

Entitlement to PIP Benefits, Bodily Injury Coverage Update

May 1, 2024

Entitlement to PIP Benefits – Michigan

Steanhouse v. Michigan Auto. Ins. Placement Facility

--- N.W.3d ---, 2024 WL 1588626 (Mich. App. April 11, 2024)

The Michigan Court of Appeals reaffirmed its prior holding that a claimant who resides in Michigan is not entitled to Personal Protection Insurance (PIP) benefits through the Michigan Assigned Claims Plan (MACP) for injuries arising from an out-of-state car accident. In so holding, the appellate court reversed the judgment of the trial court and remanded the case to that court for further proceedings.

In 2019, plaintiff Markise Steanhouse was injured in a motor vehicle accident in Ohio. Steanhouse applied for PIP benefits through the MACP, but he was denied coverage. Steanhouse filed suit, and defendants, Michigan Automobile Insurance Placement Facility and MACP, filed a motion for summary disposition, arguing that in order to claim PIP benefits, the accident giving rise to the claim must have occurred in the state of Michigan.

As support, the defendants relied on MCL 500.3172, which expressly stated that “[a] person entitled to claim because of accidental bodily injury arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle *in this state* may claim [PIP] benefits through the assigned claims plan.” (Emphasis added). The trial court denied the motion for summary disposition, holding that this provision of the statute conflicted with another provision of the No-Fault act, MCL 500.3114. This provision provided, in pertinent part, that PIP benefits were payable to “an occupant of a vehicle involved in the accident, if the occupant was a resident of this state.” Because Steanhouse was a resident of Michigan, the trial court held that he could not be deprived of coverage through the MACP.

On appeal, the Michigan Court of Appeals concluded that the statutes did not conflict and reversed the trial court. The Michigan Supreme Court remanded the case back to the intermediate court with instructions to address the impact of MCL 500.3114 on whether Steanhouse was eligible to claim benefits through the MACP. The Michigan Court of Appeals reaffirmed its holding. The appellate court declined to accept Steanhouse’s argument that MCL 500.3172 had no application to out-of-state accidents or that the statutes conflicted. As to the latter argument, the appellate court applied the statutory canon that when two statutes conflict, courts must apply the more specific one. Because MCL 500.3172 was more specific, the appellate court applied it to preclude coverage for Steanhouse under the MACP.

By: Joshua LaBar

'Bodily Injury' – Pennsylvania

Kramer v. Nationwide Property and Casualty Ins. Co.

No. 103 MAP 2022, --- A.3d ---, 2024 WL 1776575 (Penn. April 25, 2024)

The Pennsylvania Supreme Court reversed the lower courts' rulings that Nationwide Property & Casualty Insurance Company (Nationwide) had a duty to defend its insureds, Stewart Kramer (Kramer) and Valeria Conicello (Conicello), in an underlying action for wrongful death after their son's houseguest, Michael T. Murray Jr. (Murray), died from a drug overdose caused by a combination of a fentanyl, heroin and benzodiazepines.

The underlying action was brought by Murray's mother, Laurie Cruz (Cruz) against Kramer, Conicello, and their son, Adam Kramer (Adam). Cruz asserted two counts, wrongful death and survival. Both claims sounded in negligence and were premised on Kramer's and Conicello's breach of a duty of care owed to Murray, occasioned by the negligent entrustment of their home to Adam on the evening of Murray's overdose death when Kramer and Conicello were out of town.

Kramer and Conicello sought liability coverage under their homeowner policy issued by Nationwide. Nationwide, relying on the controlled substances exclusion, denied coverage. After receiving Nationwide's denial letter, Kramer and Conicello filed a declaratory judgment action seeking a declaration that Nationwide had a duty to defend. The parties filed competing dispositive motions on the issue of the applicability of the controlled substances exclusion. The trial court granted summary judgment in favor of Kramer and Conicello, finding that the controlled substances exclusion did not apply to the claims alleged against them in the underlying case, because such claims are grounded in negligence and are distinct from the injuries resulting from the use or delivery of controlled substances. Accordingly, the trial court ordered Nationwide to provide a defense to Kramer and Conicello in the underlying action.

Nationwide appealed the trial court's ruling to the Superior Court of Pennsylvania, which affirmed the trial court's summary judgment order but on alternative grounds. The Superior Court held, without explanation, that the controlled substance exclusion applied to the survival action in its entirety and to the wrongful death action except to damages for emotional and mental distress claims of the decedent's mother. As such, the Superior Court ruled that Nationwide had a duty to defend Kramer and Conicello in the underlying suit.

Nationwide petitioned the Pennsylvania Supreme Court to decide the limited issue of whether the Superior Court erred in finding that the decedent's mother's emotional distress injuries, as alleged in her wrongful death claim, are covered under its policy where the policy excludes emotional distress

from the definition of bodily injury. The Supreme Court accepted Nationwide's petition, and in its opinion noted that Nationwide's duty to provide a defense arises when there is an "occurrence" within the meaning of the policy. An occurrence requires a "bodily injury," which by definition under the policy does not include emotional distress or similar injury unless it is the direct result of bodily harm. Because the decedent's mother did not suffer a "bodily injury" as defined by the policy, the Superior Court erred in determining that Nationwide had a duty to defend Kramer and Conicello with respect to Cruz's wrongful death claim. The Pennsylvania Supreme Court did not decide the issue of the applicability of the controlled substance exclusion because that issue was not before it.

By: Amy L. Diviney