

# Third District Court of Appeal

State of Florida, July Term, A.D. 2011

Opinion filed November 2, 2011.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D10-2881  
Lower Tribunal No. 09-6311

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**U.S. Security Insurance Company,**  
Appellant,

vs.

**Professional Medical Group, Inc.,**  
Appellee.

An Appeal from the County Court for Miami-Dade County, Nuria Saenz,  
Judge.

David B. Pakula, for appellant.

Marlene S. Reiss, for appellee.

Before SHEPHERD and EMAS, JJ. and SCHWARTZ, Senior Judge.

EMAS, J.

This case comes to us for review of an order by the county court granting summary judgment in favor of Professional Medical Group, Inc. In its order, the trial judge certified to this Court the following question as one of great public importance:

May the statutory amendment that went into effect on January 1, 2008, providing that an insurer may limit reimbursement of no fault benefits to 80% of 200% of the applicable Medicare Part B fee schedule, be constitutionally applied retroactively to a policy with effective dates of December 7, 2007 through June 7, 2008, where the accident and medical treatment occurred after January 1, 2008 and the insurer did not issue an endorsement advising the insured that the fee schedule would be applied?

This Court initially accepted jurisdiction of this cause pursuant to Florida Rule of Appellate Procedure 9.160.

Having reviewed the briefs, and following oral argument, this Court declines to answer the question certified by the lower court to be one of great public importance,<sup>1</sup> and therefore transfers this appeal, together with the filing fee, to the Eleventh Judicial Circuit of Florida, appellate division, pursuant to Florida Rule of Appellate Procedure 9.160(f)(2).

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<sup>1</sup> See Barnett v. Fla. Dep't of Mgmt. Servs., 953 So. 2d 461 (Fla. 2007) (declining review where the circumstances of the case were fact-specific).