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New Case on Class Action Settlement

June 4, 2009

On June 3, 2009, the Third District Court of Appeal released: Altamonte Springs Imaging, L.C. v. State Farm Mut. Auto. Ins., Nos. 3D08-652, 3D07-3009 (Fla. 3d DCA June 3, 2009) (*Not final until disposition of timely filed motion for rehearing*), affirming a class action settlement as to the appropriate payment methodology for computing a statutory consumer price index adjustment due medical providers for magnetic resonance imaging services under section 627.736(5)(b)(5), Florida Statutes.

The decision ends for State Farm, the settling insurer, the on-going statewide litigation concerning the manner in which CPI adjustments should be computed and paid. Although providers and insurers had "sparred" for years over the appropriate way to interpret the statute, the settlement approved by the trial court provided for mandatory declaratory and injunctive relief, establishing the methodology for making the adjustment. Providers could opt-out for limited purposes but could not, in doing so, challenge the settlement's calculation formula. In approving the statewide settlement, the court noted: "The goal of 'no fault' insurance was to reduce litigation, not to spread it virally throughout the State." The Third District went on to find that State Farm, the insurer, and Open MRI, the class plaintiff, "established that the class action lawsuit was a textbook case for certification."

The Third District also determined that the settlement was fair and allows for the recovery of CPI adjustments as computed in a fair interpretation of the controlling statute. While noting that there was a marginal difference between the formula for calculation of the statutory CPI adjustments as set forth in the settlement and as set forth by the Fourth District in Progressive Auto Pro Insurance Co. v. One Stop Medical, Inc., 985 So. 2d 10 (Fla. 4th DCA 2008), the court found that the settlement formula "rounded up" to the nearest one-tenth of one percent, which counterbalances the cumulative and compounding adjustments applied by the Fourth District. The court also found that the payments to the class representative and attorneys for the plaintiffs were reasonable and fair.

This decision provides a model for insurance companies interested in resolving on a collective basis what the appellate court labeled as "thousands of micro-lawsuits in which attorneys would recover far more than the adjustments payable" to the claimants. If you would like to learn more about this decision, please contact Ben Reid, Matt Allen, or Cristina Alonso.

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