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SUPREME COURT OF ALABAMA

SPECIAL TERM, 2020

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Ex parte Blue Cross and Blue Shield of Alabama

PETITION FOR WRIT OF MANDAMUS

(In re: Marilyn Player

v.

Blue Cross and Blue Shield of Alabama)

(Macon Circuit Court, CV-19-900104)

STEWART, Justice.

After her claim for coverage under the Public Education Employees' Health Insurance Plan ("PEEHIP") was denied,

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Marilyn Player sued Blue Cross and Blue Shield of Alabama ("BCBS") in the Macon Circuit Court ("the trial court") asserting claims of breach of contract and bad faith. BCBS seeks a writ of mandamus directing the trial court to transfer Player's case to the Montgomery Circuit Court pursuant to § 16-25A-7(e), Ala. Code 1975. For the reasons stated below, we grant BCBS's petition and issue the writ.

I. Facts and Procedural History

Player, a resident of Macon County, is a retired teacher, formerly employed in the Alabama public-school system. Player receives health insurance under a policy issued to her husband, also a retired teacher, through PEEHIP. PEEHIP is a group health-benefits plan funded by the State, and BCBS serves as a claim administrator for PEEHIP. Player, who suffers from Type 1 Diabetes, has previously received preapproval through PEEHIP for the purchase of insulin to control her diabetes. Player, however, alleges that on December 1, 2018, BCBS denied her preapproval for diabetes medication and subsequently refused to reimburse Player for her out-of-pocket purchase of insulin.¹ As a result, on July

¹BCBS disputes Player's allegation that it was the claim administrator that made the decision to deny the preapproval

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17, 2019, Player sued BCBS alleging breach of contract pursuant to PEEHIP's coverages and bad faith on the part of BCBS in failing to preapprove the purchase of insulin.

On August 16, 2019, BCBS filed a motion to dismiss or, in the alternative, for a change of venue, in which it asserted that Montgomery County is the exclusive statutory venue authorized by § 16-25A-7(e) for the claims raised in Player's complaint. BCBS asserted that Player's complaint invoked a dispute over the denial of benefits and that Player was seeking review of a claim administrator's decision, which, it argued, falls within the purview of § 16-25A-7(e). BCBS attached to its motion the PEEHIP Member Handbook and BCBS's PEEHIP plan, which, among other things, provides details pertaining to coverage.

On October 16, 2019, Player filed a response in opposition to BCBS's motion, asserting that BCBS misconstrued the nature of her breach-of-contract and bad-faith claims and that, therefore, § 16-25A-7(e) was not applicable to Player's claims. Player argued that under § 6-3-7(a), Ala. Code 1975, the general-venue statute, Macon County is the proper venue

and reimbursement because, it contends, it does not administer pharmacy benefits under PEEHIP.

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for the action because Player is a resident of Macon County and she received the denial letters from BCBS in Macon County. Additionally, Player contended that BCBS does business in Macon County by selling insurance to and administering the claims of Macon County residents.

The trial court held a hearing on BCBS's motion. Subsequently, the trial court entered an order denying BCBS's motion, concluding that venue was proper in Macon County. BCBS petitioned this Court for the writ of mandamus.

II. Standard of Review

"A writ of mandamus is an extraordinary remedy, and it will be issued only when there is: 1) a clear legal right in the petitioner to the order sought; 2) an imperative duty upon the respondent to perform, accompanied by a refusal to do so; 3) the lack of another adequate remedy; and 4) properly invoked jurisdiction of the court."

Ex parte Flexible Prods. Co., 915 So. 2d 34, 39 (Ala. 2005) (quoting Ex parte Empire Fire & Marine Ins. Co., 720 So. 2d 893, 894 (Ala. 1998), quoting in turn Ex parte United Serv. Stations, Inc., 628 So. 2d 501, 503 (Ala. 1993)). ""The proper method for obtaining review of a denial of a motion for a change of venue in a civil action is to petition for the writ of mandamus."" Ex parte WMS, LLC, 170 So. 3d 645, 649

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(Ala. 2014) (quoting Ex parte Pike Fabrication, Inc., 859 So. 2d 1089, 1091 (Ala. 2002), quoting in turn Ex parte Alabama Great Southern R.R., 788 So. 2d 886, 888 (Ala. 2000)). This Court has explained that, "[w]hen we consider a mandamus petition relating to a venue ruling, our scope of review is to determine if the trial court [exceeded] its discretion, i.e., whether it exercised its discretion in an arbitrary and capricious manner." Ex parte Integon Corp., 672 So. 2d 497, 499 (Ala. 1995). A trial court that refuses to transfer a case when such a transfer is proper has routinely been held to be exceeding its discretion. See Ex parte WMS, LLC, supra.

III. Analysis

BCBS argues that § 16-25A-7(e), rather than § 6-3-7(a), is the venue statute applicable to Player's complaint because Player's suit, it contends, seeks review of a final decision by a PEEHIP claims administrator. Under § 16-25A-7(e), proper venue for PEEHIP disputes is exclusively in Montgomery County, and, therefore, BCBS asserts, the trial court erred in refusing to transfer the case to the Montgomery Circuit Court. BCBS contends that the trial court exceeded its discretion in denying its motion for a change of venue and petitions this

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Court to issue the writ of mandamus compelling the trial court to transfer the case.

In § 16-25A-1 et seq., Ala. Code 1975, a general act of statewide application governing PEEHIP, the Alabama Legislature implemented a procedure for judicial review of a PEEHIP administrator's final decision and determined that venue for such an action would be Montgomery County. Section 16-25A-7(e), concerning denial of claims, provides: "Review of a final decision by the claims administrator shall be by the Circuit Court of Montgomery County as provided for the review of contested cases under the Alabama Administrative Procedure Act, Section 41-22-20." (Emphasis added.) By using the words "shall," the legislature affirmatively determined that proper venue for all cases concerning review of a claims administrator's final decision is Montgomery County. Ex parte Prudential Ins. Co. of Am., 721 So. 2d 1135, 1138 (Ala. 1998) ("The word 'shall' is clear and unambiguous and is imperative and mandatory.").

This Court has recognized that

"in a series of cases addressing special venue provisions incorporated by the Legislature in general statutes of statewide application, this Court has concluded that the respective enactments

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evidenced a clear intent by the Legislature to exercise the authority accorded it by § 6.11 of Amendment No. 328 [now § 150, Ala. Const 1901 (Off. Recomp.)], pursuant to which any rules promulgated by this Court governing the administration of courts, and the practice and procedure in all courts, 'may be changed by a general act of statewide application.'"

Ex parte Fontaine Trailer Co., 854 So. 2d 71, 81 (Ala. 2003). Additionally, well settled caselaw requires that courts follow the mandate of a specific-venue provision when that provision conflicts with general-venue statutes. Id.; see also Ex parte Alabama Power Co., 640 So. 2d 921, 924 (Ala. 1994) (holding that § 6-3-11, Ala. Code 1975, "effectively prevented the application of the venue provision of Rule 82(c)[, Ala. R. Civ. P.,] to claims against municipalities"); Ex parte McDonald, 804 So. 2d 204 (Ala. 2001) (similar holding); Ex parte Kennedy, 656 So. 2d 365 (Ala. 1995) (holding that the provisions of § 6-5-546, Ala. Code 1975, setting venue for medical-malpractice actions, were mandatory and that the statute superseded Rule 82, Ala. R. Civ. P.); see also Ex parte Alabama Bd. of Cosmetology & Barbering, 213 So. 3d 587, 590-91 (Ala. Civ. App. 2016) (issuing a writ of mandamus to transfer case to Montgomery Circuit Court in accordance § 34-7B-11, Ala. Code 1975).

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Because the PEEHIP statute identifies Montgomery County as the exclusive venue for claim disputes arising from a review of a final decision by the PEEHIP claims administrator, § 16-25A-7(e) overrides § 6-3-7(a), the general-venue statute that Player argues is applicable to her complaint, an argument we address later in this opinion. Further, this Court has determined that, when a statute identifies a specific venue for judicial review by a circuit court of a ruling resulting from an administrative proceeding, only the designated circuit court can hear the appeal, and if the appeal is filed in the incorrect venue, the court in which it is filed "should transfer the appeal to the circuit court designated by the statute." Ex parte General Motors Corp., 800 So. 2d 159, 163 (Ala. 2000). Likewise, in accordance with § 16-25A-7(e), a complaint seeking judicial review of a decision of a PEEHIP claims administrator can be heard only by the Montgomery Circuit Court.

Player asserts that § 16-25A-7(e) does not apply to her complaint because her claims, she contends, do not constitute an action for a dispute over the denial of benefits and her complaint cannot be characterized as an appeal of any

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administrative action. Rather, the breach-of-contract and bad-faith claims, Player argues, are regular tort claims recognized by the common law of Alabama and therefore do not fall within the purview of § 16-25A-7(e). However, Player cannot avoid the legislature's exclusive-venue provision by recasting her claims using artful labels. Ex parte Bad Toys Holdings, Inc., 958 So. 2d 852, 859 (Ala. 2006) (holding that "[s]trategic or artfully drawn pleadings ... will not work to circumvent an otherwise applicable forum selection clause" (quoting Terra Int'l, Inc. v. Mississippi Chem. Corp., 119 F.3d 688, 695 (8th Cir. 1997))). In her complaint, Player alleged:

"8. On or about December 1, 2018, the Defendant BCBS, without a reasonable basis or justification, denied [Player's] preapproval for diabetes medication. As a consequence, [Player] had to personally pay for the purchase of diabetes medication so that she could survive. The Defendant BCBS, upon submission of the personal payment by [Player], refused to reimburse [Player] for the insulin she was required to take to treat her disease.

"9. As a proximate consequence of the Defendant BCBS' intentional refusal to: (1) preapprove [Player's] daily and weekly insulin medications; and, (2) its failure to reimburse [Player] after she personally incurred the cost of these medications, constitutes an act of breach of contract pursuant to the PEEHIP coverages insuring her for health

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insurance protection and was an act of bad faith committed without a reasonable basis to deny preapproval and/or reimbursement of the cost of said medication."

Based on the stated facts, the underlying substance of Player's complaint is that BCBS, as a PEEHIP claims administrator, made a final decision denying Player's insurance claim, and Player is contesting that decision. The legislature's mandate in § 16-25A-7(e), which requires review of such a decision to be heard in Montgomery County, applies to Player's complaint, regardless of any attempt to recast the request for judicial review as claims sounding in tort. Player's pleadings substantively address and refer to a denial of benefits under PEEHIP, and, consequently, asserting the complaint under a different title does not allow Player to circumvent § 16-25A-7(e). This Court has often recognized the importance of "treat[ing] pleadings according to their substance, rather than merely their label." Century 21 Paramount Real Estate, Inc. v. Hometown Realty, LLC, 34 So. 3d 658, 662 (Ala. 2009); see also Ex parte McWilliams, 812 So. 2d 318 (Ala. 2001) (interpreting nature of petition based on substantive contents rather than on style). According to the substance of Player's complaint, the action falls within the

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category of disputes governed by § 16-25A-7(e); therefore, venue is proper exclusively in Montgomery County.

The trial court exceeded its discretion in denying BCBS's motion for a change of venue from Macon County to Montgomery County. Despite Player's attempt to cast the issues in her complaint as regular tort claims, Player's breach-of-contract and bad-faith claims are, in essence, disputes over a final decision allegedly made by BCBS regarding Player's insulin medication. Section 16-25A-7(e) controls in this action; therefore, venue is proper in Montgomery County.

IV. Conclusion

For the reasons expressed above, we grant the petition, issue the writ, and order the trial court to transfer the action to the Montgomery Circuit Court.

PETITION GRANTED; WRIT ISSUED.

Parker, C.J., and Bolin, Shaw, Wise, Bryan, Sellers, and Mendheim, JJ., concur.

Mitchell, J., recuses himself.