

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHIGAN PAIN MANAGEMENT, LLC,

Plaintiff,

Case No. 17-CV-10954

vs.

HON. GEORGE CARAM STEEH

ESURANCE INSURANCE CO.,

Defendant.

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS [DOC. 7]

Demetrius Daniels was involved in two motor vehicle accidents which resulted in multiple injuries. Mr. Daniels filed a No-Fault cause of action on December 19, 2016, which was removed to this court on January 23, 2017. (Case No. 17-cv-10209). On March 15, 2017, plaintiff Michigan Pain Management, LLC, filed this action seeking reimbursement of Mr. Daniels' No-Fault PIP medical expenses. The action was originally filed in Wayne County Circuit Court and was removed to this court on March 27, 2017.

On May 25, 2017, the Michigan Supreme Court released its opinion in *Covenant Med. Ctr., Inc. v. State Farm Mut. Auto. Ins. Co.*, ___ Mich. __; 895 N.W.2d 490 (2017), wherein the court held that under the language of

the No-Fault Act, a healthcare provider has no statutory right to bring suit against a No-Fault insurer for an injured person's PIP benefits. Based on this holding, defendant Esurance Insurance Co. moves for dismissal of plaintiff's action, arguing that plaintiff lacks standing and that therefore its claims are moot.

The court issued a notice of hearing on the motion to dismiss, requiring plaintiff to file a response brief by July 24, 2017 [Doc. 8]. Plaintiff has failed to file a response brief by the date set by the court. Applying the holding of the Michigan Supreme Court, this court finds that plaintiff, as a healthcare services provider, is not the proper party to request adjudication of the issue of whether Mr. Daniels is entitled to statutory No-Fault benefits under the No-Fault Act.

In its motion to dismiss, defendant anticipated that plaintiff might seek leave to file an amended or supplemental pleading based on several assignments signed by Mr. Daniels. While some of the assignments were signed before plaintiff filed its lawsuit on March 15, 2017, plaintiff did not plead that it was Mr. Daniels' assignee in its complaint. In any event, plaintiff has not sought to amend or supplement its pleading to make any argument based on the assignments.

The court does not believe that oral argument will aid in its ability to make a determination on the pending motion to dismiss and therefore issues this opinion without hearing oral argument. Based on the holding of the Michigan Supreme Court in *Covenant*, the court GRANTS defendant's motion to dismiss.

So ordered.

Dated: August 29, 2017

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 29, 2017, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk