Court of Appeals, State of Michigan

ORDER

SPECIALTY MEDICAL CENTER INC V FARM BUREAU MUTUAL INSURANCE CO

Docket No. 378116

LC No. 24-012339-NF

Kristina Robinson Garrett
Presiding Judge

Colleen A. O'Brien

Randy J. Wallace
Judges

The motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(E)(2), in lieu of granting the application for leave to appeal, the trial court's July 23, 2025 order is REVERSED IN PART and the matter REMANDED for further proceedings consistent with this order. Defendant Farm Bureau Mutual Insurance Company (Farm Bureau) filed a motion for summary disposition under MCR 2.116(C)(10) which clearly raised only one legal issue: whether certain treatments were medically efficacious. This is apparent from the motion, brief in support, and from Farm Bureau's arguments at the motion hearing. While a single sentence in the motion complained that two providers billed for injections, this was not sufficient to put plaintiffs, Specialty Medical Center, Inc. (Specialty), and Universal Care Surgical Center, LLC (Universal), on notice that any claim of duplicative billing was being raised, or that either needed to respond to the motion with arguments or evidence on that particular point. The trial court denied the motion as to the legal issue actually raised (efficacy), but then granted summary disposition as to Universal's bills for the injections as allegedly duplicative of those of plaintiff Specialty. That was despite counsel explaining at the hearing that Specialty billed for the physician's professional fees, while Universal billed for use of their facility, and counsel for Farm Bureau even acknowledging at the hearing that a physician had testified at his deposition about the differences in the two provider's bills.

The trial court's decision to nonetheless grant summary disposition on the duplicative-billing issue plainly violated Universal's due-process rights. See *Al-Maliki v LaGrant*, 286 Mich App 483, 485; 781 NW2d 853 (2009) (explaining that, while MCR 2.116(I)(1) does permit a trial court to grant summary disposition *sua sponte*, if the proofs demonstrate such is appropriate, the trial court cannot do so without affording a party due process of law). Universal had no notice that any alleged duplicative billing was an issue to be resolved by the trial court, and thus did not have any obligation to present evidence or argument on that point. See *Lowrey v LMPS & LMPJ, Inc*, 500 Mich 1, 7; 890 NW2d 344 (2016) (explaining that the moving party must meet its burden first before the burden shifts to the nonmoving party to present evidence demonstrating a question of fact on a disputed issue).

Nor can we conclude that Universal's motion for reconsideration and the court's decision on that motion was sufficient to render the due-process violation harmless. In its motion for reconsideration, Universal pointed out the trial court's error in raising the issue of duplicative billing *sua sponte* and asked that the trial court require Farm Bureau to properly raise the issue in a summary disposition motion, such that Universal could respond. The trial court's order denying the motion for reconsideration states that the

motion presented nothing the court did not consider when ruling on the motion previously and did not demonstrate palpable error. The trial court's order denying reconsideration does not reflect that the trial court gave any further consideration to the merits of the duplicative-billing question or that it actually considered the argument being made in the motion for reconsideration, which was essentially that Universal be given the opportunity to address the merits of the duplicative-billing question. Cf. *Al-Maliki*, 286 Mich App at 485-486, 489 (explaining that, while this type of due-process violation can be rendered harmless by an opportunity for rehearing, reversal was nonetheless required where the trial court's decision on reconsideration did not reflect that the court considered any evidence the plaintiff provided with the motion when it stated that the motion "merely presented the same issue ruled on by the court when granting summary disposition").

As in *Al-Maliki*, "we conclude that procedural error occurred because the basic requirements of notice and a meaningful opportunity to be heard have not been satisfied in this case." *Id*. at 489 (footnote omitted). The trial court's July 23, 2025 order is thus reversed to the extent that it granted summary disposition in favor of Farm Bureau with respect to any of Universal's bills. Should Farm Bureau file a motion for summary disposition asserting that any of Universal's bills are duplicative, this order should not be understood as expressing any opinion on the merits of such a motion.

This order is to have immediate effect. MCR 7.215(F)(2). We do not retain jurisdiction.

Kristina K. Garrett
Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

January 15, 2026
Date

Jerome W. Zimmer Jr.
Chief Clerk