

IN THE CIRCUIT COURT OF THE  
11<sup>TH</sup> JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

JOSE MANUEL QUINTANA,  
a Florida resident on behalf of himself  
and all others similarly situated,

Plaintiffs,

v.

HEALTH MANAGEMENT ASSOCIATES,  
INC., a Delaware Corporation.

Defendant.

CLASS ACTION

Case No.

04-16944 CA 31

THE ORIGINAL FILED  
AUG - 5 2004  
IN THE OFFICE OF  
CLERK OF COURT DADE CO. FL  
LEVEL DIVISION

**CLASS ACTION COMPLAINT**

Plaintiff, Jose Manuel Quintana, on behalf of himself and all others similarly situated files this Class Action Complaint against Defendant, Health Management Associates, Inc. (“HMA”).

**INTRODUCTION**

1. HMA is based in Naples, Florida and is one of the largest operators of hospitals in the Southeast. HMA currently operates 44 hospitals in 14 different states including Florida, representing 6,336 licensed beds. HMA’s official public “corporate philosophy” is that it adheres to the “highest ethical standards” and conducts “business in a manner which upholds the highest standards...” by “providing care to our patients in a manner which respects the individual dignity of each and every person.” The fact is that HMA provides “individual dignity” only to those consumers that are able to afford health insurance but treats all others in a discriminatory and unconscionable manner that violates Florida law.

2. Hospitals in this country – including HMA – have an established and admitted two-tiered pricing schedule for services and goods: (1) a lower fee for those with health insurance; and (2) a higher fee for uninsured. There are approximately 44 million U.S. residents without health insurance. In 1999, there were approximately 2.1 million uninsured in Florida. All of these

consumers are informed by HMA that they will be charged “reasonable” or “regular” rates when they are admitted into an HMA hospital. But the fact is those with no insurance are charged full listed rates while steep discounts are given to those with insurance (either by private insurers or government programs such as Medicare and Medicaid).<sup>1</sup> These rates are not reasonable or regular, but are several multiples higher than the discounted rates, and bear no relationship to HMA’s actual cost.<sup>2</sup>

3. Florida has some of the highest hospital cost-to-charge ratios<sup>3</sup> in the United States, with most hospitals charging uninsureds over 300% of costs. HMA is one of the worst offenders with some HMA hospitals charging uninsureds 500% and even 600% of cost. (Heart of Florida Regional Medical Center in Haines City, Florida and Brooksvilles Regional Hospital in Brooksville, Florida, Santa Rosa Medical Center, Santa Rosa, Florida; Sebastian River Medical Center, Sebastian, Florida; Seven Rivers Regional Medical Center, Sebastian, Florida; Charlotte Regional Medical Center, Punta Gorda, Florida; and Highlands Regional Medical Center, Sebring, Florida).

4. In some cases, HMA seeks to collect on the bills sent to an uninsured by placing liens on the person’s home, garnishing wages, and seizing bank accounts of those that cannot pay these unconscionable rates. HMA’s collection tactics are coercive, unfair and fraudulent.

5. The hospital industry agrees that this is a serious problem. The Florida Hospital Association recently admitted that uninsured patients are “the single-most important health-care

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<sup>1</sup> Ed Jellison who had no insurance spent 17 days in a Florida hospital that is part of the Adventist Health System and was reportedly charged \$116,000 but if he had insurance he claims the bill would have been as low as \$25,000. (USA Today, 2/24/2004) Francisco Carbonell was brought by ambulance to Mercy Hospital for one day of care and was charged \$8,500. (Miami Herald, 12/13/2003) John Bowerline with Milliman USA, a firm that tracks health care costs and consults with health care providers, reports that the typical range of discounts nationwide might be around 45% to 50% on hospital services. ( Id.)

<sup>2</sup> The hospital industry calls this practice “cost shifting.” Although hospitals must charge all consumers the same for identical services, they are allowed to offer discounts to HMO’s and insurance companies, leaving the uninsured the group forced to pay inflated rates. Because hospitals are not required to file “contract reimbursement information” with the government, consumers have not been able to yet uncover the full extent of this price discrimination.

<sup>3</sup> Cost-to-charge is a mathematical computation of the actual cost of providing medical services and goods compared to the amount that the hospital charges for these services and goods.

issue.”<sup>4</sup> The purported “justification” for this discriminatory pricing practice was an argument that hospitals are prohibited from offering these same discounts to uninsureds under Medicare rules and regulations. This is untrue, and that defense was publically put to rest this past year on February 19, 2004 when the Office of Inspector General of the Department of Health and Human Services issued its official report stating that “No OIG authority prohibits or restricts hospitals from offering discounts to uninsured patients who are unable to pay hospital bills...”

6. As a result of HMA’s unconscionable, deceptive and unfair practices, HMA has become one of the most profitable health-care companies in the U.S. For example, in the fiscal year ending September 2003 HMA generated \$2.5 billion in revenues. HMA’s top executives have been richly rewarded for achieving these profit levels. In 2003, Joseph V. Vumbacco, the president and CEO of HMA, received almost \$7 million in direct compensation. (Miami Herald 5/17/04) In the same year, William J. Schoen, chairman of HMA, exercised company stock options valued at \$41 million. (Miami Herald, 5/26/2003)

7. HMA’s unfair, discriminatory and unconscionable practices contribute to a much greater damage to our society. The 44 million U.S. residents without health insurance cost U.S. taxpayers between \$65 billion and \$130 billion per year in lost productivity mainly because these uninsureds cannot afford the cost charged for adequate medical services, a trend that can lead to decreased quality of life and shorter life span. ( Institute of Medicine 2003 Study, Committee on the Consequences of Uninsurance)

8. Similar to the public backlash against the tobacco industry, the public has started to demand change from the hospital industry in billing and collection practices. The House Subcommittee on Oversight and Investigations last summer launched an investigation into these hospital billing and collection practices. Rep. James Greenwood, the chairman of the subcommittee, revealed that “In the worst instance, hospitals simply apply outrageously high charges – higher than what Medicare pays, higher than private payers – and then will relentlessly and sometimes

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<sup>4</sup> Quote of Rich Rasmussen of the Florida Hospital Association in the Orlando Weekly, 7/24/2003.

mercilessly pursue poor people for their money, even to the point of having them arrested.”

9. In Illinois, a protest was held against Illinois hospitals after a study sponsored by the Hospital Accountability Project found discriminatory pricing with the highest gross charges and the highest profit margin on the uninsured who paid their bills. Uninsureds there were paying 237% more than the discount price for insureds.

10. While some in the hospital industry have undertaken initial reforms to prevent discriminatory pricing, HMA has not, and continues to bill all uninsured patients at inflated rates.

11. This lawsuit is brought to enjoin HMA from engaging in discriminatory and unconscionable pricing, and unfair and deceptive billing and collection practices, and to obtain appropriate damages for HMA’s past abuses.

#### **PARTIES AND JURISDICTION**

12. Plaintiff Jose Manuel Quintana (“Quintana”) is a resident of Miami-Dade County, Florida.

13. Defendant HMA is a Delaware corporation with its principal place of business located at 5811 Pelican Bay Boulevard, Suite 500 Naples, Florida 34108.

14. This is an action for damages well in excess of \$1,000,000, exclusive of interest, costs and attorneys' fees. Venue is proper in this Eleventh Circuit Court for Miami-Dade County because this is where Quintana’s cause of action arose. HMA has imposed its unfair, deceptive and unconscionable rates on Quintana through billing Quintana at his Miami-Dade County residence. Quintana brings this action under Florida law and does not rely on any federal claim or cause of action.

#### **SPECIFIC FACTUAL ALLEGATIONS**

15. On October 8, 2003, Quintana sought emergency medical treatment at Fishermen’s Hospital, an HMA hospital, located at 3301 Overseas Highway, Marathon, Florida. Quintana did not have health insurance when he received medical services at Fishermen’s Hospital. For his mere three hour visit for chest pain, HMA charged Quintana \$3,060.00. The rate HMA charged and billed Quintana for the medical services and goods he received is far greater than HMA’s actual cost

of providing such medical services and goods, is not reasonable or regular, and far exceeds the rate that HMA would have charged him if he had health insurance.

16. HMA charged Quintana, and each Class Member, inflated rates for medical services and goods simply they are uninsured. HMA charges uninsureds these unfair and unconscionable rates because: (a) uninsured individuals lack the “bargaining power” of insurance companies; (b) typically an uninsured arrives at the hospital under emergent circumstances and cannot “shop around” for less costly medical care; and (c) it allows HMA to inflate the actual amount of charity and indigent care they report, which in turn increases the “Disproportionate Share Hospital” payments it receives from the government.

### **CLASS ALLEGATIONS**

17. Quintana brings this action on his own behalf and, pursuant to Fla. R. Civ. P. 1.220, as a class action on behalf of the class of persons defined as:

Class. All uninsured individuals in the U.S. who, from August 5, 1994 to the date of certification, received medical services or goods from any HMA hospital, and who were charged rates for medical services and goods that exceed the rate HMA’s charges patients whose medical bills are paid by third-party payors. Excluded from the class are (a) HMA, and its officers, affiliates, directors, employees, and (b) the immediate family members of HMA’s officers, directors and employees (the “Class”).

### **Numerosity (Rule 1.220(a)(1))**

18. The individual Class Members are so numerous that joinder of all members is impracticable. During the class period, HMA has provided medical services and goods to hundreds of thousands of uninsureds. The individual Class Members, however, are ascertainable as the names and addresses of all Class Members can be identified in business records maintained by HMA.

### **Commonality (Rule 1.220(a)(2))**

19. There are questions of law and fact common to the Class. Such common questions include:

- a. Whether HMA should be enjoined under Florida’s Deceptive and Unfair Trade Practices Act for discriminatory, unfair, deceptive and unconscionable pricing, and billing and collection practices;

- b. Whether the rates HMA charged uninsureds were so high as to be unconscionable;
- c. Whether the rates HMA charged uninsureds were unfair, misleading, deceptive and unlawful;
- d. Whether HMA has been unjustly enriched through these practices and should be required to disgorge such amounts; and
- e. Whether HMA is liable to Quintana and the Class Members for monetary damages.

**Typicality (Rule 1.220(a)(3))**

20. Every Class Member has a tangible and legally protectible interest at stake in this action.

21. The claims of Quintana and the absent Class Members have a common origin and share a common basis. The claims of all Class Members originate from the same unlawful practices of HMA.

22. Quintana states a claim for which relief can be granted that is typical of the claims for the absent Class Members because Quintana has been a victim of HMA's discriminatory, unfair, deceptive and unconscionable pricing, and billing and collection practices.

23. If individual claims had to be brought, each Class Member would have the same remedial theories, would seek the same relief, and be required to prove his or her individual claim upon the same material and substantive facts.

24. The claims and remedial theories pursued by Quintana are sufficiently aligned with the interests of absent Class Members to ensure that the universal claim of the Class will be prosecuted with diligence and care by Quintana as Class representative.

**Adequacy (Rule 1.220(a)(4))**

25. Quintana is willing and prepared to serve the Court and the Class in a representative capacity, and will undertake all of the obligations and duties material thereto. Quintana will fairly and adequately protect the interest of the Class and has no interests adverse to, or which directly and irrevocably conflict with, the interests of other Class Members.

26. Quintana's self-interests are co-extensive with, and not antagonistic to, those of the absent Class Members. Quintana will undertake to well and truly represent and protect the

interests of the absent Class Members.

27. Quintana has engaged the services of undersigned counsel and law firms who are experienced in complex class action litigation, with specific experience in managed health-care class action litigation. Counsel will adequately prosecute this action, and will assert, protect and otherwise well represent Quintana and the absent Class Members.

**Rule 1.220(b)(1)(A) and (B)**

28. Prosecution of separate actions by individual Class Members would create a risk of adjudications concerning individual members of the Class which would, as a practical matter, be dispositive of the interests of other members of the Class who are not parties to the action, or could substantially impair or impede their ability to protect their interests.

29. The prosecution of separate actions by individual Class Members would also create a risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct for the parties opposing the Class. Incompatible standards and inconsistent or varying adjudications, on what would necessarily be the same essential facts, proof and legal theories, would also create and allow to exist inconsistent and incompatible rights within the Class.

**Rule 1.220(b)(2)**

30. HMA has acted or refused to act on grounds generally applicable to the Class, making appropriate final relief with respect to the Class as a whole.

**Rule 1.220(b)(3)**

31. The questions of law and fact common to the Class Members predominate over any questions affecting only individual Class Members.

32. A class action is superior to other available methods for the fair and efficient adjudication of this dispute because:

- a. Individual claims by the Class Members are impractical because the costs to pursue individual claims far exceed the value of what any one Class Member has at stake;
- b. As a result, individual Class Members have no interest in prosecuting and controlling separate actions;
- c. It is desirable to concentrate litigation of the Class Member claims in this single

- forum; and
- d. The proposed class action is manageable.

**COUNT I**

**VIOLATION OF FLORIDA'S DECEPTIVE  
AND UNFAIR TRADE PRACTICES ACT**

33. Quintana realleges paragraphs 1 through 32 of this Complaint as if fully set out herein.

34. Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. § 501.201, et seq. ("FDUTPA"), prohibits "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce." § 501.204.

35. The stated purpose of FDUTPA is to protect consumers from "those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce." § 501.202.

36. HMA conducts trade or commerce as defined by FDUTPA because it "advertised, solicited, provided, offered, or distributed by sale or otherwise, a good or service or thing of value." §501.203(8).

37. Quintana and the other Class Members are "consumers" as defined by FDUTPA. Section 501.203(7)

38. Quintana and each Class Member sought and received medical services and goods at one or more of HMA's hospitals, and were charged unfair, deceptive, unconscionable, and unlawful rates by HMA. The rate HMA billed Quintana and the Class Members for medical services and goods far exceeded the industry norm, are several multiples greater than the rates charged insured patients, and exponentially greater than HMA's actual cost to provide the medical services and goods. HMA's unfair, deceptive, unconscionable, and unlawful practices benefitted HMA by millions of dollars.



40. HMA made the decision to engage in these discriminatory and unconscionable pricing and billing and collection practices while in their corporate headquarters here in Florida.

41. HMA's scheme to charge uninsureds inflated rates for medical services and goods results in one of three situations: (1) the uninsured pays the unconscionable rates directly profiting HMA; (2) the uninsured either will not or cannot pay these unconscionable rates allowing HMA to claim these inflated rates as a tax write-off; or (3) HMA seeks reimbursement from Florida or the U.S. government for these inflated rates. The end result is added profits, tax write-offs and government reimbursements worth tens of millions of dollars.

42. HMA's conduct violates FDUTPA, and was conceived, devised, planned, implemented, approved and executed within Florida, who has an interest in prohibiting violations of FDUTPA.

43. Quintana and the Class Members sustained damages as a direct and proximate result of the HMA's unfair, deceptive and unconscionable practices. Section 501.211(2) provides Quintana and the Class Members a private cause of action against HMA, and entitles them to recover their actual damages, plus attorney's fees and costs.

44. Quintana and the Class Members have suffered and will continue to suffer irreparable harm if HMA continues to engage in discriminatory and unfair pricing, and unfair and deceptive billing and collections, for which they have no adequate remedy at law.

**WHEREFORE**, Quintana, on behalf of himself and all similarly situated individuals, demands judgment against HMA for compensatory damages, pre- and post judgment interest, attorney's fees, injunctive relief, costs incurred in bringing this action, and any other relief the Court deem proper and just. Quintana reserves the right to request punitive damages in this action in accordance with Fla. Stat. §768.72(1).

## COUNT II

### UNJUST ENRICHMENT

45. Quintana realleges paragraphs 1 through 32 as if fully set forth herein.

46. Quintana and each Class Member conferred a benefit on HMA by visiting and receiving medical services and goods at an HMA hospital.

47. HMA solicited and accepted the benefit conferred on it, and sought to unlawfully maximize this benefit by charging Quintana and each Class Members rates for medical services and goods that far exceeds HMA's actual cost. The rates charged were not reasonable or regular, or "usual and customary" for like medical services.

48. HMA has been unjustly enriched by the rates it charges and has collected from Quintana and each Class Member, and it would be inequitable to allow HMA to retain the benefit of the inflated charges.

49. HMA continues to unjustly enrich itself in this fashion, and Quintana and the Class Members have no adequate remedy at law to stop HMA from continuing to "overcharge" uninsureds, and as a result will suffer irreparable harm without appropriate injunctive relief to prevent ongoing and future unjust enrichment..

50. Quintana and each Class Member is entitled to an order declaring that HMA's practices are unjust and against public policy, requiring HMA to account for all amounts they have obtained as a result of these inflated charges, a determination that the amounts constitute unjust enrichment of HMA, and that HMA remit these amounts to a fund for distribution among the Class Members.

**WHEREFORE**, Quintana, on behalf of himself and all similarly situated individuals, demands judgment against HMA for compensatory damages, pre- and post judgment interest, attorney's fees, declaratory and injunctive relief, costs incurred in bringing this action, and any other relief the Court deem proper and just. Quintana reserves the right to request punitive damages in this

this action in accordance with Fla. Stat. §768.72(1).

**JURY DEMAND**

Plaintiff and Class Members demand a trial by jury on all issues so triable.

Respectfully submitted this 5<sup>th</sup> day of August, 2004.

**KOZYAK TROPIN &**

**THROCKMORTON, PA**

Harley S. Tropin, FBN: 241253  
Adam M. Moskowitz, FBN: 984280  
Gail McQuilkin, FBN 969338  
200 S. Biscayne Boulevard, Ste. 2800  
Miami, FL 33131-2335  
T: 305-372-1800 / F: 305-372-3508  
Counsel for Plaintiff and the Class

**LAW OFFICES OF ARCHE LAMB, LLC**

Archie C. Lamb, Jr., Esq., FBN: 742597

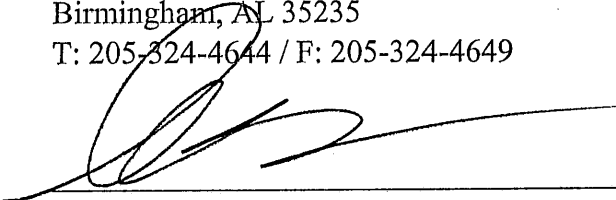
A. David Fawal, Esq.

Chris Cantrell, Esq.

2017 Second Avenue North, Suite 200

Birmingham, AL 35235

T: 205-324-4644 / F: 205-324-4649



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Archie C. Lamb, Jr., FBN: 742597

Lead Counsel for Plaintiff and the Class

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