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no-fault newsline

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Not Provided: Michigan Supreme Court issues long-awaited decision on *Covenant Medical v State Farm*, holds that providers do not have an independent cause of action against insurers under Michigan No-Fault Act

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On May 25, 2017, the Michigan Supreme Court released for publication its long-awaited decision *Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co,* ___ Mich ___ (2017) (Docket No. 152758). The question presented in this first-party no-fault case was simple: do healthcare providers have an independent cause of action against no-fault insurers under the Michigan No-Fault Act? The Court held that, under the plain language of the Michigan No-Fault Act, a healthcare provider does not possess a statutory cause of action against a no-fault insurer for the payment of no-fault benefits.

In *Covenant Medical*, the plaintiff brought suit against State Farm to recover payment under the Michigan No-Fault Act for medical services it provided to a State Farm insured following a motor vehicle accident. State Farm denied payment of the bills submitted by Covenant Medical Center because of a prior settlement and release with the insured.

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In *Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co,* the Michigan Supreme Court parsed the language of the Michigan No-Fault Act to conclude that nothing in the Act creates a cause of action against no-fault insurers by healthcare providers. In doing so, the Michigan Supreme Court overruled all Court of Appeals case law which allows for those provider suits.

Under the plain language of the Michigan No-Fault Act, a healthcare provider does not possess a right to a statutory cause of action against a no-fault insurer for the payment of no-fault benefits. Providers can no longer sue no-fault insurers directly under the Michigan No-Fault Act.

"In sum, a review of the plain language of the no-fault act reveals no support for plaintiff's argument that a healthcare provider possesses a statutory cause of action against a no-fault insurer." *Covenant Med Ctr, Inc v State Farm Mut Auto Ins Co,* ___ Mich ___ (2017).

Providers have other options for pursuing payment for their services, including seeking payment from the injured person. Further, the Michigan Supreme Court specifically stated that its decision is "not intended to alter an insured's ability to assign his or her right to past or presently due benefits to a healthcare provider." There is also some indication that a provider may bring a claim based on the argument that it is a third-party beneficiary to the insurance contract, if the terms of the insurance contract lend themselves to that argument.

The Michigan Court of Appeals held that the settlement with the insured did not discharge State Farm's liability to Covenant Medical Center because State Farm had notice of Covenant Medical Center's claim prior to the release. The Michigan Supreme Court reversed and remanded this decision for entry of summary disposition in favor of State Farm.

The Michigan Supreme Court analyzed the plain language of the Michigan No-Fault Act, specifically MCL §§ 500.3112-3115 and 500.3157-3158, and determined that none of those sections confer on a healthcare provider a right to sue for reimbursement of the costs of providing medical care to an injured person. The Court reasoned that providers do not *incur* charges or become liable for them; charges for healthcare costs are incurred by insureds, and those insureds are the ones that become liable for paying those charges. As such, a healthcare provider does not possess a statutory cause of action against a no-fault insurer for the payment of no-fault benefits.

In arguing that healthcare providers may directly sue no-fault insurers, Covenant Medical Center primarily relied on MCL 500.3112, which states that PIP benefits "are payable to or for the benefit of an injured person or, in case of his death, to or for the benefit of his dependents." The Court found that this language only permits a no-fault insurer to discharge its liability to an injured person by paying a healthcare provider directly, on the injured person's behalf, but that this section does not confer a statutory right on providers to directly sue no-fault insurers.

> "While plaintiff primarily cites MCL 500.3112 as establishing a healthcare-provider cause of action under the no-fault act, there is nothing in the language of this provision that can reasonably be interpreted as vesting a healthcare provider with a right to demand reimbursement from a no-fault insurer for services the provider rendered to an insured. Although this provision allows insurers to pay a provider of no-fault services directly 'for the benefit of' the insured, it does not establish a concomitant claim enforceable by an insureds' benefactors. Plaintiff has not pointed to any other provision in the no-fault act that bestows on healthcare providers a right to directly sue a no-fault insurer."

The Michigan Supreme Court acknowledged the long line of case law developed by the Court of Appeals which concludes that a provider may assert a direct cause of action against a no-fault insurer for PIP benefits, but ultimately determined that the Court of Appeals misinterpreted the language in the No-Fault Act to find that right to a cause of action. The Michigan Supreme Court noted that the Court of Appeals' case law was completely devoid of any meaningful explanation of what language in the No-Fault Act creates a cause of action for providers against no-fault insurers.

The Supreme Court concluded that "a review of the plain language of the no-fault act reveals no support for plaintiff's argument that a healthcare provider possesses a statutory cause of action against a no-fault insurer." The Court went on to state that this decision does not leave a healthcare provider without recourse, as the provider may seek payment from the injured person for the provider's reasonable charges.

The implications of this decision are significant for no-fault insurers: healthcare providers have no standing to bring an independent action for PIP benefits under the Michigan No-Fault Act. This is a huge victory for insurers in that it will significantly limit litigation in the No-Fault arena, render moot any need for so-called "*Covenant* motions" to confirm settlement agreements, and, most importantly, extinguish the ability for providers to make direct claims against insurers based on the assertion that they "stand in the shoes" of the insured.

It is important to note, however, that the Court did include a footnote on page 24 of the Opinion which states that its decision is "not intended to alter an insured's ability to assign his or her right to past or presently due benefits to a healthcare provider." There is also some indication that a provider may bring a claim based on the argument that it is a third-party beneficiary to the insurance contract, if the terms of the insurance contract lend themselves to that argument.

Secrest Wardle will broadcast a free webinar early next week to discuss the underpinnings of this Opinion and its practical implications for no-fault insurers on past, present, and future claims. Watch your e-mail for the invite.

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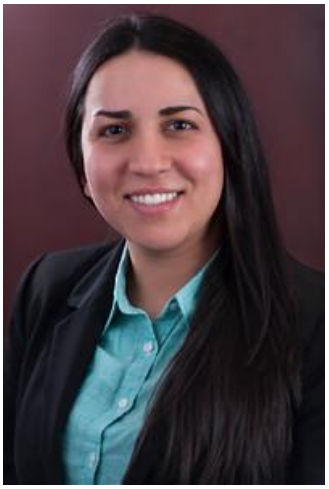

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