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Gallagher Sharp Case of Note: Michigan Supreme Court Abolishes Provider Statutory Claims under No-Fault

On Thursday, May 25, 2017, the Michigan Supreme Court held that healthcare providers no longer have a statutory cause of action against an insurance company with respect to no-fault insurance benefits.

Prior to the Court's decision in *Covenant Medical Center, Inc. v. State Farm Mut. Auto. Ins. Co.*, Mich. (2017), healthcare providers could claim no-fault benefits even after the insurer reached a settlement with the injured party. In other words, the injured party could release the insurer from all claims of no-fault benefits, yet the provider still had an independent cause of action against the insurer arising out of the same motor vehicle accident. The Michigan Supreme Court's decision eradicates this independent cause of action for healthcare providers.

The Court's decision overrules the Court of Appeals which held that a provider has a distinct right to bring suit against an insurer so long as the insurer has notice. The immediate impact of *Covenant* is clear; it is retroactive law that extinguishes the right of a healthcare provider to directly sue an insurer under MCL 500.3101 et. seq. However, the implications of Thursday's decision expand beyond the scope of the quintessential provider and insurer dispute.

The Court limited its holding to the plain statutory language of MCL 500.3101 and did not abrogate any contractual right of the healthcare provider against the injured party. For instance, the insured may still collect payment and assign the benefit of past or present medical bills to the provider after a settlement or resolution of a no-fault dispute between the insured and insurer. However, the insured party's assignment of future benefits to the provider is still prohibited by MCL 500.3143. A healthcare provider may also still have the right to sue the injured party as a third-party beneficiary because the Court declined to make a "blanket assertion" as whether such suits are valid stating "that determination rests on the specific terms of the contract between the relevant parties."

The Court also noted that "[t]his conclusion does not mean that a healthcare provider is without recourse; a provider that furnishes healthcare services to a person for injuries sustained in a motor vehicle accident may seek payment from the injured person for the provider's reasonable charges." Thus, it is anticipated that healthcare providers may seek to intervene in actions against insurers under Michigan Court Rule 2.209(3) which allows intervention when a "claimed interest is so situated with the subject of the action that the disposition may impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by the existing parties."

The Syllabus and Opinion can be found at:
<http://courts.mi.gov/Courts/MichiganSupremeCourt/Clerks/Recent%20Opinions/16-17%20Term%20Opinions/152758.pdf>

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