are lumped together and there is no articulation as to which patients are claimed to be covered by which contract(s) – no specific contracts are even identified. As the prior judge also opined, it is plaintiff’s obligation to present its claim appropriately. It did not do so the first time and it did not do so here.

Accordingly, it is hereby

ORDERED that defendants’ motion to dismiss is granted only to the extent that the complaint is dismissed without prejudice and the Clerk is directed to enter judgment accordingly in favor of defendants and against plaintiff along with costs and disbursements upon presentation of proper papers therefor.

1/6/2026
DATE


ARLENE P. BLUTH, J.S.C.

CHECK ONE:	<input checked="" type="checkbox"/>	CASE DISPOSED	<input type="checkbox"/>	NON-FINAL DISPOSITION		
	<input type="checkbox"/>	GRANTED	<input type="checkbox"/> DENIED	<input checked="" type="checkbox"/>	GRANTED IN PART	<input type="checkbox"/> OTHER
APPLICATION:	<input type="checkbox"/>	SETTLE ORDER		<input type="checkbox"/>	SUBMIT ORDER	
CHECK IF APPROPRIATE:	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN		<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/> REFERENCE