

Supreme Court Shields No-Fault Insurers from Direct PIP Lawsuits by Healthcare Providers

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Rapid Report

Michigan's Supreme Court released its long-awaited *Covenant* decision on May 25, 2017, holding that healthcare providers such as hospitals and doctors have no statutory, independent cause of action against no-fault insurers for the payment of Michigan no-fault benefits.

In Covenant Medical Center, Inc. vs. State Farm Mutual Auto. Ins. Co., Docket No. 152758, the Supreme Court held that no section of Michigan's No-Fault Act authorizes a healthcare provider to bring a direct action against an insurer for payment of Personal Injury Protection (PIP) benefits.

However, the Supreme Court also specifically noted that it was not deciding whether healthcare providers can be third party beneficiaries of a contract between an insured and an insurer. In a footnote it stated as follows:

That determination rests on the specific terms of the contract between the relevant parties. See *Schmalfeldt v N Pointe Ins Co*, 469 Mich 422, 428; 670 NW2d 651 (2003) ("A person is a third-party beneficiary of a contract only when that contract establishes that a promisor has undertaken a promise 'directly' to or for that person.") (citations omitted; emphasis added)

The Supreme Court also specifically stated that its decision does not alter an insured's ability to assign his or her rights to no-fault benefits to a healthcare provider.

The members of Plunkett Cooney's Transportation Law Practice Group will provide a more detailed analysis soon. However, the decision raises many additional issues, including but not limited to:

1. Will the decision be given retroactive application?
2. Are healthcare providers third party beneficiaries? What about situations where the claimant is not a party to the insurance contract, such as passengers, pedestrians and motorcyclists? And what about self-insurers which do not have insurance contracts at all with claimants?
3. Are assignments of claims for benefits valid? MCL 500.3143 speaks only to prohibiting assignments of future benefits.

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4. How to best protect the insured when settling and/or making payments based on reasonable and customary?