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Gallagher Sharp Newsflash: Medical Write-Offs

On October 24, 2013, the Supreme Court of Ohio ruled that expert testimony is not required to substantiate the reasonableness of write-offs reflected on medical bills. The Court concluded that medical bills and statements showing write-offs and amounts accepted by medical providers as full payment can be admitted pursuant to Revised Code 2317.421 as prima facie evidence of the reasonable value of medical services.

The Supreme Court's ruling is part of the opinion announced in *Moretz v. Muakkassa*, Slip. Op. No. 2013-Ohio-4656. While the *Moretz* decision also contains analysis of how learned treatises may be used at trial and when interrogatories must be submitted to a jury, the aspect of the opinion that will be most often cited in future litigation in Ohio is the Court's ruling concerning medical bills, write-offs, and Revised Code 2317.421.

Moretz was a medical malpractice case. Larry Moretz and his wife alleged that Dr. Kamel Muakkassa fell below the standard of care in providing medical treatment, causing serious and permanent injury to Mr. Moretz. At the time of trial, Dr. Muakkassa sought to introduce into evidence medical statements that reflected write-offs accepted by medical providers and the amounts actually paid. The trial court refused to allow the evidence of write-offs because Dr. Muakkassa had no medical expert to support their reasonableness. The trial court concluded that medical bills were made presumptively reasonable by Revised Code 2317.421, but medical write-offs were not. The jury returned a substantial verdict in favor of Mr. Moretz. The Court of Appeals affirmed

The Supreme Court, however, disagreed, reversed the judgment, and ordered a new trial. The majority of the Court, five justices speaking through Chief Justice Maureen O'Connor, concluded: "There is no basis for requiring expert witness testimony that the actual amounts charged for medical services are reasonable, when the initial charges for the services are admissible into evidence without such testimony. Eliminating the need for expert testimony allows both parties to avoid the expense and "the usually empty ceremonial" of expert testimony on reasonableness. *De Tunno*, 166 Ohio St. at 377, 143 N.E.2d 301 (Bell, J., concurring). Thus, we conclude that R.C. 2317.421 obviates the necessity of expert testimony for the admission of evidence of write-offs, reflected on medical bills and statements, as prima facie evidence of the reasonable value of medical services."

The decision in *Moretz* should be interpreted by trial courts throughout Ohio as establishing a clear rule of law: Medical bills and statements that otherwise comply with the requirements of R.C. 2317.421 should be admissible in evidence, without the need for corroborative expert testimony, to prove not only the amount billed by the medical provider, but also the amount accepted from an insurer or other source in full satisfaction of the bill. Both the face amount of

the bill and the discounted payment in full satisfaction may be considered by the trier of fact in determining damages.

A link to the Supreme Court opinion is provided at:

<http://www.sconet.state.oh.us/ROD/docs/pdf/0/2013/2013-Ohio-4656.pdf>

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