

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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JAWAD A. SHAH, M.D. PC, doing business as  
INSIGHT HEALING CENTER, doing business as  
INSIGHT PAIN MANAGEMENT CENTER, doing  
business as INSIGHT PHYSICAL THERAPY, doing  
business as INSIGHT NEURO CHIROPRACTIC,  
INSIGHT HEALTH AND FITNESS, INSIGHT  
RADIOLOGISTS PC, ALLIANCE ANESTHESIA  
PLLC, and STERLING ANESTHESIA PLLC,

Plaintiffs-Appellants,

v

STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendant-Appellee.

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UNPUBLISHED  
February 25, 2021

No. 353298  
Genesee Circuit Court  
LC No. 17-110093-NF

Before: SWARTZLE, P.J., and BECKERING and GLEICHER, JJ.

SWARTZLE, J. (*dissenting*).

The Legislature has “intended that only treatment lawfully rendered, including being in compliance with licensing requirements, is subject to payment as a no-fault benefit.” *Cherry v State Farm Mut Auto Ins Co*, 195 Mich App 316, 320; 489 NW2d 788 (1992). “If the treatment was not lawfully rendered, it is not a no-fault benefit and payment for it is not reimburseable.” *Id.*

Under the adult-foster act, an “adult foster care facility” is an establishment “that provides foster care to adults.” MCL 400.703(4). It is undisputed that, during the time he lived there, Michael Stone was provided with each and every component of adult-foster-care services at plaintiffs’ facility: supervision, personal care, protection, and room and board. To provide something means to supply or make it available, and the statutory language is broad enough to encompass the provision of a service via an employee (at the direct direction and control of plaintiff as the employer) or a contractor (at the indirect direction and control of plaintiff through the agreed-upon terms of the contract). Whether via employees or contractors, the care that the patient received amounted to foster care. Because plaintiffs provided adult-foster-care to Stone at its

facility and were not licensed by LARA, I would conclude that the treatment was not lawfully rendered under MCL 500.3157(1), and charges for that treatment are not reimbursable as a no-fault benefit.

Plaintiffs argue that whether their activities require an adult-foster-care license is uniquely within the province of LARA and that this Court lacks authority to review the issue. Although LARA bears responsibility under Michigan's licensing laws to determine whether to pursue legal action against a facility for providing adult-foster-care services without a license under MCL 400.713(1), the Legislature has not given LARA responsibility for determining whether a service is reimbursable under the no-fault act. As defendant points out, this Court has addressed this legal issue on several occasions. See *Life Skills Village, PLLC v Nationwide Mut Fire Ins Co*, 331 Mich App 280; 951 NW2d 724 (2020); *Healing Place at North Med Ctr v Allstate Ins Co*, 277 Mich App 51; 744 NW2d 174 (2007); *Olsen v Allstate Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued February 20, 2020 (Docket No. 346650); *Kings Home Healthcare, Inc v Allstate Prop & Cas Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued December 12, 2019 (Docket No. 344808); *Jawad A. Shah, M.D., PC v Fremont Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued April 30, 2019 (Docket No. 340441); *Keys of Life v Auto-Owners Ins Co*, unpublished per curiam opinion of the Court of Appeals, issued December 27, 2016 (Docket No. 328227). Finally, this is not a case where LARA declined to grant an adult-foster-care license to an applicant, but one where LARA decided not to compel plaintiffs to obtain one.

For these reasons, I respectfully dissent.

/s/ Brock A. Swartzle