

High court ruling may hike medical bills

By TIM RICHARD
STAFF WRITER

Auto insurers aren't liable for medical benefits until an injured person has tried to collect all of his or her health benefits, the Michigan Supreme Court has ruled in three major cases.

The result: Injured persons may have to pay heavy medical bills — especially when they have used doctors outside the system paid for by their employers.

"Henceforth, you have a burden," said Wayne Miller, a Birmingham attorney who represented two of the plaintiffs. "If they (the health insurer) can't provide it, then you can't outside the system. It's very troubling."

"The Supreme Court justices are seven general practitioners, however bright, who are trying to practice in all the areas of law before them. I don't think the court appreciated the distress the plain-

tiffs (in auto injury cases) are under."

"The Supreme Court felt the only important matter was containing (insurance) costs. So they elevated cost-containment to the only important matter," Miller said.

The high court ruled 4-3 for auto insurers in cases involving medical expenses from Brighton, rural Jackson County and Detroit. The cases started in Southfield's District Court and Wayne County Circuit Court.

"We hold that a no-fault insurer is not subject to liability for medical expenses that the insured's health care insurer is required, under its contract, to pay for or provide," said Justice Charles Levin, who wrote all three opinions citing section 3109 of the No-Fault Automotive Liability Act.

Levin was joined by Chief Jus-

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Wayne Miller
Birmingham attorney

Justice Michael Cavanagh and Justice Robert Griffin and Conrad Mallett Jr.

Out \$5,000

Louise Ann Tousignant, 31, a former Northwest Airlines flight attendant from Brighton, is out \$5,000 for treatment of injuries suffered in a July 1987 auto accident.

"Tousignant was examined and treated after the accident for back and neck pain at the emergency room of Henry Ford Medical Clinic in West Bloomfield, an HAP

(Health Alliance Plan) facility. She was released with instructions to return if her back or neck pain continued," Levin said.

"Instead of returning to the Henry Ford Medical Clinic or another HAP facility or physician, Tousignant sought treatment from a physician other than an HAP physician," said Levin. She received heat treatments for a year and dental services from unaffiliated doctors. She sought payment from her auto insurer, Allstate.

After the case was moved up from Southfield District Court, Oakland County Circuit Judge Robert Templin ruled in favor of Allstate, was reversed by the Court of Appeals and upheld by the Supreme Court.

Levin said the legislative policy "requires an insured who chooses to coordinate no-fault and health coverages to obtain payment and services from the health insurer to the extent of the health coverage

available from the health insurer."

"Where this hurts," said David Martin, Tousignant's attorney in Southfield, "is when they have an HMO chosen by the employer as opposed to the best coverage." His client now is a housewife and mother.

Snafu with VA

A costlier case involved Kenneth Owens, a young Coast Guardaman who suffered permanent brain injury in a December 1982 accident when his car hit a tree. He was on leave and visiting his parents in rural Jackson County.

The Veterans Administration Hospital in Ann Arbor treated him until his discharge in June 1984. A VA neurologist recommended he go to Herrick Hospital in Tecumseh, where Owens ran up a \$110,000 bill for intensive rehabilitation therapy. Owens also got \$70,000 in treatment at Saline County Hospital.

The VA did not identify another VA facility where Owens could get in-patient treatment. Then VA refused to pay. Owens' insurer also refused.

Said the Supreme Court: "Owens bears the burden of establishing that the services rendered by Herrick and Saline were 'al-

lowable expenses,' and that 'reasonable charges' were there incurred for reasonably necessary services."

"Owens also has the burden of establishing that he sought to obtain appropriate services from the VA," the high court said.

Martin, Owens' attorney, said he would be back before Wayne County Circuit Judge John H. Gillis in two weeks to meet those tests. "We start all over," Martin said.

At stake are \$180,000 in hospital bills plus interest for up to nine years.

'Double dip'

The third case was what attorneys call a "double dip." George Yancey Jr. of Detroit was seriously injured in an auto accident. Citizens Insurance Co. reduced his work-loss benefits by the amount of Social Security disability benefits Yancey received.

"We hold that Social Security disability benefits should be subtracted," the Supreme Court said, citing its 1979 ruling that Social Security survivors' benefits also are to be subtracted.

Boyle dissents

Justice Patricia Boyle dissented in part and was joined by James Brickley and Dorothy Comstock Riley.

Police academy graduation scheduled

Following three months of intensive training, the Oakland Police Academy will graduate its Basic Police Training class Nov. 19. The academy is located at Oakland Community College's Auburn Hills Campus.

Some students enter the academy as officer trainees after they have been accepted for employment by a law enforcement agency. The agency then sponsors the trainee in the academy's basic police program. In other cases, however, the students are accepted directly, and then find employment after graduation.

"Our tracking studies show that more than 95 percent of our graduates find employment in the field of law enforcement," says police academy Director Richard Tillman.

Fifteen of the 51 students in this fall's graduating class are from law enforcement agencies in the greater metropolitan area, including Auburn Hills, Beverly Hills, Farmington Hills, Royal Oak, Warren and West Bloomfield Townships. The Oakland County Sheriff's Department was also represented. The other graduates are independent students

deemed certifiable by the state of Michigan.

Commencement ceremonies begin at 8 p.m. in the Oakland County Commissioners Auditorium, 1200 N. Telegraph, Pontiac. Royal Oak Director of Public Safety, John Ball, will be the principal speaker.

The Auburn Hills Campus of OCC is located at 2900 Featherstone Road, approximately two miles east of the Pontiac Silverdome. For further information about the Oakland Police Academy, contact police academy Director Richard Tillman at 340-6663.

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