No-Fault Insurers May not "Bypass Legal Process" to Seek Reimbursement from Uninsured Owners

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On February 24, 2009, the Michigan Court of Appeals held in a unanimous published opinion that a no-fault insurer must pay attendant care benefits to an insured, even when the insurer is entitled to seek reimbursement of those benefits from the person providing the services. *Cooper v Jenkins and Farm Bureau Insurance Company* (No. 283506).

Plaintiff Phillip Cooper was injured while operating an uninsured vehicle owned by his girlfriend. Defendant Farm Bureau Insurance Company was assigned the claim. The girlfriend provided attendant care services to Cooper, and Farm Bureau moved to strike Cooper's claim for that care, arguing that it was entitled to seek reimbursement from the girlfriend as the owner of the uninsured vehicle. Farm Bureau argued that it was illogical to require Farm Bureau to pay benefits and then sue the provider for reimbursement of the same benefits. The trial court rejected Farm Bureau's argument, and the Court of Appeals affirmed.

The Court of Appeals reasoned that nothing in the No-Fault Act authorizes an insurer to withhold payment based on the status of the service provider. The Court agreed that the No-Fault Act prohibits uninsured owners from recovering benefits, but because the owner was not the one seeking benefits, she was not disqualified from receiving payment for services she provided. Although the Court conceded that "it may seem 'illogical' for Farm Bureau to pay a benefit provided by a person from whom it may then seek reimbursement," it deferred resolution of such public policy matters to the Legislature. The Court noted that its decision did not preclude Farm Bureau from pursuing reimbursement from the provider through separate litigation.

It is not yet known whether Farm Bureau will seek leave to appeal this decision to the Michigan Supreme Court.

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