

## Michigan Court Denies "Limited Provider Networks" in No-Fault Auto Insurance

Editorial Staff

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-Michigan Court of Appeals ruling

On June 1, the Michigan Court of Appeals ruled unanimously that Farmers Insurance Exchange and Mid-Century Insurance Company violated state law by adding an illegal provision to their no-fault automobile insurance policies. The ruling upheld a circuit court decision involving a case brought against Farmers and Mid-Century by the Michigan Chiropractic Council (MCC - forerunner of the Michigan Chiropractic Association) and the Michigan Chiropractic Society (MCS), which accused the insurers of engaging in "unfair, deceptive and misleading trade practices."

The provision stipulated that Farmers policyholders would receive a 40 percent reduction on their personal-injury protection (PIP) premium if, after being injured in an accident, they chose to obtain treatment from a provider in the insurance company's managed care network. However, if a policyholder chose the network option, but subsequently went out of the network for treatment, he or she would be required to pay a \$500 deductible. The deductible would not be charged to policyholders who stayed in the network for the duration of care.

The Michigan Office of Financial and Insurance Service approved the provision in July 2000. However, the MCC and MCS believed that Farmers' provision conflicted with the state's no-fault insurance law, which was enacted in 1972 as a fee-for-service system with regard to health care benefits.

According to the law, every person of driving age in Michigan is required to purchase no-fault insurance to legally operate a motor vehicle. In exchange for this requirement, individuals involved in motor vehicle accidents receive certain insurance benefits in the event of injury, including PIP insurance, which covers "all medical costs and expenses occasioned by injuries sustained in a motor vehicle accident, including expenses for rehabilitation."

In August 2000, the MCC and MCS requested a hearing with the commissioner of financial and insurance service, and alleged that Farmers' provision was unlawful. They also alleged that Farmers' practices were "unfair, deceptive and misleading" and violated state law. However, the commissioner denied the groups' request for a hearing, citing a failure to show probable cause.

In the wake of the commissioner's decision, the MCC and MCS filed a suit in a Michigan circuit court in 2002. Upon review, the circuit court reversed the commissioner's decision and found that Farmers' managed care option was not authorized by law. It further concluded that the authority to incorporate managed care networks into the no-fault system was a matter for the state legislature to decide, not the insurance commissioner. The circuit court's decision was challenged by the insurance companies

and sent to the Michigan Court of Appeals for consideration.

The court of reviewed the no-fault law and Farmers' preferred provider option (PPO) endorsement on its no-fault insurance policy. It concluded that the no-fault law inherently provides a series of far-reaching benefits - benefits that could be "fundamentally altered" under the insurance company's managed care network. It also found that Farmers' PPO endorsement was written in a way such that policyholders could be deceived through the reduction in their PIP premiums.

In the opinion of the court [excerpted; emphasis ours]:

- "Michigan's no-fault insurance system has at its core the premise - and the promise, of wide-ranging medical benefits from the available spectrum of providers, in exchange for which the driving public accepts the statutorily-prescribed, limited redress for personal injuries suffered. Farmers' PPO endorsement strikes a new and entirely different bargain with policyholders, one for which there are no legislative prescriptions."
- "Managed care, in the form of a limited provider network, clearly was not contemplated in the no-fault range of choice system for medical benefits prescribed under Section 3107. Farmers' system of PPO-limited medical benefits inherently conflicts with Michigan's no-fault act."
- "Under Farmers' policies, if a policyholder elects the PPO option, the policyholder forfeits other PIP premium deductions. This 'exchange system' of premium discounts renders the touted reduction in the cost of insurance to policyholders. The question arises whether consumers, who are prone to overlook the detail of their insurance policies, will be lured to accept the PPO option on the basis of the well-publicized 40 percent reduction in their PIP rate, when in fact many will lose significant, and perhaps comparable, premium discounts ... This system certainly has the potential for deception - misleading consumers and the public in general."

### Resources

- Appeals court says auto insurance practice is misleading. Associated Press, June 2, 2004.
- Michigan Chiropractic Society scores major legal victory for Michigan's auto no-fault patients. MCS press release, June 8, 2004.
- *Michigan Chiropractic Council, et al. v. Commissioner of the Office of Financial and Insurance Service, et al.* Ingham Circuit Court, LC # 01-093481-AA. Final opinion. Published June 1, 2004.

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