

Lawsuit alleges price gouging by hospital

Springfield News Leader - Springfield, Mo.

Author: **Sarah Okeson**

Date: Mar 26, 2013

SOKESON@NEWS-LEADER.COM

A case before the Missouri Supreme Court challenges the bill for dental surgery at a Mercy hospital in suburban St. Louis that the lawsuit claims went up by more than \$10,000 when the patient's insurer refused to pay for the treatment.

Oral arguments in the case of Richard Hoover v. Mercy Health were heard in February. The high court has not yet issued an opinion.

The case was dismissed in November 2011, and an appellate court upheld the dismissal. Hoover is asking that the Missouri Supreme Court reverse the dismissal and allow the case to proceed in the St. Louis County court.

Hoover, a doctor and the former chairman of the pathology department at the St. Louis University School of Medicine, suffers from a condition known as xerostomia, or dryness of the mouth, which can cause people to lose their teeth. He had surgery at the hospital in March 2009 to remove a cyst in his jaw and receive dental implants.

Hoover signed a form saying he was financially responsible for charges that weren't covered by insurance.

The bill would have been \$5,201, about a third of the full price of \$17,337, because of the discounts given to Hoover's insurance company, Coventry Health, according to the lawsuit. But Coventry refused to pay for the treatment because his insurance didn't include dental care. That left Hoover on the hook for the full amount.

Mercy disputes how much it would have received if insurance covered the bill, saying the price if Coventry had paid it would have been \$12,136.

Mercy sent the bill to its collection agency after Hoover wouldn't pay the full bill. Hoover did pay \$5,300, slightly more than his lawsuit says the bill would have been with insurance, after he hired an attorney and told Mercy he was contemplating a lawsuit.

Law review articles cited in the lawsuit said hospitals usually don't charge the standard prices. The lawsuit alleges that Mercy's standard charges, which are often discounted because of agreements with insurance companies, are "predatory and constitute price-gouging." The lawsuit, which was filed in 2011 in St. Louis County, claims that the billing practices of the Mercy Hospital in St. Louis violate the Missouri Merchandising Practices Act, one of the state's

consumer protection laws. The lawsuit said the Mercy bill was a violation of the act because it was more than the "reasonable value" of the services.

Mercy contends that Hoover, a former medical school professor, wasn't entitled to discounts from Mercy's standard charges. Mercy's attorneys also state that Hoover could have asked what Mercy's approximate charges would be and chose not to buy insurance that would have covered his care.

"By voluntarily seeking medical care from Mercy and signing his contract with Mercy, Hoover entered into express agreement to pay Mercy's standard charges for his medical care," Mercy's attorneys, Allen Allred and Jeffrey Fink, wrote in their legal briefs.

The lawsuit argues that because Hoover didn't agree to pay any specified charges, he is required to pay "only the reasonable value" for the services. Hoover is represented by attorney Paul Passanante.

Mercy argues that the Supreme Court should toss Hoover's case because his lawsuit doesn't comply with procedural requirements including making "a fair and concise statement of the facts." The company contends that Hoover doesn't have a factual basis strong enough to stand up in court to support his position that Mercy overcharged him in violation of the state law.

Mercy called Hoover's lawsuit "a repeat of similar meritless attempts by uninsured patients."

Similar cases have been dismissed by Missouri judges, including a Greene County case in 2009.

"Absent pertinent legislation or regulation, sellers of goods and services are entitled to set their prices as they choose," Mercy's attorneys argued. "Prices are a matter for the marketplace or the legislature, not the courts."