

Insurance Fraud Claims Are Not Subject to PIP Arbitration, Says New Jersey Appellate Division

By: Steven D. Cantarutti

January 14, 2025

On January 9, 2025, the New Jersey Appellate Division (“Appellate Division”) held insurance fraud claims involving personal injury protection (“PIP”) benefits are not subject to mandatory arbitration under the Automobile Insurance Cost Reduction Act (“AICRA”), N.J.S.A. 39:6A-1.1 to 35. See *Allstate N.J. Ins. Co. v. Carteret Comprehensive Med. Care P.C.*, 2025 N.J. Super. LEXIS 3 (App. Div. Jan. 9, 2025).

Several Allstate-related companies (“Allstate”) filed a complaint in the New Jersey Law Division (“Law Division”) alleging defendants had engaged in kickback schemes, illegal self-referrals, and other patterns of fraud and racketeering in violation of the Insurance Fraud Prevention Act (“Fraud Act”) and New Jersey Anti-Racketeering Act (“RICO”). Allstate sought declaratory judgment relief and damages, including disgorgement, treble damages, injunctive relief, and attorney’s fees. Some of the defendants moved to dismiss the complaint and to compel arbitration, but other defendants filed answers and requested a jury trial.

The Law Division entered orders granting the moving defendants’ request to compel arbitration, and dismissed Allstate’s complaint, without prejudice, including those against the non-moving defendants. The Appellate Division reversed the lower court’s orders and allowed Allstate to pursue their claims in the Law Division.

The Appellate Division succinctly held that PIP regulations and its arbitration process are limited in scope, specifically designed to expeditiously address disputes concerning the payment of medical expenses. It found “serious questions” whether a PIP arbitrator could award the type of damages being sought by Allstate. It also pointed out there were “serious questions” whether a PIP arbitrator could provide for broad discovery from third-parties or whether the PIP rules permitted the joinder of third parties. Moreover, it concluded that compelling Fraud Act or RICO claims to arbitration could impede the New Jersey Commissioner of Banking and Insurance from joining the action.

The Appellate Division also sharply disagreed with a recent decision issued by the U.S. Court of Appeals for the Third Circuit (“Third Circuit”), which held claims under the Fraud Act are arbitrable under AICRA. See *Gov’t Emps. Ins. Co. v. Mount Prospect Chiropractic Center*, 98 F.4th 463 (3d Cir. 2024) (“*GEICO*”). In doing so, the Appellate Division found the Third Circuit did not fully consider the legislative goals of AICRA and the Fraud Act, and had improperly found Allstate’s Decision Point Review Plans provided an independent basis to arbitrate. The Appellate Division also concluded that because its holding is based upon New Jersey law, it was “not bound by or persuaded by the reasoning and conclusions” in the Third Circuit’s decision.

The Appellate Division’s decision, for now, creates a pathway for PIP insurers to pursue their fraud claims in a civil action, not to mention clears up some confusion given the *GEICO* decision. As a result, PIP insurers can avoid the inherent limitations of the PIP rules and its arbitration process. It has been reported that some of the defendants will be appealing this decision to the New Jersey Supreme Court,

seeking a reversal consistent with the trial court and Third Circuit's decisions. We will be monitoring the appeal to its conclusion and will provide an update as developments arise.

About Coughlin Midlige & Garland LLP

Coughlin Midlige & Garland LLP is a diverse, full-service firm committed to providing legal services of exceptional quality and superior value. We serve regional, national, and international clients, bringing to each matter the energy, experience, and imagination of a talented group of lawyers and staff dedicated to obtaining optimal results and to fulfilling the highest standards of the profession.

The materials presented herein are for informational purposes only and are not offered as legal advice. No reader should act on the basis of these materials without first seeking appropriate professional advice as to the particular facts and applicable law involved. Opinions presented herein are the opinions of the individual authors, and do not necessarily reflect the opinion of the firm of Coughlin Midlige & Garland LLP, or any of its other attorneys or its clients.