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Opinion No. 09-10

Scope of Tenn. Code Ann. § 56-7-120 on Assignment of Benefits

QUESTIONS

Tenn. Code Ann. § 56-7-120(a) provides:

> Notwithstanding any law, rule, or regulation to the contrary, whenever any policy of insurance issued in this state provides for coverage of health care rendered by a provider covered under title 63, the insured or other persons entitled to benefits under the policy shall be entitled to assign these benefits to the health care provider. Notice of the assignment, unless otherwise provided by contract, must be in writing to the insurer to be effective. This section applies only to assignments of benefits that were provided after July 1, 1992.

1. Does Tenn. Code Ann. § 56-7-120(a) apply to all types of insurance policies, including automobile and general liability policies that provide coverage for services rendered by health care providers?

2. Under this statute, is an insurance company required to honor an assignment of benefits if notice of the assignment is provided to the insurer in writing?

OPINIONS

1. Yes.

2. Under this statute, an insurer need not honor a written assignment of benefits to a health care provider if the policy under which the benefits are provided prohibits or otherwise conditions the policyholder's right to make the assignment, or the insurer's duty to honor it. Thus, under the statute, an insurance company must honor an assignment of benefits if notice of the assignment is provided to the insurer in writing, unless the policy provides otherwise.

ANALYSIS

This opinion concerns the scope of Tenn. Code Ann. § 56-7-120(a). That statute provides:

> Notwithstanding any law, rule, or regulation to the contrary, whenever ***any policy of insurance issued in this state*** provides for coverage of health care rendered by a provider covered under title 63, the insured or other persons entitled to benefits under the policy shall be entitled to assign these benefits to the health care provider. Notice of the assignment, unless otherwise provided by contract, must be in writing to the insurer to be effective. This section applies only to assignments of benefits that were provided after July 1, 1992.

(Emphasis added). The first question is whether the statute applies to all types of insurance policies that provide coverage for services rendered by health care providers. The request states that health care providers have developed forms for their patients to sign, assigning to the providers a portion of the insurance benefits that the patients may receive. In many cases, medical care may be covered under a health insurance policy. But medical doctors and chiropractors often provide services to victims of automobile and other accidents. In those cases, an automobile or general liability policy may provide coverage for medical expenses. The question is whether the statute applies to an assignment of benefits to a health care provider for medical expenses covered under any insurance policy, including automobile or general liability policy.

We think this statute applies to any policy of insurance that covers medical expenses, including an automobile or general liability policy. This conclusion is based on the language of the statute. By its terms, Tenn. Code Ann. § 56-7-120(a) applies "whenever *any policy of insurance issued in this state* provides for coverage of health care rendered by a provider covered under title 63 . . .." (Emphasis added). The requirement, therefore, applies to any policy of insurance, and not just health insurance. By contrast, Tenn. Code Ann. § 56-7-109, entitled "Timely reimbursement of health insurance claims," defines "health insurance coverage" to exclude a variety of policies, including those that cover only accidents and automobile medical payment insurance. Tenn. Code Ann. § 56-7-109(a)(3). Thus, the General Assembly clearly limited this statute to health insurance. No such limitation appears in Tenn. Code Ann. § 56-7-120(a). For this reason, Tenn. Code Ann. § 56-7-120(a) applies to all types of insurance policies, including automobile and general liability policies, that provide coverage for services rendered by health care providers.

Question 2 is whether, under this statute, an insurance company must honor an assignment of benefits if notice of the assignment is provided to the insurer in writing. By its terms, the statute states that "[n]otice of the assignment, ***unless otherwise provided by contract,*** must be in writing to the insurer to be effective." (Emphasis added). It is not clear whether the phrase "unless otherwise provided by contract" refers to the form of the notice, or to the insurer's duty to honor the assignment. In any case, the statute nowhere states that a policyholder shall be entitled to assign benefits even if the contract provides otherwise. Legislative history of the act indicates that it was not intended to change the terms of the insurance policy. The original bill included the words, "and such assignment shall be honored ***notwithstanding any provisions contained in the policy.***" (Emphasis added). The Senate amended the bill to remove this phrase and to add the words, "Notice of such assignment, unless otherwise provided by contract, must be in writing to the insurer to be effective. This act shall apply only to assignments of benefits which were provided after July 1, 1992." *Senate Journal,*

p. 2524. The legislature intended, therefore, that an insurer need not honor a written assignment of benefits to a health care provider if the policy under which the benefits are provided prohibits or otherwise conditions the policyholder's right to make the assignment, or the insurer's duty to honor it. Thus, under the statute, an insurance company must honor an assignment of benefits if notice of the assignment is provided to the insurer in writing, unless the policy provides otherwise.

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