STATE OF MICHIGAN

COURT OF APPEALS

TRANSAMERICA INSURANCE COMPANY OF AMERICA,

Plaintiff-Appellant,

v

BLUE CROSS AND BLUE SHIELD OF MICHIGAN,

Defendant-Appellee.

April 4, 1991

No. 127702

Before: M. J. Kelly, P.J., and Doctoroff and Neff, JJ.

PER CURIAM.

Plaintiff appeals as of right from the grant of summary disposition to defendant. This is a dispute between two insurance companies over which is responsible for medical expenses incurred after the health insurance coverage was cancelled. Plaintiff argues that the trial court erroneously interpreted the language of the Blue Cross and Blue Shield (Blue Cross) health insurance policy and erroneously ruled that Blue Cross was not responsible. We agree.

Plaintiff issued a no-fault insurance policy, which provided for coordinated medical benefits coverage, to James Jennings. Jennings was employed by General Motors and was enrolled in their health care plan provided by Blue Cross. On May 24, 1986, Jennings' son, Donald, sustained serious injury in an automobile accident and was hospitalized at Bronson Hospital. On May 28, 1986, Jennings removed Donald as a named insured under the health insurance policy. Cancellation of the coverage was effective on June 1, 1986. Donald was still in Bronson Hospital. On June 3, 1986, Donald was transferred to Mary Free Bed Hospital so that he could receive special care for his closed head injury. Blue Cross paid Donald's medical bills through June 3, 1986, but refused to pay any medical bills incurred at Mary Free Bed Hospital. Plaintiff paid these bills and brought suit seeking reimbursement from Blue Cross.

Both parties filed motions for summary disposition. The trial court granted the motion by Blue Cross, ruling that the terms of the health insurance policy clearly provided that Blue Cross' responsibility terminated when there was a change in facility. Blue Cross had moved for summary disposition under MCR 2.116(C)(8) and (C)(10). The trial court did not state the subsection under which it was granting the motion. A motion under MCR 2.116(C)(8) must be decided on the pleadings alone. MCR 2.116(G)(5). The trial court here looked beyond the pleadings. Therefore, we review the order of summary disposition as one entered pursuant to MCR 2.116(C)(10). Horen v Coleco Industries, Inc, 169 Mich App 725, 728; 426 NW2d 794 (1988).

A motion for summary disposition may be granted pursuant to MCR 2.116(C)(10) when, except as to the amount of damages, there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. A motion for summary disposition under MCR 2.116(C)(10) tests whether there is factual support for a claim. The court must consider the pleadings, affidavits, depositions, admissions and other documentary evidence available to it. Major v Auto Club Ins Ass'n, 185 Mich App 437, 440; ___ NW2d ___ (1990). Giving the benefit of reasonable doubt to the opponent, the court must determine whether a record might be developed which would leave open an issue upon which reasonable minds might differ. Amorello v Monsanto Corp, 186 Mich App 324, 330; ___ NW2d ___ (1990).

Where there is no ambiguity in the language of an insurance policy, its construction is a question of law for the trial court's determination. Hafner v DAIIE, 176 Mich App 151, 155; 438 NW2d 891 (1989); Wilson v Home Owners Mutual Ins Co, 148 Mich App 485, 490; 384 NW2d 807 (1986), lv den 425 Mich 876 (1986). In order to determine whether an ambiguity exists, an insurance policy should be read as a whole. Auto Owners Ins Co v Zimmerman, 162 Mich App 459, 461; 412 NW2d 925 (1987), lv den 428 Mich 920 (1987). Ambiguities must be construed in favor of coverage for the insured. Powers v DAIIE, 427 Mich 602, 624; 398 NW2d 411 (1986); Hafner, supra. If a contract fairly admits of but one interpretation, it is not ambiguous. Hafner, supra. Contract language should be given its ordinary and plain meaning, rather than a technical or strained construction. Wilson, supra.

The policy in question states that coverage is not provided for services provided after the termination date "except that the coverage continues for physician and hospital, or skilled nursing facility, or residential substance abuse facility services for continuous predetermined and approved if required (subsection IIA of this Appendix) inpatient hospital admissions which commenced prior to the termination date of such coverage."

Plaintiff argues that the policy can reasonably be interpreted to provide coverage for continued hospitalization and that the policy does not require that the hospitalization be at one facility. Defendant argues that the policy clearly provides that coverage terminated when there was a change in facility. Both interpretations are plausible. Hence, the policy is ambiguous and must be construed in favor of coverage for the insured. Powers, supra. Therefore, we conclude that the trial court erred in ruling that the policy clearly provided that coverage terminated when there was a change in facility and in granting summary disposition to defendant. Accordingly, we reverse and remand for entry of an order granting summary disposition to plaintiff.

Reversed and remanded.

/s/ Michael J. Kelly
/s/ Martin M. Doctoroff
/s/ Janet T. Neff