STATE OF NORTH CAROLINA

COUNTY OF DURHAM

IN THE GENERAL COURT OF JUSTICE

SUPERIOR COURT DIVISION

___ CVS _____

FirstHealth of the Carolinas, Inc.,

Plaintiff,

v.

Blue Cross and Blue Shield of North Carolina,

Defendant.

COMPLAINT

Plaintiff FirstHealth of the Carolinas, Inc., complaining of Defendant Blue Cross and Blue Shield of North Carolina, alleges:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff FirstHealth of the Carolinas, Inc. ("FirstHealth") is a North Carolina nonprofit corporation with its principal place of business in North Carolina. FirstHealth operates hospitals and other health care facilities that provide inpatient and outpatient care, including anesthesia-related services, to patients in North Carolina.

2. Defendant Blue Cross and Blue Shield of North Carolina ("BCBSNC") is a North Carolina corporation authorized to do business in North Carolina and maintains its principal office and place of business in Durham County, North Carolina. At all times relevant to this proceeding, BCBSNC is and was authorized to conduct business in Durham County, North Carolina.

3. This Court has subject matter jurisdiction over these claims under North Carolina law. This action concerns the construction and threatened breach of a provider network agreement and presents an actual controversy appropriate for declaratory relief under N.C. Gen. Stat. §§ 1-253 and 1-254.

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4. This Court has personal jurisdiction over BCBSNC because it is headquartered in, conducts business in, and contracted to perform obligations in North Carolina.

5. Venue is proper in Durham County under North Carolina law and Section 6.7 of the parties' Network Participation Agreement, which provides that disputes may only be filed in Durham County or Orange County, North Carolina. The amount in controversy exceeds $1 million.

FACTUAL BACKGROUND

FirstHealth's Network Agreement and Negotiated Reimbursement Terms

6. BCBSNC establishes provider networks by contracting with hospitals and other health care providers to furnish services to BCBSNC members at negotiated reimbursement rates. In exchange for accepting specified rates and network obligations, participating providers receive the benefit of BCBSNC's contractual promise to pay covered services according to the parties' agreed reimbursement terms.

7. FirstHealth and BCBSNC entered into a Network Participation Agreement (the "Agreement") effective January 1, 2021, with negotiated exhibits and compensation schedules.[1] The Agreement governs FirstHealth's participation in specified BCBSNC commercial networks and reimbursement for services rendered at covered sites.

8. Section 4.1 of the Agreement obligates BCBSNC to pay for covered services delivered to members in accordance with the attached Reimbursement Agreements and the terms of the Agreement. Section 4.1 generally sets the contractual reimbursement rate at the lesser of FirstHealth's usual charge or the amount specified in the applicable Reimbursement Exhibit.

[1] The Agreement contains a confidentiality provision that prohibits disclosure of the Agreement to third parties. Therefore, FirstHealth is not including a copy of the Agreement as an exhibit to this Complaint. If the Court wishes to review a copy of the Agreement, FirstHealth will file a copy under seal.

9. Attachment 1 to the Agreement, the Acute Care Facility Reimbursement Exhibit, starting on page 62 of the Agreement, includes negotiated outpatient reimbursement methods. Among other classifications, it provides a negotiated percentage-of-charges methodology for "All Other Covered Revenue Codes" (the "All Other Outpatient" category). The parties negotiated these provisions as material economic terms of the Agreement.

Outpatient Reimbursement			
Category	**Methodology**	**PROVIDERon Value POS**	**Indemnity**
Revenue Code		Percent	
Outpatient Pharmacy: Revenue Codes 250-259	Outpatient Percent	[redacted]	[redacted]
Outpatient Laboratory Revenue Codes 300-319	Outpatient Percent	[redacted]	[redacted]
Outpatient CT Scan: Revenue Codes 350-359	Outpatient Percent	[redacted]	[redacted]
Outpatient Therapies: Revenue Codes 420-449	Outpatient Percent	[redacted]	[redacted]
Outpatient MRI/MRA: Revenue Codes 610-619	Outpatient Percent	[redacted]	[redacted]
Outpatient Pharmacy: Revenue Codes 630-639	Outpatient Percent	[redacted]	[redacted]
All Other Covered Revenue Codes	Outpatient Percent	[redacted]	[redacted]

10. Section 4 of the Acute Care Facility Reimbursement Exhibit also identifies certain categories expressly excluded from facility reimbursement and directed to other billing arrangements. The list of professional services exclusions includes specified clinic revenue codes, behavioral health revenue codes, and certain professional services revenue codes. Revenue code 0370 for anesthesia services does not appear among those listed exclusions.

11. FirstHealth has historically submitted charges for its outpatient anesthesia-related costs under revenue code 0370, and BCBSNC has historically separately reimbursed qualifying charges under the contracted reimbursement methodology. That course of performance is consistent with FirstHealth's understanding that those charges are within the Agreement's applicable covered outpatient reimbursement structure.

12. Under Section 2.3.1 of the Agreement, FirstHealth must comply with BCBSNC's policies and procedures, including billing and reimbursement policies, as properly enacted or revised with contractual notice. But Section 2.3.1.2 expressly provides that such policies supplement the Agreement and do not conflict with or override any contract term. In the event of any conflict between a contract term and a policy or procedure, the Agreement explicitly governs.

13. Section 6.6.1 incorporates the Agreement's exhibits, including the applicable reimbursement schedules. Section 6.6.4 of the Agreement provides a detailed procedure for proposed changes modifying a contractual Fee Schedule, including a right to written objection accompanied by a good faith financial impact analysis.

14. These provisions are consistent with N.C. Gen. Stat. § 58-50-285(b), which provides that an insurer's policies and procedures may not conflict with or override provider contract terms, including fee schedules, and that the contract language controls in the event of a conflict.

BCBSNC's New Anesthesia Reimbursement Policy

15. On August 31, 2026, BCBSNC publicly announced a "Reimbursement policy update: Anesthesia Services," effective November 15, 2026 (the "Anesthesia Policy"). BCBSNC also published a commercial reimbursement notification dated August 26, 2026.

16. The Anesthesia Policy announces that anesthesia services will be reimbursed only on professional claims and that anesthesia services furnished by anesthesiologists and certified registered nurse anesthetists ("CRNAs") will not be eligible for reimbursement when submitted on a facility claim, even when the services of those individuals represent a cost to the facility.

17. The Anesthesia Policy further treats the cost of other anesthesia-related services, supplies, and equipment as incidental to facility reimbursement and ineligible for separate

payment. It instructs facilities billing CRNA services on facility claims to contact BCBSNC Network Management to request a professional contract.

18. BCBSNC also issued a supplement to its September 2023 Blue Book, effective October 1, 2026, deleting Sections 9.66.1 (Anesthesia supplies and services) and 9.66.4 (Certified Registered Nurse Anesthetist) and revising Section 9.68.2.

19. The announced change is not merely a different claim form for otherwise unchanged reimbursement. As applied to FirstHealth, the Anesthesia Policy would eliminate separate reimbursement for charges for outpatient anesthesia-related costs billed under revenue code 0370 that BCBSNC has historically paid under the contracted reimbursement methodology, without any corresponding increase to the contracted All Other Outpatient rate.

20. Although BCBSNC announced the Anesthesia Policy and issued the supplement to its Blue Book, it did not propose any amendment to the parties' Agreement. The parties have not executed any amendment to the Agreement authorizing the elimination of the facility reimbursement at issue. BCBSNC has not provided a negotiated replacement arrangement that preserves FirstHealth's reimbursement under the Agreement.

Financial Impact and Efforts to Resolve the Dispute

21. Section 6.5 of the Agreement requires the parties to meet and confer in good faith regarding disputes arising under the Agreement. Section 6.5.1 identifies Network Management as a resource for unresolved contractual disputes. FirstHealth has sought to resolve the present dispute through those channels, without success.

22. BCBSNC has announced a November 15, 2026 effective date and has stated unequivocally that anesthesia services submitted on facility claims will no longer be eligible for

separate reimbursement. Unless relief is granted or BCBSNC changes course, that payment restriction will apply to FirstHealth in the immediate future.

23. The dispute is not an appeal of any particular adjudicated claim. It concerns the prospective meaning and enforceability of an ongoing contract and an announced policy that will affect repeated future claims and the parties' continuing commercial relationship.

24. Based on its historical utilization and reimbursement, FirstHealth estimates that implementation of the Anesthesia Policy will reduce FirstHealth's compensation by approximately $2.5 million annually. The final amount will depend on utilization, the affected products and sites, and any available professional reimbursement.

25. FirstHealth has attempted to resolve this dispute before filing this lawsuit. FirstHealth proposed a professional reimbursement rate for CRNA services billed on CMS 1500 professional claims and an increase to the contract's All Other Outpatient reimbursement category to limit the adverse impact of the Anesthesia Policy.

26. BCBSNC did not accept FirstHealth's proposed adjustment. FirstHealth representatives also met with BCBSNC personnel to discuss the changes and their financial consequences, but those discussions have not produced a mutually acceptable resolution or meaningful negotiations toward one.

27. On October 30, 2026, FirstHealth sent a letter to BCBSNC invoking the dispute resolution process in Section 6.5 of the Agreement and preserving an alternative objection under Section 6.6.4 to the extent BCBSNC contends the Anesthesia Policy modifies the contractual Fee Schedule or incorporated compensation terms. This letter is attached here as Exhibit A. FirstHealth provided the Agreement's required good faith financial impact analysis, stating that the Anesthesia Policy will reduce FirstHealth's compensation by approximately of $2.5 million annually if

implemented. As of the date of filing this Complaint, BCBSNC has not substantively responded to that correspondence.

FIRST CLAIM FOR RELIEF
(Declaratory Judgment – N.C. Gen. Stat. §§ 1-253 and 1-254)

28. FirstHealth incorporates by reference the preceding paragraphs as though fully set forth herein.

29. An actual, present, and justiciable controversy exists as to whether BCBSNC may, consistent with Section 4.1, the Acute Care Facility Reimbursement Exhibit, Section 2.3.1.2, and the other terms of the Agreement, deny separate reimbursement for otherwise payable charges for outpatient anesthesia-related costs billed under revenue code 0370 on facility claims solely by adopting the Anesthesia Policy.

30. The parties have adverse positions concerning the meaning and effect of the Agreement, the extent of BCBSNC's policymaking discretion, and whether the policy amounts to a change of the contractual Fee Schedule subject to Section 6.6.4 of the Agreement and N.C. Gen. Stat. §§ 58-50-270 and 58-50-280.

31. A declaration is necessary and appropriate before the Anesthesia Policy is implemented to settle the parties' contractual rights and obligations, avoid recurring disputes about successive claims, and prevent uncertainty regarding FirstHealth's contractual reimbursement rights.

32. FirstHealth requests a declaration that BCBSNC may not apply the Anesthesia Policy to override otherwise applicable reimbursement obligations for charges for outpatient anesthesia-related costs billed under revenue code 0370 on facility claims under the Agreement and, in the alternative, that any qualifying Fee Schedule modification must comply with the Agreement's and applicable law's amendment and objection requirements.

SECOND CLAIM FOR RELIEF
(Breach of Contract / Anticipatory Breach in the Alternative)

33. FirstHealth incorporates by reference the preceding paragraphs as though fully set forth herein.

34. The Agreement is a valid and enforceable contract, supported by consideration. FirstHealth has performed its obligations pursuant to the Agreement's terms.

35. BCBSNC has publicly announced that, effective November 15, 2026, it will refuse separate reimbursement for charges for outpatient anesthesia-related costs billed under revenue code 0370 on facility claims under the Agreement's existing outpatient methodology. BCBSNC is not entitled to withhold that reimbursement.

36. In the alternative, to the extent BCBSNC's Anesthesia Policy constitutes an unequivocal refusal to perform a contractual obligation going to the whole consideration, BCBSNC's announcement of the Anesthesia Policy constitutes anticipatory repudiation of its payment obligations.

37. If BCBSNC implements the Anesthesia Policy and fails to reimburse otherwise covered services as required under Section 4.1 and the Reimbursement Exhibits, BCBSNC will breach the Agreement. To the extent performance or payment has already been refused or withheld when this pleading is filed or amended, BCBSNC has breached the Agreement.

38. BCBSNC also has breached, or upon implementation of the Anesthesia Policy will breach, Section 2.3.1.2 if it applies a reimbursement policy to override the Agreement's controlling compensation terms.

39. In the alternative, if the Anesthesia Policy qualifies as a proposed change to a Fee Schedule, FirstHealth contends that its implementation without compliance with Section 6.6.4 is ineffective as to FirstHealth following a timely and compliant objection.

40. As a direct and foreseeable result of BCBSNC's breach of the Agreement, FirstHealth faces substantial lost reimbursement estimated at approximately $2.5 million annually. FirstHealth will seek to recover all contract damages actually incurred and proven at trial.

THIRD CLAIM FOR RELIEF
(Breach of the Implied Covenant of Good Faith and Fair Dealing – In the Alternative)

41. FirstHealth incorporates by reference the preceding paragraphs as though fully set forth herein.

42. North Carolina law implies a covenant of good faith and fair dealing in the performance of contracts. BCBSNC was required not to exercise discretion conferred by the Agreement for the purpose or with the effect of depriving FirstHealth of the material benefits of the negotiated reimbursement bargain, subject to the Agreement's express terms.

43. Insofar as BCBSNC relies on discretion to establish billing and reimbursement policies, FirstHealth alleges that BCBSNC has exercised that discretion to eliminate historically reimbursed charges for outpatient anesthesia-related costs while leaving the numerical reimbursement rate unchanged, undermining FirstHealth's benefit of the agreed outpatient compensation structure.

44. This claim is asserted in the alternative to the express breach of contract claim. FirstHealth does not seek duplicative recovery for the same injury.

PRAYER FOR RELIEF

WHEREFORE, FirstHealth respectfully requests that the Court:

1. Declare the parties' rights under the Agreement, including that the Anesthesia Policy cannot override compensation owed for otherwise payable charges for outpatient anesthesia-related costs billed under revenue code 0370 on facility claims under the existing contract;

2. Alternatively, declare that a modification of the contractual Fee Schedule through the Anesthesia Policy is ineffective unless the applicable contractual and statutory procedures are satisfied;

3. Enter temporary, preliminary, and permanent injunctive relief, restraining application of the Anesthesia Policy to deny otherwise payable separate reimbursement for FirstHealth's charges for outpatient anesthesia-related costs billed under revenue code 0370 solely because they are submitted on facility claims, pending adjudication and preserving the status quo;

4. Award FirstHealth compensatory damages for any reimbursement actually withheld in breach of the Agreement, in an amount to be proven at trial, together with applicable prejudgment and postjudgment interest;

5. Award FirstHealth its reasonable attorneys' fees, costs, and expenses; and

6. Grant FirstHealth such other and further relief as the Court deems just and proper.

Respectfully submitted this 13th day of November, 2026.

/s/ Mattie Bowden

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Exhibit A

October 30, 2026

Via Email and Certified Mail

Blue Cross and Blue Shield of North Carolina
Attn: Vice President, Network Management
P.O. Box 2291
Durham, NC 27702

Re: Formal Contractual Dispute and Alternative Fee Schedule Objection – Anesthesia Reimbursement Policy Effective November 15, 2026

Dear Vice President, Network Management:

FirstHealth of the Carolinas ("FirstHealth") formally disputes Blue Cross and Blue Shield of North Carolina's ("BCBSNC") Anesthesia Services reimbursement policy, announced August 31, 2026 and scheduled to take effect November 15, 2026, and the related Blue Book supplement effective October 1, 2026, removing Sections 9.66.1 (Anesthesia supplies and services) and 9.66.4 (Certified Registered Nurse Anesthetist). This letter invokes the dispute resolution process in Section 6.5 of the parties' Network Participation Agreement ("NPA") and preserves an alternative objection under Section 6.6.4 to the extent BCBSNC contends the changes modify the contractual Fee Schedule or incorporated compensation terms.

Supplement to current edition (September 2023) of the Blue Book℠ for Anesthesia Services

Effective October 1, 2026, Blue Cross Blue Cross and Blue Shield of North Carolina (Blue Cross NC) has made the following revisions regarding anesthesia services in section 9.66.1 on page 9-180, section 9.66.4 on page 9-181, and 9.68.2 on page 9-209 of the Blue Book ℠.

9.66.1 Anesthesia supplies and services Has Been Removed

9.66.4 Certified Registered Nurse Anesthetist Has Been Removed

The policy change would eliminate separate facility reimbursement for anesthesia services billed under revenue code 0370, even though FirstHealth has historically received reimbursement for those charges under the Acute Care Facility Reimbursement Exhibit. FirstHealth disputes BCBSNC's authority to eliminate that payment through a unilateral policy revision where doing so conflicts with the negotiated reimbursement provisions of the NPA. Section 2.3.1.2 provides that Policies and Procedures supplement, but may not conflict with or override, the NPA. Section 4.1 and the applicable Reimbursement Exhibits govern contractual compensation.

FirstHealth does not contend that every revision to a reimbursement policy necessarily modifies the Fee Schedule. Rather, the issue is whether this particular policy eliminates payment otherwise due under the agreed reimbursement methodology. FirstHealth reserves all rights to challenge that result as breach of the NPA, regardless of whether BCBSNC labels the change an administrative billing policy.

Alternatively, if the policy is properly characterized as a Proposed Change to a Fee Schedule or to incorporated terms modifying a Fee Schedule, FirstHealth objects under Section 6.6.4 of the NPA. The anticipated significant negative financial impact is approximately $2.5 million annually, based on FirstHealth's historical utilization and reimbursement analysis. FirstHealth reserves its position that any qualifying change must comply with Section 6.6.4's prescribed Written Notice and objection procedures, and that an unresolved timely objection prevents the qualifying Proposed Change from becoming effective. FirstHealth requests that BCBSNC identify the contractual basis for treating this change solely as a policy revision.

Specifically, the announced changes would:

1. Eliminate separate facility reimbursement for anesthesia-related charges billed under revenue code 0370 that FirstHealth historically submitted and BCBSNC reimbursed under the outpatient facility methodology.
2. Direct affected anesthesia/CRNA services towards CMS 1500 professional billing, potentially at materially different reimbursement levels and subject to the availability and terms of an applicable professional fee contract.

These consequences are substantive, not merely administrative. BCBSNC's authority to issue reimbursement policies does not, by itself, establish authority to displace compensation required by the NPA. FirstHealth requests BCBSNC's written explanation of how the policy is reconciled with the negotiated Acute Care Facility Reimbursement Exhibit.

The Acute Care Facility Reimbursement Exhibit includes an "All Other Covered Revenue Codes" outpatient percentage reimbursement rate. FirstHealth has historically been billed and received reimbursement for revenue code 0370 under its facility arrangements. The policy cannot remove those charges from contractual reimbursement if they remain covered and compensable under the NPA.

FirstHealth has already attempted a commercial resolution, including a proposed rate for CRNA services billed on CMS 1500 claims and an increase to the "All Other Covered Revenue Codes" rate category to offset the policy's impact. BCBSNC did not accept that proposal, and subsequent meetings have not produced meaningful negotiations. In light of those efforts, FirstHealth formally requests that BCBSNC:

1. Confirm in writing that it will suspend application of the November 15 policy to FirstHealth and continue the existing reimbursement treatment of revenue code 0370 until this contractual dispute is resolved;
2. Provide its contractual and policy rationale, including the precise provisions of the NPA on which it relies, the notice and delivery history under Section 2.3.1, and its position regarding Sections 2.3.1.2, 4.1, and 6.6.4 of the NPA;.
3. Promptly arrange an expedited meet-and-confer with representatives authorized to address the contractual dispute, and consider a written suspension of the implementation of the policy without waiver of FirstHealth's rights.

Based on annual utilization, FirstHealth estimates an approximately $2.5 million reduction in annual reimbursement attributable to the policy and related proposed billing changes. FirstHealth will provide a good-faith financial impact analysis supporting its Section 6.6.4 objection and reserves the right to supplement that analysis as additional information becomes available.

Please provide a substantive written response and confirmation of whether BCBSNC will agree to suspend implementation of the policy as to FirstHealth no later than November 4, 2026, given the November 15 implementation date. FirstHealth expressly reserves all rights and remedies, including declaratory, injunctive, and monetary relief, and does not waive any claim-level appeal rights.

Sincerely,



Christopher M. Fraley
Vice President, Finance