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STATE OF MICHIGAN

COURT OF APPEALS

JAWAD A. SHAH, M.D., P.C., ALLIANCE ANESTHESIA, PLLC, INSIGHT ANESTHESIA, PLLC and INSIGHT RADIOLOGISTS, P.C.,	UNPUBLISHED April 20, 2026 11:25 AM
Plaintiffs-Appellees,	
v	No. 372543 Wayne Circuit Court
AUTO CLUB INSURANCE ASSOCIATION,	LC No. 24-004685-AV
Defendant-Appellant.	

Before: RICK, P.J., and YATES and MARIANI, JJ.

RICK, P.J. (*concurring*).

I concur in the result reached by my colleagues. The outcome is required in light of this Court's recent ruling in *Favot v Brown*, ___ Mich App ___; ___ NW3d ___ (2025) (Docket Nos. 368733; 368734). I write separately as I believe *Favot* was wrongly decided. As of the date of the decision in this matter, leave to appeal in *Favot* remains pending in our Supreme Court.

As I read MCL 500.3157, the provision requires a more precise inquiry into whether a given limitation is part of the rate-setting prices themselves or instead constitutes a post-rate adjustment to reimbursement. While the relevant portions of the statute reference the "amount payable under Medicare," that amount is necessarily derived from the fee schedule rate, which serves as the baseline for reimbursement. In my opinion, the statute's separate reference to "rates in the fee schedule" confirms that the Legislature intended to use Medicare rates as a pricing benchmark. Interpreting "amount payable" to include all downstream payment methodologies would expand the statute beyond its text. I believe a proper reading of the statute confines "rate-related" limitations to those intrinsic to the determination of the fee schedule rate and excludes methodologies that operate solely to reduce reimbursement after the fact.

For these reasons, I concur in the majority's opinion. Although I would not interpret MCL 500.3157 as the *Favot* Court did, I concur in the result because *Favot* presently controls.

/s/ Michelle M. Rick