DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

Progressive American Insurance Company v. Head to Toe Posture Rehab, LLC a/a/o Alix Louis

Progressive American · No. No. 4D21-647 · Decided October 6, 2021

SUMMARY

The Florida Fourth District Court of Appeal held that section 627.736(5)(a)3., Florida Statutes (2014), permits an insurer to use Medicare's Multiple Procedure Payment Reduction methodology to limit PIP reimbursement for therapy services lawfully provided by a licensed chiropractor. The court reversed summary judgment for the healthcare provider and remanded with instructions to enter summary judgment for the insurer.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Artau, J.; Klingensmith, J.; Kuntz, J.
JURISDICTION	Florida
DECIDED	October 6, 2021
DOCKET	No. 4D21-647
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final summary judgment entered for a medical provider assignee in a personal injury protection benefits dispute.
STANDARD OF REVIEW	De novo review of the final summary judgment and the interpretation of the PIP statute and insurance policy.
PRECEDENTIAL VALUE	published
PARTIES	Progressive American Insurance Company v. Head to Toe Posture Rehab, LLC a/a/o Alix Louis

TOPICS

insurance coverage · statutory interpretation · plain meaning rule · appellate procedure · standard of review

PRACTICE AREAS

insurance law | personal injury protection benefits | statutory interpretation | appellate procedure

QUESTIONS PRESENTED

1. Whether section 627.736(5)(a)3., Florida Statutes (2014), permits an insurer to use Medicare's Multiple Procedure Payment Reduction methodology to limit PIP reimbursement for therapy services lawfully provided by a licensed chiropractor when Medicare itself would not reimburse a chiropractor for those services.
2. Whether the insurance policy provided sufficient notice that the insurer could use Medicare coding policies and payment methodologies, including the Multiple Procedure Payment Reduction methodology, to calculate PIP reimbursement.

HOLDINGS

1. Section 627.736(5)(a)3., Florida Statutes (2014), authorizes an insurer using the MPPR methodology to limit PIP reimbursement for therapy services lawfully provided by a licensed chiropractor, even when Medicare would not reimburse a chiropractor for those same services.
2. The policy permitted use of the MPPR methodology to limit PIP reimbursement because it provided sufficient notice of the insurer's intent to use Medicare coding policies and payment methodologies, including applicable modifiers.

KEY QUOTATIONS

> *"This statute is clear and unambiguous. It requires an insurer utilizing the MPPR methodology to reimburse a medical service provider who provides care within the scope of the provider's valid license, regardless of whether a medical service provider within the same discipline would have been entitled to reimbursement under Medicare."* (2)

> *"We therefore conclude that section 627.736(5)(a)3.'s plain language authorizes utilization of MPPR to limit PIP reimbursement for therapy services provided by a licensed chiropractor even though reimbursement to a chiropractor for those same services would not be provided at all under Medicare."* (2)

FACTUAL BACKGROUND

Head to Toe Posture Rehab, LLC sought personal injury protection reimbursement as assignee of its chiropractic patient, Alix Louis, under Louis's automobile insurance policy issued by Progressive American Insurance Company. The insurer applied Medicare's Multiple Procedure Payment Reduction methodology to limit reimbursement for therapy services provided by the licensed chiropractor. The provider challenged that methodology because Medicare would not reimburse chiropractors for those services at all.

PROCEDURAL HISTORY

The provider, as assignee of insured Alix Louis, obtained final summary judgment in the County Court after the court denied the insurer's motion for summary judgment. The trial court concluded that Medicare's Multiple Procedure Payment Reduction methodology could not be used because Medicare does not reimburse chiropractors for the therapy services at issue. The insurer appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the final summary judgment entered in favor of the provider and remand for the trial court to enter final summary judgment in favor of the insurer consistent with the opinion.

CASES CITED

- State Farm Mut. Auto. Ins. Co. v. Stand Up MRI of Boca Raton, P.A., 322 So. 3d 87, 96 (Fla. 4th DCA 2021)
- State Farm Mut. Auto. Ins. Co. v. Pan Am Diagnostic Servs., Inc., 321 So. 3d 807, 809-10 (Fla. 4th DCA 2021)