New Jersey Law Journal
STATEWIDE LEGAL AUTHORITY SINCE 1878
An ALM Publication
VOL. 221 NO. 21 MONDAY, NOVEMBER 23, 2015 NJLJ.COM

Third Circuit Reinstates Hospital's $26M Insurance Dispute

By Charles Toutant

The U.S. Court of Appeals for the Third Circuit has revived a $26 million Medicare and Medicaid reimbursement dispute between a hospital and an insurer, but kicked the case to New Jersey state court.

Third Circuit Judges Michael Chagares, Patty Shwartz and Marjorie O. Rendell rejected the defendant insurer's argument that there was an "embedded" federal issue in the case.

Defendant Healthfirst Inc. asserted federal jurisdiction even though the complaint asserted only state-law claims, on the premise that the case raised a substantial federal issue that could be addressed by the federal courts without disturbing congressional intent. But the defendant failed to demonstrate that a court hearing plaintiff Meadowlands Hospital Medical Center's state-law claims for unjust enrichment and quantum meruit would have to construe federal law, the appeals court said. Furthermore, the case does not present an unusually strong federal interest required to qualify for a federal forum, such as a challenge to the validity of a federal statute or the conduct of a federal actor, the Third Circuit said in *MHA LLC v. Healthfirst*.

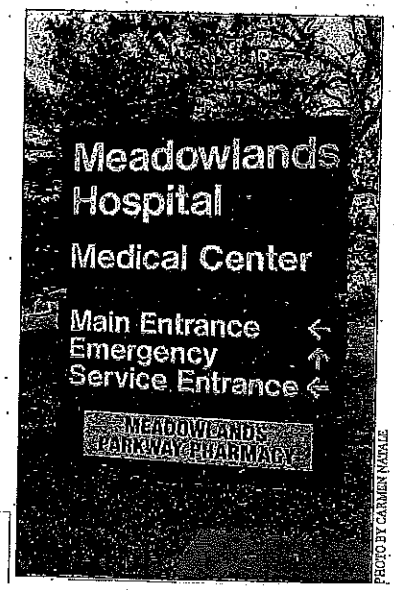

PHOTO BY CARMEN MARIALE

Meadowlands filed suit against Healthfirst in Bergen County Superior Court in September 2013, claiming it violated New Jersey laws governing reimbursement to out-of-network health care providers. Healthfirst removed the case to federal court and moved to dismiss for failure to state a claim upon which relief can be granted. U.S. District Judge Susan Wigenton of the District of New Jersey dismissed Meadowlands' Medicaid claims for failure to exhaust administrative remedies before bringing suit, and dismissed the suit's Medicare claims as pre-empted by federal law.

Meadowlands claimed that its reimbursement rates were governed by Medicare and Medicaid law because it did not have a contract with Healthfirst. Meadowlands asserted that because it was an out-of-network provider, Healthfirst delayed or denied reimbursements in an attempt to pressure the hospital to become a network provider. The hospital claimed it was owed $28.9 million for services provided but was reimbursed only $2.5 million.

On appeal, Healthfirst asserted three grounds for subject matter jurisdiction—federal officer removal under 28 U.S.C. 1442(a)(1); that the case asserts a federal cause of action under 42 U.S.C. 1983; and that the hospital's state law claims "arise under" federal law, based on the framework set by the 2005 U.S. Supreme Court case *Grable & Sons Metal Products v. Darue Engineering & Manufacturing*.

But the Third Circuit panel rejected the federal officer removal basis because it was not claimed in the notice for removal. The panel also rejected the Section 1983 basis because although it was referenced in background in the plaintiffs' complaint, none of the six counts asserted a claim under it.

The panel also said the embedded jurisdiction basis for removal didn't apply, finding that, while Healthfirst might point to the federal Medicare law as part of its defense, that law is not a "necessary" part of its claim.

"The fact that federal law may be informative of a market rate or shape or even limit the remedy that plaintiff may obtain does not mean that federal law is a necessary component of the cause of action," Shwartz wrote for the panel.

A state court is the appropriate forum for this "fact-bound and situation-specific" case, the panel said.

Eric Katz and David Estes of Mazie Slater Katz & Freeman represented Meadowlands on appeal.

The ruling is notable because it makes clear that on remand, the state-law claims in the case are not pre-empted by Medicare law, Katz said.

"This is really a state-law action. When this goes back, there is clear direction to the state court judge that this is a state law dispute, plain and simple. Insurance companies like to argue that Medicare pre-empts everything," Katz said.

The lawyers for Healthfirst, Kenneth Friedman of Manatt, Phelps & Phillips in New York and Seth Levine of Levine Lee, also in New York, did not return calls for comment about the case. ■

Contact the reporter at ctoutant@alm.com.