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SUMMARY
July 11, 2024

2024COA74

No. 23CA1827, *Craig Hospital v. Blue Cross Blue Shield of Kansas* — Insurance — Health Insurance — Nonresident Insurer; Jurisdiction of Courts — Personal Jurisdiction — Long-arm Statute

A division of the court of appeals affirms the district court's conclusion that it lacked personal jurisdiction over a nonresident health insurance company. The division holds, as a matter of first impression, that a nonresident insurer's pre-approval and coverage of a nonresident's health care in the forum, through BlueCard or a similar national health insurance program, does not confer personal jurisdiction where the insurer did not initiate the request for out-of-state health care and did not otherwise direct activities toward the forum.

Court of Appeals No. 23CA1827
Arapahoe County District Court No. 20CV31510
Honorable Thomas Henderson, Judge
Honorable Christopher C. Cross, Judge

Craig Hospital, a Colorado non-profit corporation,

Plaintiff-Appellant,

v.

Blue Cross Blue Shield of Kansas, a Kansas
corporation,

Defendant-Appellee.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE FOX
Grove and Sullivan, JJ., concur

Announced July 11, 2024

Ewing Law PC, R. Craig Ewing, Littleton, Colorado, for Plaintiff-Appellant

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Illinois, for Defendant-Appellee

¶ 1 Plaintiff, Craig Hospital, appeals the district court's determination that it lacked personal jurisdiction over defendant, Blue Cross Blue Shield of Kansas (Blue Cross Kansas). Concluding that a nonresident insurer's pre-approval and coverage of a nonresident's health care in the forum, through BlueCard or a similar national health insurance program, does not confer personal jurisdiction where the insurer did not initiate the request for out-of-state health care and did not otherwise direct activities toward the forum, we affirm.

I. Background

¶ 2 Craig Hospital alleged the following in its complaint. The patient, a Kansas resident, was diagnosed with an autoimmune syndrome and required specialized, long-term medical care.¹ After approximately four months of treatment, the patient was transferred to Craig Hospital in Englewood for inpatient rehabilitative care. The patient remained at Craig Hospital from December 2018 to March 2019. Blue Cross Kansas, the patient's

¹ While the complaint does not illuminate the patient's location, we surmise from the record that the patient was on vacation in Colorado when his symptoms began, and that he received care at several Colorado medical facilities.

health insurance provider,² approved Craig Hospital as a care provider because, while it was outside Blue Cross Kansas's geographic service area, no in-network facility could accommodate the patient's rehabilitative needs. In early March 2019, Blue Cross Kansas determined that the patient's hospitalization was no longer medically necessary and would no longer be covered. This dispute concerns the nearly \$18,000 in expenses the patient incurred between that determination's effective date and his discharge approximately twelve days later.

¶ 3 Blue Cross Kansas is a licensee of the Blue Cross Blue Shield Association, an association of independent health insurers. Blue Cross Kansas participates in the BlueCard program, which allows its members to receive covered health care nationwide. In its coverage agreement with the patient, Blue Cross Kansas described the BlueCard program as an "inter-plan arrangement" allowing the patient to access a "host" licensee's network and to receive savings for medical care outside the "home" licensee's geographic service

² According to the complaint, the patient's policy is an individual policy. Thus, it is not subject to the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. §§ 1001-1461.

area. Under the BlueCard program, the home licensee remains responsible for making coverage determinations while the host licensee is responsible for “contracting with and generally handling all interactions” with its in-network providers. When a claim is submitted, the home licensee makes the coverage determination and, if coverage is approved, authorizes the host licensee to pay the provider. Here, the host licensee in Craig Hospital’s area was Rocky Mountain Hospital and Medical Service, Inc., d/b/a Anthem Blue Cross and Blue Shield (Anthem).

¶ 4 Following Blue Cross Kansas’s coverage denial, Craig Hospital filed suit in Colorado for breach of contract, breach of the duty of good faith and fair dealing, tortious interference with contract, and violation of section 10-3-1115, C.R.S. 2023, which prohibits, as relevant here, an insurer’s unreasonable denial of payment for a claim.³ Blue Cross Kansas moved to dismiss under C.R.C.P. 12(b)(2), asserting that the district court lacked personal jurisdiction over it.

³ Craig Hospital also brought similar claims against Anthem, which those parties later settled.

¶ 5 The parties generally agree on the operative jurisdictional facts:

- Blue Cross Kansas is incorporated and has its principal place of business in Kansas.
- Blue Cross Kansas is not licensed or authorized to conduct business in Colorado.
- Blue Cross Kansas does not market, advertise, or solicit in Colorado or to Colorado residents.
- Blue Cross Kansas has no physical presence, property, or bank accounts in Colorado.
- Blue Cross Kansas has no agent for service of process in Colorado.
- Blue Cross Kansas participates in the BlueCard program, which expands its network of covered providers to include the service areas of other independent licensees.
- When Blue Cross Kansas processes claims from outside its geographic service area, it does so in Kansas.
- Before the patient's transfer to Craig Hospital, a hospital representative contacted Blue Cross Kansas to discuss the patient's planned admission.

- Craig Hospital requested an exception allowing the patient to receive care outside Blue Cross Kansas’s geographic service area.
- Blue Cross Kansas approved and covered the patient’s care in Colorado after determining that no Kansas provider could accommodate his needs.
- Blue Cross Kansas extended its approval of the patient’s care in Colorado until, in March 2019, it deemed further care was “not medically necessary.”
- Between 2013 and 2020, Blue Cross Kansas administered health plans for Kansas-based groups and employers that included members with Colorado addresses. Through these group plans, Blue Cross Kansas covered an average of 1,638 Coloradans annually (around one percent of its total membership).

¶ 6 The district court concluded that it had neither general personal jurisdiction nor specific personal jurisdiction over Blue Cross Kansas. In support of its specific jurisdiction conclusion, the court reasoned that Craig Hospital failed to make a prima facie showing that (1) Blue Cross Kansas purposefully availed itself of the

privilege of conducting business in Colorado, or (2) Blue Cross Kansas had an agency relationship with Anthem.

II. Personal Jurisdiction

A. Applicable Law and Standard of Review

¶ 7 “For a Colorado court to exercise jurisdiction over a nonresident defendant, the court must comply with Colorado’s long-arm statute and constitutional due process.” *Align Corp. v. Boustred*, 2017 CO 103, ¶ 9. Colorado’s long-arm statute confers the maximum jurisdiction allowed by the Due Process Clauses of the United States and Colorado Constitutions. *In re Marriage of Green*, 2024 CO 24, ¶ 13; *see also* § 13-1-124, C.R.S. 2023.

¶ 8 To determine whether a court’s exercise of personal jurisdiction complies with constitutional due process, courts apply the “minimum contacts” test from *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945). *In re Marriage of Green*, ¶ 14. “States may exercise personal jurisdiction if nonresident defendants have ‘certain minimum contacts . . . such that the maintenance of the suit does not offend “traditional notions of fair play and substantial justice.’” *Id.* (quoting *Int’l Shoe*, 326 U.S. at 316). “The quantity and nature of the minimum contacts required

depends on whether the plaintiff alleges specific or general jurisdiction.” *Id.* (quoting *Archangel Diamond Corp. v. Lukoil*, 123 P.3d 1187, 1194 (Colo. 2005)). The relevant contacts are those that the defendant has created. *State ex rel. Weiser v. JUUL Labs, Inc.*, 2022 CO 46, ¶ 34.

¶ 9 “For a corporate defendant, the paradigmatic fora for general jurisdiction are the corporation’s place of incorporation and principal place of business.” *Magill v. Ford Motor Co.*, 2016 CO 57, ¶ 16. A court may also exercise general personal jurisdiction over a nonresident corporate defendant when the corporation has continuous and systematic contacts with the forum such that it is essentially “at home” there. *In re Marriage of Green*, ¶ 16 (quoting *Magill*, ¶ 22). Under this type of personal jurisdiction, a court may exercise jurisdiction over a nonresident defendant “for any claim or cause of action arising from any of a defendant’s activities,” even if those activities occurred outside the forum state. *Id.* at ¶ 15.

¶ 10 A court may exercise specific personal jurisdiction over a nonresident corporate defendant if (1) the defendant purposefully directed its activities toward the forum and (2) the plaintiff’s injuries arise out of or relate to those activities. *JUUL Labs*, ¶ 37; *see also*

Align, ¶ 11. “[W]hen a defendant has deliberately created ‘continuing obligations’ between [itself] and residents of the forum, [it] has manifestly availed [itself] of the privilege of conducting business there.” *Keefe v. Kirschenbaum & Kirschenbaum, P.C.*, 40 P.3d 1267, 1271 (Colo. 2002) (quoting *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 475-76 (1985)).

¶ 11 In *JUUL Labs*, ¶ 44, the Colorado Supreme Court applied an “effects test” to determine whether the defendant’s actions satisfied the purposeful direction prong of the specific personal jurisdiction inquiry. That test has three elements: (1) an intentional act; (2) that is expressly aimed at the forum state; (3) with knowledge that the brunt of the injury would be felt in the forum state. *Id.* at ¶ 40 (citing *Eighteen Seventy, LP v. Jayson*, 32 F.4th 956, 967 (10th Cir. 2022)). Random, fortuitous, or attenuated contacts do not amount to purposeful direction. *Align*, ¶ 12. To satisfy the “arises out of” prong, the actions of the defendant giving rise to the litigation must have created a “substantial connection” with the forum state. *Archangel*, 123 P.3d at 1194.

¶ 12 If a nonresident defendant satisfies the requisite minimum contacts with the forum, we consider the contacts in light of other

factors to determine whether the exercise of personal jurisdiction comports with traditional notions of fair play and substantial justice. *JUUL Labs*, ¶ 45. Those factors include (1) the burden on the defendant; (2) the forum state’s interest in resolving the controversy; (3) the plaintiff’s interest in attaining effective and convenient relief; (4) the judicial system’s interest in obtaining efficient resolution of controversies; and (5) the shared interest of the states in furthering fundamental substantive social policies. *Align*, ¶ 13.

¶ 13 We review a district court’s dismissal for lack of personal jurisdiction de novo. *In re Marriage of Green*, ¶ 12. Resolution of jurisdictional issues requires “an ad hoc analysis of the facts.” *Keefe*, 40 P.3d at 1272. “[W]hen a court addresses a motion to dismiss based solely on documentary evidence, we review de novo whether a plaintiff established a prima facie case of personal jurisdiction necessary to defeat a motion to dismiss.” *Align*, ¶ 8.

B. Personal Jurisdiction Over Nonresident Insurers

¶ 14 While this appears to be the first Colorado case to decide whether participation in the BlueCard program confers personal jurisdiction, other jurisdictions have weighed in on this question.

Many have concluded that a nonresident insurer's pre-approval and coverage of a nonresident's health care in the forum through BlueCard or a similar program does not confer personal jurisdiction over the nonresident insurer — particularly where the insurer did not initiate or direct the out-of-state health care. *See, e.g., Choice Healthcare, Inc. v. Kaiser Found. Health Plan of Colo.*, 615 F.3d 364, 371-72 (5th Cir. 2010); *Hunt v. Erie Ins. Grp.*, 728 F.2d 1244, 1247-48 (9th Cir. 1984); *Whittaker v. Med. Mut. of Ohio*, 96 F. Supp. 2d 1197, 1200 (D. Kan. 2000); *Craig Hosp. v. Empire Healthchoice, Inc.*, No. 18-cv-00794, 2019 WL 10258608, at *4-5 (D. Colo. Apr. 1, 2019) (unpublished opinion); *Angel Jet Servs., L.L.C. v. Red Dot Bldg. Sys.' Emp. Benefit Plan*, No. CV-09-2123, 2010 WL 481420, at *4-5 (D. Ariz. Feb. 8, 2010) (unpublished opinion); *St. Luke's Episcopal Hosp. v. La. Health Serv. & Indem. Co.*, No. Civ. A. H-08-1870, 2009 WL 47125, at *7-9 (S.D. Tex. Jan. 6, 2009) (unpublished opinion); *Bayada Nurses, Inc. v. Blue Cross Blue*

Shield of Mich., No. Civ. A. 08-1241, 2008 WL 2945388, at *5 (E.D. Pa. July 30, 2008) (unpublished opinion).⁴

¶ 15 In *Choice Healthcare*, a nonresident insurer entered into an arrangement similar to the BlueCard program. See 615 F.3d at 366-67. The Fifth Circuit concluded that, where a nonresident insurer primarily directed its insureds to seek health care within its geographic service area, and it was the patient’s unilateral decision to seek care outside of that service area, the forum could not exercise personal jurisdiction over the nonresident insurer. *Id.* at 369-70. And the nonresident insurer’s relationship with the “host” insurer did not confer personal jurisdiction because, even in light of that relationship, the nonresident insurer did not purposefully avail itself of the benefits of conducting business in the forum. *Id.* at 371-72. The Fifth Circuit cited *Perez v. Pan American Life Insurance Co.*, 96 F.3d 1442 (5th Cir. 1996), where the court held there was no personal jurisdiction even though the nonresident insurer knew

⁴ The foregoing list provides a sample of the existing persuasive authority; it is not exhaustive. Several other states and federal courts have adopted this rule in recent years.

of and pre-approved the patients' health care in the forum. *Choice Healthcare*, 615 F.3d at 370-71.

¶ 16 In *Craig Hospital*, a New York insurer approved care in Colorado for one of its members. 2019 WL 10258608, at *1. The United States District Court for the District of Colorado concluded that participation in the BlueCard program did not confer general or specific jurisdiction. *Id.* at *4-5. Notwithstanding its participation in the program, the nonresident insurer did not have any contract with a resident of the forum, a contract with Craig Hospital specifically, or any other connection to Colorado. *Id.* at *5. The court also rejected the argument that the insurer's act of pre-approving care conferred specific jurisdiction where the insurer did not direct the patient's transfer to Craig Hospital. *Id.* at *6-7 ("Defendants cannot be subject to personal jurisdiction in a state where they did not purposefully direct the patient for treatment.").

¶ 17 That said, a handful of jurisdictions have found that the actions of a nonresident insurer conferred personal jurisdiction in the forum. In one class of cases, courts have found specific personal jurisdiction when a nonresident insurer sold policies to residents of the forum and the claims arose from those policies.

See Hirsch v. Blue Cross, Blue Shield of Kan. City, 800 F.2d 1474, 1480 (9th Cir. 1986); *In re Blue Cross Blue Shield Antitrust Litig.*, 225 F. Supp. 3d 1269, 1311 (N.D. Ala. 2016). And two federal district courts in California have found personal jurisdiction when a nonresident insurer processed and approved claims for health care in the forum and communicated with a forum resident to coordinate care. *See Healthcare Ally Mgmt. of Cal., LLC v. Blue Cross Blue Shield of Mass.*, No. CV 2:18-05268, 2018 WL 6340756, at *5 (C.D. Cal. Sept. 10, 2018) (unpublished opinion); *Aylward v. SelectHealth, Inc.*, No. 18CV494, 2018 WL 3615873, at *7 (S.D. Cal. July 26, 2018) (unpublished opinion); *Hajjar v. Blue Cross & Blue Shield of Tex.*, No. SACV0900362, 2009 WL 2902482, at *4 (C.D. Cal. Sept. 10, 2009) (unpublished opinion).

III. Application

¶ 18 Craig Hospital challenges the district court's conclusion that it lacked personal jurisdiction, arguing that the court had specific jurisdiction for three reasons: (1) Blue Cross Kansas pre-approved the patient's care in Colorado because no in-network provider could accommodate his medical needs; (2) Anthem was Blue Cross Kansas's agent; and (3) Blue Cross Kansas covered Colorado

residents through employer-provided health plans. We are unpersuaded.

A. Pre-Approval of Services

¶ 19 Craig Hospital first argues that the district court had personal jurisdiction because Blue Cross Kansas pre-approved coverage of the patient's care in Colorado. This argument fails on the first prong of the specific jurisdiction analysis, which requires that a defendant purposefully direct activities at the forum. *JUUL Labs*, ¶ 37.

¶ 20 Blue Cross Kansas is not licensed in Colorado, it does not solicit business in Colorado, and it has no property interests in Colorado. Its only contact relevant to the underlying controversy was its pre-approval of the patient's care and payment of several bills. But Blue Cross Kansas conducted those actions from its home state of Kansas, and the record reveals that Craig Hospital, not Blue Cross Kansas, initiated the pre-approval request. *See id.* at ¶ 34 (noting that minimum contacts must be those that the defendant created).

¶ 21 A representative from Craig Hospital contacted Blue Cross Kansas to request that the patient receive coverage for the planned

admission. Blue Cross Kansas determined that appropriate care was not available in Kansas. But it did not actively direct the patient to Colorado for health care. In other words, Blue Cross Kansas's decision to approve coverage outside of Kansas *could* have applied to any other state, and the fact that Colorado was the resulting forum was fortuitous as far as Blue Cross Kansas was concerned. *See Align*, ¶ 12.

¶ 22 That Blue Cross Kansas's network was inadequate, as Craig Hospital claims, only explains why the patient did not receive care in Kansas. It does not prove that Blue Cross Kansas purposefully directed the patient to Colorado, as opposed to any other state where the needed care was available. *See Youngquist Bros. Oil & Gas, Inc. v. Miner*, 2017 CO 11, ¶ 14 (North Dakota corporation placing a phone call to a Colorado job applicant was a random and fortuitous contact because the applicant could have been in any other state when the representative called him).

¶ 23 While the record provides sparse evidence as to why the patient received care in Colorado, the best explanation we can surmise from the record is that the patient was already in Colorado

when his need for treatment began.⁵ Thus, we join those jurisdictions that have considered this question in concluding that Craig Hospital's failure to provide prima facie evidence of Blue Cross Kansas's direction of the patient to Colorado, absent other circumstances not present here, is fatal to its case. *See Craig Hosp.*, 2019 WL 10258608, at *6.

¶ 24 That the federal district courts in *Healthcare Ally*, 2018 WL 6340756, at *5, *Aylward*, 2018 WL 3615873, at *7, and *Hajjar*, 2009 WL 2902482, at *4, reached a different conclusion does not change our analysis. To the extent that those cases relied on *Hirsch*, 800 F.2d at 1480, we find that case distinguishable. *Hirsch* involved a nonresident insurer that knowingly sold insurance to a resident of the forum. *Id.* at 1476-77. The insurer there

⁵ According to the complaint, the patient went to Summit Medical Center after observing symptoms of the illness. He was then transferred to St. Anthony's Hospital. The patient was apparently vacationing in Colorado when the illness began, but the record does not indicate where Summit Medical Center or St. Anthony's Hospital is located. The complaint then alleged that the patient was transferred to Kindred Hospital in Denver before being sent to Craig Hospital for inpatient rehabilitation. Efforts were made to transfer the patient back to Kansas while he was hospitalized at St. Anthony's Hospital and Kindred Hospital, but no Kansas facility could accommodate his medical needs.

purposefully directed activity to the forum by intentionally selling and profiting from an insurance policy issued to a resident of the forum. *Id.* at 1480. That fact is distinguishable from what happened in *Healthcare Ally, Aylward, Hajjar*, and here, where the insurer sold a policy to a member within its geographic service area who ended up in the forum to receive health care. *See Healthcare Ally Mgmt. of Cal., LLC v. Blue Cross Blue Shield of Minn.*, 787 F. App'x 417, 418 (9th Cir. 2019) (distinguishing *Hirsch* on similar grounds). In these cases, the insurer's purposeful direction toward the forum, if any, is much more removed than that in *Hirsch*.

B. Agency Theory

¶ 25 Craig Hospital next contends that the district court had personal jurisdiction via agency theory.

¶ 26 Colorado's long-arm statute confers personal jurisdiction on Colorado courts when, as relevant here, the nonresident defendant transacted business within the state through an agent. § 13-1-124(1)(a); *Goettman v. N. Fork Valley Rest.*, 176 P.3d 60, 67 (Colo. 2007). Of course, that exercise of jurisdiction must comport with the requirements of constitutional due process. *Align*, ¶ 9. "[U]nder Colorado's long-arm statute, a nonresident defendant may be

subject to personal jurisdiction in Colorado based on the imputed contacts of the defendant’s agent.” *Goettman*, 176 P.3d at 67.

¶ 27 “An agent can make his principal responsible for his actions if he is acting pursuant to either actual or apparent authority.” *First Horizon Merch. Servs., Inc. v. Wellspring Cap. Mgmt., LLC*, 166 P.3d 166, 177 (Colo. App. 2007) (quoting *Willey v. Mayer*, 876 P.2d 1260, 1264 (Colo. 1994)). An agent acts with actual authority when “the agent reasonably believes, in accordance with the principal’s manifestations to the agent, that the principal wishes the agent so to act.” *State Farm Mut. Auto. Ins. Co. v. Johnson*, 2017 CO 68, ¶ 21 (citation omitted). An agent acts with apparent authority when a third party reasonably believes that the agent has authority to act on the principal’s behalf. *Id.* at ¶ 20. In determining whether a principal-agent relationship exists, evidence that the principal exercised control over the agent is paramount. *First Horizon*, 166 P.3d at 177; *BASF Corp. v. Willowood, LLC*, 359 F. Supp. 3d 1018, 1026 (D. Colo. 2019).

¶ 28 Craig Hospital argues that because the BlueCard program requires the home licensee to conduct its transactions with providers outside of its geographic service area through the host

licensee, Anthem was Blue Cross Kansas's agent for purposes of specific jurisdiction. But Craig Hospital fails to establish how this contractual requirement gave rise to the present dispute. Indeed, Craig Hospital does not challenge any action that Anthem took at Blue Cross Kansas's direction during the course of conducting business transactions with Colorado providers. Craig Hospital challenges an action that Blue Cross Kansas took at its own behest: determining that further treatment was not medically necessary. *See Kurt v. Platinum Supplemental Ins., Inc.*, No. 19 C 4520, 2021 WL 3109667, at *6 (N.D. Ill. July 22, 2021) (unpublished opinion) (finding agency theory unavailing where contacts of the purported agent did not give rise to the claimed injuries); *cf. Goettman*, 176 P.3d at 70 (finding personal jurisdiction under the agency theory where a firm's employee entered the forum and caused the injury giving rise to the action).

¶ 29 Thus, *Gilmour v. Blue Cross & Blue Shield of Alabama*, No. Civ. A. SA-17-CA-518, 2019 WL 2147580 (W.D. Tex. Mar. 6, 2019) (unpublished opinion), on which Craig Hospital relies, is distinguishable. There, the claimed injuries arose from the acts that a resident insurer (the agent) took on behalf of a nonresident

insurer (the principal), including materially misrepresenting coverage and wrongfully denying benefits. *Id.* at *9. In contrast, the documentary evidence here reveals, at most, a purported agency relationship between Blue Cross Kansas and Anthem as to transactions that Blue Cross Kansas made with providers in Anthem’s network. No claimed injury resulted from the scope of that purported relationship. Had the evidence shown that Blue Cross Kansas gave Anthem authority to accept or reject medical claims on its behalf, and Anthem wrongfully denied the patient’s claim, that might yield a different result.

¶ 30 Even assuming, without deciding, that Anthem was Blue Cross Kansas’s agent as to certain communications or business transactions with its providers, to establish specific jurisdiction, Craig Hospital had to prove how the agent’s acts — imputed to the principal — gave rise to the claimed injuries. Its failure to do so undermines this argument. *See Griffith v. SSC Pueblo Belmont Operating Co.*, 2016 CO 60M, ¶ 17 (“If the subsidiary’s contacts may be imputed to the parent company, then the court shall consider all of the parent company’s contacts with the state — including the resident subsidiary’s contacts — to determine if those contacts are

sufficient to support either general or specific personal jurisdiction.”); *Gilmour*, 2019 WL 2147580, at *10 (finding no basis to impute acts of a purported agent to the principal where the agent’s conduct was unrelated to the principal).

C. Employer-Provided Health Plans

¶ 31 Finally, Craig Hospital argues that by administering employer-provided health plans to groups that included Colorado residents, Blue Cross Kansas is subject to personal jurisdiction in Colorado. In its opening brief, Craig Hospital does not clearly articulate whether it made this argument under a general or specific jurisdiction theory, instead asserting that the district court had personal jurisdiction under the test articulated in *Hood v. American Auto Care, LLC*, 21 F.4th 1216, 1224 (10th Cir. 2021). Craig Hospital later argues in its reply brief that Blue Cross Kansas’s provision of benefits to some Coloradans is sufficient to confer personal jurisdiction under either theory.

¶ 32 *Hood’s* holding related to the “arises out of” prong of specific jurisdiction, so we begin there. *Id.* at 1221. Craig Hospital argues that Blue Cross Kansas’s coverage of Coloradans is sufficiently

related to its denial of the patient’s benefits such that the “arises out of” prong is satisfied.

¶ 33 *Hood* applied the Supreme Court’s guidance in *Ford Motor Co. v. Montana Eighth Judicial District Court*, 592 U.S. 351 (2021). *Ford* involved two products liability suits arising from automobile accidents in Montana and Minnesota. *Id.* at 356. Ford moved to dismiss for lack of personal jurisdiction, arguing that for the states to have specific personal jurisdiction, the claims must have arisen from Ford’s conduct in each state — i.e. Ford must have designed, manufactured, or sold the particular vehicle in that state. *Id.* The Supreme Court took a less formalistic approach, requiring only a “connection” between a plaintiff’s suit and a defendant’s activities. *Id.* at 361. The Supreme Court concluded that a strong relationship existed between the defendant, the forum, and the litigation because Ford systematically served markets in Montana and Minnesota for the vehicles that allegedly malfunctioned. *Id.* at 365. The Supreme Court explained that Ford’s contacts with the states — its extensive advertising, sales, and service efforts there — could have caused the car owners to purchase Fords, supporting the “aptness” of personal jurisdiction in that case. *Id.* at 367.

¶ 34 We do not find a similar “connection” between Blue Cross Kansas’s employer health plans and Craig Hospital’s injuries. Blue Cross Kansas did not advertise or solicit business in Colorado, in contrast to the “veritable truckload of contacts” that Ford had with the forums. *Id.* at 371. Instead, it provided health insurance to the small percentage of its members with Colorado addresses based on their employment with Kansas-based employers. Thus, Blue Cross Kansas did not systematically serve Colorado’s health insurance market, as in *Ford*. And the patient was not a resident of Colorado to begin with, further diminishing any connection between the defendant’s activities in the forum and the plaintiff’s claims. Instead, this case is more like *Bristol-Myers Squibb Co. v. Superior Court of California*, 582 U.S. 255, 264 (2017), where the Supreme Court found no relationship between the forum and the specific claims at issue. *See also Ford*, 592 U.S. at 369-70 (distinguishing *Bristol-Myers*, in part, based on the plaintiffs’ residency in the forums); *Cricket Grp., Ltd. v. Highmark, Inc.*, 198 F. Supp. 3d 540, 545 (D. Md. 2016) (“[Plaintiff] also argues that [defendant] has contacts with Maryland because it provides health insurance to residents in several Maryland counties. But such ties ‘have no

connection with the instant contractual dispute,’ and so cannot be considered as contacts in the court’s purposeful availment analysis.”) (citation omitted); *Fred G. v. Anthem Blue Cross Life & Health Ins. Co.*, No. 22-cv-01259, 2022 WL 3227127, at *2 (N.D. Cal. Aug. 10, 2022) (unpublished opinion) (“arises out of” prong not satisfied where nonresident plaintiff was not one of the small number of plan participants who lived in the forum).

¶ 35 That Blue Cross Kansas has an interest in obtaining national accounts is similarly unavailing in creating the needed connection to sustain specific jurisdiction. *See JUUL Labs*, ¶ 60 (nationwide marketing efforts do not confer jurisdiction where defendants did not target influencers in Colorado, prioritize launching products in Colorado over other states, or tailor any of its materials to appeal to Colorado consumers). This is not a case where Blue Cross Kansas’s presence in Colorado was strong enough that Coloradans obtained its services and were later harmed by its conduct.

¶ 36 Finally, Craig Hospital’s general jurisdiction arguments are equally unavailing. Even assuming that Craig Hospital adequately developed this argument in its opening brief, *see Westrac, Inc. v. Walker Field*, 812 P.2d 714, 718 (Colo. App. 1991), the argument

fails on the merits. Blue Cross Kansas’s occasional coverage of Colorado residents, through their employment with Kansas-based employers, does not render Blue Cross Kansas essentially “at home” in Colorado. *See Daimler AG v. Bauman*, 571 U.S. 117, 123, 136 (2014) (finding no general jurisdiction where the nonresident corporate defendant had a regional office in the forum, had other facilities in the forum, and made 2.4% of its total sales in the forum); *Magill*, ¶ 22 (to determine that a corporation is at home in Colorado simply because it does business in Colorado would be “unacceptably grasping”) (citation omitted); *Choice Healthcare*, 615 F.3d at 368 (BlueCard program did not confer general jurisdiction); *Craig Hosp.*, 2019 WL 10258608, at *3 (rejecting the argument that sporadic coverage of members in the forum conferred general jurisdiction).

¶ 37 Because we conclude that Craig Hospital failed to allege sufficient minimum contacts to establish personal jurisdiction under each theory, we affirm the district court’s conclusion without a need to address the due process fairness factors. *See Youngquist*, ¶ 15 (fair play and substantial justice analysis not required where minimum contacts insufficient).

IV. Disposition

¶ 38 The judgment is affirmed.

JUDGE GROVE and JUDGE SULLIVAN concur.