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## Fla. MRI Clinic Says Insurer Wrongly Denied PIP Benefits

By **Nathan Hale**

Law360, Miami (February 20, 2014, 8:05 PM EST) -- An MRI clinic filed a putative class action in Florida court Wednesday against Equity Insurance Co., claiming the insurer improperly recorded payments to nonmedical providers in personal-injury-protection disputes to justify the rejection of medical providers' valid claims.

Pan Am Diagnostic Services Inc. — based in Pembroke Pines, Fla., and doing business as Wide Open MRI — claims that Texas-based Equity and its Florida-based agent Windhaven Managers Inc. have repeatedly executed a scheme of misreporting payments to make it appear that policyholders have exhausted the statutory limit of their PIP coverage, to the detriment of medical providers who have lawful claims.

"The plaintiff and the class members have a clear legal right to seek payment of their unpaid PIP benefits from the defendants because the payments provided to nonmedical providers as a result of settlements in prior PIP disputes should not be included in calculating the satisfaction of the statutory limit for PIP medical benefits," the complaint said.

Under the Florida Motor Vehicle No-Fault Law, commonly known as the "PIP statute," automobile operators are required to have insurance that includes at least \$10,000 of combined medical expense and lost wage coverage, according to the complaint.

The law requires insurers, such as Equity, to pay 80 percent of medically necessary expenses resulting from an accident, up to the \$10,000 limit, the complaint says.

"The PIP statute expressly affords PIP benefits — up to a maximum of \$10,000 — to be paid only for medical benefits rendered to the injured insured and only to medical providers designated under [the Florida law]," Pan Am Diagnostic says.

The suit claims that Equity used settlements on PIP disputes to muddle where claim payments had gone, using the example of its claims involving Equity policyholder Ray Adderly.

Adderly received care from Wide Open MRI after having an accident in 2012. Wide Open MRI submitted a claim to Equity for \$2,150 to be paid under his policy with the insurer.

The claim was denied by Windhaven, which said that Adderly's PIP benefits had been exhausted — a claim the plaintiff alleges was false.

Pan Am Diagnostic says it learned that Adderly had received prior treatment from another provider, Advanced Medical Associates, which led to a PIP dispute with Equity and Windhaven. Equity entered into a global settlement of all claims by Advanced for \$12,000, a total that Pan Am Diagnostic says included attorneys' fees, interest and costs in addition to compensation for the medical care.

At the time Wide Open MRI submitted its claim, Equity had paid just \$814.47 in PIP benefits to other medical providers, the suit says, leaving more than \$9,000 still available under the statutory limit.

Pan Am Diagnostics claims that Equity, through Windhaven, attempted to cover up its misrepresentation by paying the global settlement to the other provider's attorneys in two checks, including one for \$9,185.53, the exact amount of the remaining PIP benefits, to make it appear that was being paid for medical services.

Equity and Windhaven then reissued their denial of benefits to Wide Open MRI, claiming that Adderly's PIP benefits had been exhausted, even though the company allegedly had not properly apportioned and paid out \$10,000 to medical providers for medical services.

The suit seeks injunctive relief and compensatory damages from Equity.

Representatives for Equity could not be reached for comment Thursday.

Pan Am Diagnostic is represented by Tod Aronovitz, Barbara Perez and Andrew Zelmanowitz of Aronovitz Law; Joseph B. Landy and Glenn E. Siegel of Lesser Lesser Landy & Smith PLLC; and Rami Shmuelly of Shmuelly & Willis PA.

Counsel information for the defendants was unavailable.

The case is Pan Am Diagnostic Services Inc. v. Equity Insurance Co. et al., case number 2014-004472-CA, in the 11th Judicial Circuit Court of the State of Florida.

--Editing by Edrienne Su.

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