

STATE OF MICHIGAN
COURT OF APPEALS

ALLSTATE INSURANCE COMPANY,

Plaintiff-Appellant,

v

HEALTH ALLIANCE PLAN,

Defendant-Appellant,

and

STEPHEN GRUBER,

Defendant.

January 15, 1992

No. 144388

ON REMAND

Before: Holbrook, Jr., P.J., and McDonald and Jansen, JJ.

PER CURIAM.

On remand from our Supreme Court¹, we reconsider our opinion in Allstate Ins Co v Health Alliance Plan, Docket No. 114200, dec'd (date), in light of our Supreme Court's recent decision in John Hancock Property & Casualty Ins Co v Blue Cross & Blue Shield of Michigan, 437 Mich 368; 471 NW2d 541 (1991). We now reverse our earlier decision that plaintiff is entitled to reimbursement of funds paid by defendant over and above the Medicare benefits.

The sole issue is whether health insurers that provide insureds only supplemental benefits to those provided by Medicare are required to reimburse no-fault automobile insurers for medical expenses they paid toward injuries arising from automobile accidents. Previously, we held that plaintiff was entitled to reimbursement for the funds paid by defendant² supplementing the Medicare funds because defendant's payments were not protected by the federal statute² disallowing Medicare payments where payment has been made or can reasonably be expected to be paid under a no-fault automobile insurance policy.

We now find that John Hancock requires us to change the result in this case. In John Hancock, supra p 371, our Supreme Court ruled that a health insurer has no liability to an insured for medical expenses respecting an automobile accident where the health insurance is limited to supplementing benefits provided by Medicare, so that health insurers are not required to reimburse no-fault automobile insurers for medical expenses they pay respecting automobile accidents. Like the health insurers in John Hancock, defendant in this case did not provide basic, comprehensive health care coverage.

Consequently, we reverse our earlier decision and find that plaintiff is not entitled to reimbursement of funds paid by defendant over and above the Medicare benefits.

/s/ Donald E. Holbrook, Jr.
/s/ Gary R. McDonald
/s/ Kathleen Jansen

¹ See 438 Mich 862 (1991).

² 42 USC 1395y(b)(1).