STATE OF MINNESOTA

IN SUPREME COURT

A18-0121

Court of Appeals

Chutich, J.
Dissenting, Gildea, C.J., Anderson, J.

Ambree Getz,

Respondent,

vs.

Filed: October 16, 2019
Office of Appellate Courts

Eila Kaarina Peace, et al.,

Appellants.

Scott Wilson, Minneapolis, Minnesota;

Nathan H. Bjerke, TSR Injury Law, Bloomington, Minnesota; and

John M. Skubitz, Anderson, Skubitz & Coryell, PLLC, Le Sueur, Minnesota, for respondent.

Scott V. Kelly, Daniel J. Bellig, Joseph A. Gangi, Farrish Johnson Law Office, Chtd., Mankato, Minnesota, for appellants.

Jennifer E. Olson, Schwebel, Goetz & Sieben, P.A., Minneapolis, Minnesota, for amicus curiae Minnesota Association for Justice.

Dyan J. Ebert, Laura A. Moehrle, Quinlivan & Hughes, P.A., Saint Cloud, Minnesota, for amicus curiae Minnesota Defense Lawyers Association.

S Y L L A B U S

1. Discounts negotiated by managed-care organizations under Minnesota's Prepaid Medical Assistance Plan are "payments made pursuant to the United States Social Security Act" and therefore are not deducted from the jury's damages award under the collateral-source statute, Minnesota Statutes section 548.251, subdivision 1(2) (2018).

2. The Legislature intended to displace the common-law collateral-source rule for medical insurance payments and thus the common law cannot be used to reduce the jury's damages award.

Affirmed.

O P I N I O N

CHUTICH, Justice.

After her car struck a school bus that failed to yield at an intersection, respondent Ambree Getz brought a suit against the bus driver, appellant Eila Peace, and the owner of the bus, appellant Palmer Bus Service (collectively, Peace). Getz was a medical-assistance enrollee, and her medical expenses were covered by two managed-care organizations that contracted with Minnesota's Prepaid Medical Assistance Plan under Minnesota's Medicaid program. After a trial, the jury awarded Getz damages, but the district court deducted from the award the amount of discounts negotiated by Getz's managed-care organizations. The court of appeals reversed, holding that the discounts were excepted from offset because they were "payments made pursuant to the United States Social Security Act," under Minnesota Statutes section 548.251, subdivision 1(2) (2018). We affirm the court of appeals.

FACTS

On September 25, 2012, Getz was driving her car when she was involved in an accident with a school bus that failed to yield. Getz suffered extensive injuries as a result of the accident and brought a suit against Peace.

The case proceeded to trial. Peace stipulated that she was negligent in driving the school bus, and the jury found that Peace's negligence was a direct cause of the collision. The jury also found that Getz was partially negligent and that her negligence was a direct cause of the collision. The jury attributed 80 percent of the fault to Peace and 20 percent of the fault to Getz. In its special verdict, the jury found that Getz had incurred past medical expense damages, among other types of damages.[1] The jury awarded $224,998 for Getz's past medical expenses.

That amount was what Getz's medical-care providers charged her. But she did not have to pay that much because Getz was enrolled in Medical Assistance, and she received benefits through that program. Getz's medical expenses were paid by two managed-care organizations, UCare and Medica, who were under contract with Minnesota's Prepaid Medical Assistance Plan. Although Getz's medical charges were $224,998, UCare and Medica paid far less than that to the medical-care providers, as the result of negotiated discounts between the medical-care providers and the managed-care organizations. UCare paid $15,852, and Medica paid $30,127, for a total of $45,979 in past medical expenses actually paid by the managed-care organizations.

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[1] The jury also awarded Getz damages for past bodily and mental harm, past wage loss, future bodily and mental harm, and future health care expenses.

Peace moved for a determination of collateral sources under the collateral-source statute, Minnesota Statutes section 548.251. Getz agreed to reductions for the no-fault insurance benefits that she had received from her automobile insurance, and the district court reduced the award for past medical expenses by $20,000 to offset those benefits. UCare and Medica asserted subrogation claims of $15,852 and $30,127, respectively.[2] The court also reduced the damages award by Getz's 20 percent comparative fault.

Peace also moved under the collateral-source statute to limit Getz's award for past medical expenses to $45,979, the amount that the managed-care organizations actually paid, seeking to deduct the discounts that the organizations negotiated with the medical-care providers from Getz's award. Getz asserted that the collateral-source statute did not allow deducting from the award "payments made pursuant to the United States Social Security Act." Minn. Stat. § 548.251, subd. 1(2). She contended that the discounts negotiated by the managed-care organizations were such payments, so they could not be deducted from the past medical expenses award.

The district court found that the discounts negotiated by the managed-care organizations were subject to offset under the collateral-source statute, and it therefore reduced the amount of Getz's award for past medical expenses from $224,998 (the amount

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[2] In the insurance context, "[s]ubrogation involves the substitution of an insurer (subrogee) to the rights of the insured (subrogor)." *Medica, Inc. v. Atl. Mut. Ins. Co.*, 566 N.W.2d 74, 76 (Minn. 1997). "The insurer stands in the shoes of the insured and acquires all of the rights the insured may have against a third party." *Id.* at 77. Here, UCare and Medica collectively acquired the rights to $45,979 of Getz's total award against Peace.

of past medical expenses actually billed) to $45,979 (the amount of past medical expenses that UCare and Medica actually paid).

Getz appealed to the court of appeals, which reversed. *Getz v. Peace*, 918 N.W.2d 233, 234 (Minn. App. 2018). Interpreting the collateral-source statute, the court of appeals held that, because Getz was a Medicaid beneficiary and Medical Assistance enrollee, the discounts negotiated on her behalf by the managed-care organizations "were obtained according to the authority granted by the Social Security Act and therefore constitute 'payments made pursuant to the United States Social Security Act.' " *Id.* at 237 (quoting Minn. Stat. § 548.251, subd. 1(2)). Accordingly, the court held that the payments were excepted from offset. *Id.*

We granted Peace's petition for review.

ANALYSIS

The issue before us is whether discounts negotiated for Medicaid beneficiaries under Minnesota's Prepaid Medical Assistance Plan are "collateral sources" subject to offset under Minnesota Statutes section 548.251, subdivision 1(2). "When an individual or entity other than a tortfeasor compensates a tort plaintiff for his or her injuries, the plaintiff has received a 'collateral-source benefit.' " *Swanson v. Brewster*, 784 N.W.2d 264, 268 (Minn. 2010). Examples of "collateral-source benefits" include payment of medical expenses by medical insurance entities, "job benefits, donations, and gratuitous services." *Id.*

At common law, the collateral-source benefits received by plaintiffs had no impact on the responsibility of tortfeasors to pay damages: "Under the collateral source rule, a plaintiff may recover damages from a tortfeasor, although the plaintiff has received money

or services in reparation of the injury from a source other than the tortfeasor." *Hueper v. Goodrich*, 314 N.W.2d 828, 830 (Minn. 1982). "The central justification for the common-law collateral-source rule is that a tortfeasor, as a wrongdoer who caused a particular harm, should not benefit from a tort plaintiff's ability to secure other compensation." *Swanson*, 784 N.W.2d at 269 n.7 (citation omitted). This rule furthers public policy by encouraging members of the public to secure their own sources of self-protection, such as through buying insurance, while preserving the deterrent effect of civil litigation against a wrongdoer. *See Hueper*, 314 N.W.2d at 830 (explaining the policy justifications for the common-law rule).

In 1986, the Legislature enacted a statute altering the common-law rule to limit the recovery of damages in certain cases in which plaintiffs had received benefits from sources other than the tortfeasor. Act of Mar. 25, 1986, ch. 455, § 80, 1986 Minn. Laws 878, 878−79 (codified at Minn. Stat. § 548.251). The primary purpose of the collateral-source statute was to prevent some double recoveries, including recoveries from a tortfeasor for medical expenses that an insurer paid. *See Imlay v. City of Lake Crystal*, 453 N.W.2d 326, 331 (Minn. 1990); *see also Swanson*, 784 N.W.2d at 269.

The collateral-source statute defines "collateral sources" in pertinent part:

> For purposes of this section, "collateral sources" means payments related to the injury or disability in question made to the plaintiff, or on the plaintiff's behalf up to the date of the verdict, by or pursuant to:
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> (1) a federal, state, or local income disability or Workers' Compensation Act; or other public program providing medical expenses, disability payments, or similar benefits;

> (2) health, accident and sickness, or automobile accident insurance or liability insurance that provides health benefits or income disability coverage; *except* life insurance benefits available to the plaintiff, whether purchased by the plaintiff or provided by others, *payments made pursuant to the United States Social Security Act*, or pension payments . . . .

Minn. Stat. § 548.251, subd. 1 (emphasis added). Specifically, Minnesota's collateral-source statute *excepts* from offset "payments made pursuant to the United States Social Security Act." Minn. Stat. § 548.251, subd. 1(2). This case centers on this exception.

The collateral-source statute further states that the court shall generally reduce awards by "amounts of collateral sources that have been paid for the benefit of the plaintiff or are otherwise available to the plaintiff as a result of losses." Minn. Stat. § 548.251, subds. 2(1), 3(a). After a motion by a defendant, therefore, the court will determine the amounts of collateral sources and reduce the award accordingly. *Id.*

I.

The parties' dispute here is a limited one focusing on the meaning of the phrase "pursuant to" in the exception clause of subdivision 1(2): "payments made pursuant to the United States Social Security Act." Minn. Stat. § 548.251, subd. 1(2).[3] Notably, neither party argues that this phrase is ambiguous, and we agree that it is not. The parties also do not contest that negotiated discounts, like those at issue here, are considered to be

[3] The parties' arguments before the trial court, at the court of appeals, and in their briefs, focused exclusively on subdivision 1(2). At oral argument, Peace argued for the first time that the negotiated discounts fall under subdivision 1(1), but "[w]e generally will not consider arguments raised for the first time on appeal . . . ." *Hegseth v. Am. Family Mut. Ins. Grp.*, 877 N.W.2d 191, 196 n.4 (Minn. 2016). We accordingly examine the negotiated discounts under subdivision 1(2) and do not reach subdivision 1(1) and 1(3) to resolve the dispute before us.

"payments" under the collateral-source statute.[4] Moreover, neither party argues that Minnesota's Medical Assistance program is not part of the Social Security Act.

Peace argues instead that "pursuant to" should be defined narrowly and asserts that nothing in the Social Security Act or its regulations contemplates the discounts or specifically authorizes managed-care organizations to negotiate them. Peace asserts that the government did not obtain the discounts—private managed-care organizations obtained them in a private transaction between the managed-care organizations and the medical-care providers. Accordingly, Peace contends that "pursuant to" is not broad enough to encompass payments merely incentivized by or incidental to the Social Security Act. We disagree.

The parties' dispute requires us to interpret the collateral-source statute, an issue of law that we review de novo. *See State v. Mauer*, 741 N.W.2d 107, 111 (Minn. 2007). We interpret statutory language to "ascertain and effectuate" the Legislature's intent. Minn. Stat. § 645.16 (2018). "If the meaning of a statute is unambiguous, the plain language of the statute controls." *Wilson v. Mortg. Res. Ctr., Inc.*, 888 N.W.2d 452, 458 (Minn. 2016).

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[4] We have previously held that negotiated medical discounts are "payments" under the statute. In *Swanson*, the plaintiff incurred over $60,000 in medical bills, but $40,000 of the balance was discounted as a result of negotiations between the medical-care providers and the plaintiff's insurance company. 784 N.W.2d at 266–67. We held in *Swanson* that "negotiated discount amounts—amounts a plaintiff is billed by a medical-care provider but does not pay because the plaintiff's insurance provider negotiated a discount on the plaintiff's behalf—are 'collateral sources' under the Minnesota collateral-source statute, Minn. Stat. § 548.251." *Id.* at 282. Consequently, we directed the district court on remand to deduct the amount actually paid to medical-care providers *and* the amount of the discount from the plaintiff's award. *Id.*

And absent ambiguity, "the letter of the law shall not be disregarded under the pretext of pursuing the spirit." Minn. Stat. § 645.16.

Statutes in derogation of the common law are generally "strictly construed." *Do v. Am. Family Mut. Ins. Co.*, 779 N.W.2d 853, 858 (Minn. 2010) (quoting *Rosenberg v. Heritage Renovations, LLC*, 685 N.W.2d 320, 327 (Minn. 2004)). Here, when it is undisputed that section 548.251 was intended to modify the common-law collateral-source rule, we must "carefully examine the express wording of the statute to determine the nature and extent to which the statute modifies the common law." *Staab v. Diocese of St. Cloud*, 813 N.W.2d 68, 73 (Minn. 2012). We do not presume "that the legislature intended to abrogate or modify a rule of the common law on the subject any further than that which is expressly declared or clearly indicated." *Rosenberg*, 685 N.W.2d at 328 (citation omitted) (internal quotation marks omitted); *see also Ly v. Nystrom*, 615 N.W.2d 302, 314 (Minn. 2000) ("We have . . . long presumed that statutes are consistent with the common law, and if a statute abrogates the common law, the abrogation must be by express wording or necessary implication.").

Because the collateral-source statute was a partial abrogation of the common-law rule, we construe it narrowly. *See Rosenberg*, 685 N.W.2d at 327–28. Yet even in this process, we construe the *exception* at issue here broadly, because the exception is consistent with the common-law rule.[5]

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[5] The dissent asserts that we should only strictly construe a statute in derogation of the common law when the statute is ambiguous, citing *Swanson*, 784 N.W.2d at 280. But we have previously considered this canon of interpretation *before* finding ambiguity in the statutory language. *See, e.g.*, *Staab*, 813 N.W.2d at 73, 77 (considering whether a statute

In interpreting a statute, we read "words and phrases . . . according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2018). Here, when the Legislature has not provided definitions of the relevant term "pursuant to," we may consider dictionary definitions to determine a word's common usage. *See Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016).

Because the phrase "pursuant to" frequently appears as a legal phrase in statutory references, we may look to legal dictionaries to define it. *See Cox v. Mid-Minn. Mut. Ins. Co.*, 909 N.W.2d 540, 544–45 (Minn. 2018); *see also* Minn. Stat. § 645.08(1). For example, in defining the term "pursuant to" previously, we relied on the definition in *Black's Law Dictionary*: " '[i]n compliance with,' 'in accordance with,' 'as authorized by' and 'under.' " *Risdall v. Brown-Wilbert, Inc.*, 753 N.W.2d 723, 730 n.6 (Minn. 2008) (quoting *Black's Law Dictionary* (8th ed. 2004)).

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abrogates the common law before determining that it is ambiguous); *Dahlin v. Kroening*, 796 N.W.2d 503, 505 (Minn. 2011) ("We presume that statutes are consistent with the common law unless there is express wording or necessary implication of the intent to abrogate the common law."); *Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374, 376–78 (Minn. 1990) (considering whether a statute abrogates the common law without first deciding that it is ambiguous).

Moreover, we did not "refus[e] to apply" the canon in *Swanson*, as the dissent claims. To the contrary, we stated that "it is true that we must strictly construe the collateral-source statute because it is in derogation of the common law . . . ." 784 N.W.2d at 280. We simply noted that "it is also true that we should not so narrowly construe statutes that we disregard the Legislature's intent . . . ." *Id.* Here, our statutory construction focuses on interpreting the statute's express language to determine how much the Legislature intended to change the common-law rule. Even setting aside the derogation canon about which the dissent complains, however, the plain meaning of "pursuant to" makes clear that the statutory exception applies here.

Another legal dictionary defines the term identically, but instead of the definition "in compliance with," adds the definition "in carrying out." *Pursuant To, A Dictionary of Modern Legal Usage* 721 (2d. ed. 1995) (defining "pursuant to" as "(1) in accordance with; (2) under; (3) as authorized by; or (4) in carrying out"). Lay dictionaries define the phrase similarly.[6]

Because the "relevant definition of a term depends on the context in which the term is used," *State v. Nelson*, 842 N.W.2d 433, 437 n.2 (Minn. 2014), how "broadly" or "narrowly" these definitions of "pursuant to" will be applied depends upon the breadth of the subject that follows the preposition "to." For example, in *Fabianich v. Hart*, a case cited by the dissent to support its interpretation of "pursuant to" as a restrictive term,[7] section 9(c) of the Rent Control Act allowed municipal courts to review any order of the Administrator of Rent Control "pursuant to" section 4 of the Act. 31 A.2d 881, 882 (D.C. 1943). Because, under section 4, the Administrator was only authorized to issue orders

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[6] *See Merriam-Webster's Collegiate Dictionary* 950 (10th ed. 1996) (defining "pursuant to" as "in carrying out; in conformity with; according to"); *see also The American Heritage Dictionary of the English Language* 1431 (5th ed. 2011) ("In accordance with.").

[7] We reject the dissent's assertion that a footnote in *Risdall* categorically defined "pursuant to" to mean "required." Because the meaning will change depending upon the subject following "pursuant to," the meaning of the phrase cannot be set in stone. *Cf. Pursuant To*, *Garner's Dictionary of Legal Usage* 737 (3d ed. 2011) (noting that the phrase "means so many things" that it is "rarely—if ever—useful"). In addition, the footnote upon which the dissent bases its interpretation, footnote 6, is unpersuasive and irrelevant dicta. Footnote 6 interprets "pursuant to" in the context of a specific piece of legislative history, a Commerce Committee report, that our court declined to consider in the body of the opinion. *Risdall*, 753 N.W.2d at 730 (noting that when a "statute is clearly worded, as in this case, we generally do not consider legislative history" (citation omitted) (internal quotation marks omitted)).

pertaining to an enumerated list of five specific grounds, the appellate court interpreted section 9(c) as limiting the municipal court's jurisdiction to those "orders specifically provided for in Section 4." *Id.* at 883. Consequently, "pursuant to" meant "in conformity with" a limited statutory section, and had a restrictive effect in that particular context.

In contrast to a specific, enumerated list that follows the term "pursuant to" and limits the reference, the term here is followed by *broad* reference to a statute that is itself of exceedingly wide breadth: the United States Social Security Act. This broad reference is not limited to any particular funding, or to any particular actors or negotiators. For example, as the court of appeals aptly noted, if the Legislature intended the "pursuant to" reference to be a restrictive one, it could easily have excepted "only such 'payments made *by the state or federal government* pursuant to the United States Social Security Act.' " Instead, the exception broadly excepts from offset all "payments made pursuant to the Social Security Act," no matter who made them. Minn. Stat. § 548.251, subd. 1(2).

Because the reference is to an expansive Act, the proper analysis is not a restrictive one of what the Act *requires*, but whether the payment here—the negotiated discounts—were payments made "under," "in accordance with," "in compliance with" or in "carrying out" the Social Security Act. A brief analysis of the United States Social Security Act shows that they are.

Title XIX of the Social Security Act created Medicaid, "a publicly funded program to ensure medical care to certain individuals who lack the resources to cover the costs of essential medical services." *Martin ex rel. Hoff v. City of Rochester*, 642 N.W.2d 1, 9 (Minn. 2002). A cooperative federal-state program, Title XIX authorizes states to

administer their own programs within the federal framework. *Id.* Minnesota's Medicaid program, known as "Medical Assistance," expressly acknowledges that the provisions of the Act and its corresponding federal regulations control: "The various terms and provisions hereof, including the amount of medical assistance paid hereunder, are intended to comply with and give effect to the program set out in title XIX of the federal Social Security Act." Minn. Stat. § 256B.22 (2018).

The Medicaid program explicitly authorizes states to contract with private managed-care organizations, such as the managed-care organizations here, to deliver Medicaid benefits and services to eligible persons. 42 U.S.C. § 1396u-2(a)(1)(A) (2012). The Social Security Act specifically provides that state medical assistance plans may "require an individual who is eligible for medical assistance under the State plan under this subchapter to enroll with a managed care entity as a condition of receiving such assistance (and, with respect to assistance furnished by or under arrangements with such entity, *to receive such assistance through the entity*)." *Id.* (emphasis added).

And, under this authorization, Minnesota contracted with managed-care organizations as part of its Prepaid Medical Assistance Plan.[8] Minn. Stat. § 256B.035 (2018) ("The commissioner of human services may contract with public or private entities or operate a preferred provider program to deliver health care services to medical assistance

[8] The genesis of Minnesota's Prepaid Medical Assistance Plan was the Legislature's directive to the Commissioner of the Department of Human Services to "determine whether prepayment combined with better management of health care services is an effective mechanism to ensure that all eligible individuals receive necessary health care in a coordinated fashion while containing costs." Minn. Stat. § 256B.69, subd. 1 (2018).

and MinnesotaCare program recipients."); Minn. Stat. § 256B.69, subd. 5a (2018); *see also* Minn. Stat. § 256B.6928 (2018) (discussing compliance with the Code of Federal Regulations and method of setting managed-care rates).

The managed-care organizations, in turn, provide or arrange for services for Medicaid enrollees in exchange for capitation payments.[9] 42 U.S.C. § 1396u-2(a)(1), (f). These prepaid medical assistance programs, although administered by private insurers, must comply with all laws governing Medicaid. And under 42 U.S.C. § 1396b (2012), the Minnesota Department of Human Services submitted the state plan for approval to the United States Secretary of Health and Human Services.

The Social Security Act clearly authorizes managed-care organizations to make payments for medical expenses on behalf of enrollees in a medical assistance program, as the managed-care organizations did here—that is precisely how the Medicaid program is designed to function under Title XIX of the Social Security Act. Consequently, benefit

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[9] Capitated rates are per person, fixed rates that the managed-care entities receive from the state. Minn. Stat. § 256B.69, subds. 5, 5b, 5f, 6, 9d (2018). A medical-care provider "is 'capitated' when its compensation arrangement with a network involves the provider's acceptance of material financial risk for the delivery of a predetermined set of services for a specified period of time." Minn. Stat. § 62N.27, subd. 4 (2018). In addition, Minnesota managed-care organizations establish their right to distribute benefits through a competitive bidding process. Minn. Stat. § 256B.69, subd. 33 (2018).

This system of capitated rates, in tandem with the bidding process, is based on managed-care organizations negotiating discounts with medical-care providers. If these Medicaid plans did not negotiate provider discounts, the plans could run out of money and cease to provide insurance coverage. These statutory provisions provide further support to our determination that negotiated discounts and cost-saving measures by the managed-care organizations are authorized by the Minnesota Prepaid Medical Assistance Plan in accordance with, in compliance with, or under the Social Security Act.

payments and, under the rationale of *Swanson*, the *discounts* negotiated by the managed-care organizations, are payments made "pursuant to" the Social Security Act.

Peace encourages us to consider public policy reasons supporting her position that these negotiated discounts are collateral sources, including the intent of the collateral-source statute to eliminate some double recoveries, but when the plain language of the statutory exception is clear we "decline to explore its spirit or purpose." *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016). Moreover, if this exception in the collateral-source statute "needs revision in order to make it embody a more sound public policy, the Legislature, not the judiciary, must be the reviser." *Axelberg v. Comm'r of Pub. Safety*, 848 N.W.2d 206, 213 (Minn. 2014).

In sum, the only reasonable interpretation of "payments made pursuant to the United States Social Security Act" is one that includes negotiated discounts by managed-care organizations contracting with Minnesota's Medical Assistance program. *See* Minn. Stat. § 548.251, subd. 1(2). Accordingly, we conclude that the district court erred by subtracting the amount of the discounts from Getz's damages award under the collateral-source statute.

II.

Alternatively, Peace argues that if a payment does not meet the definition of "collateral source" in the collateral-source statute, the common law applies. Peace claims that the issue of whether negotiated discounts are common-law collateral sources is one of first impression, and contends that we should hold that negotiated discounts are not

collateral sources under the common law. But given the Legislature's actions, we do not reach the common law.

The Legislature specifically identified the types of medical insurance payments that are and are not "collateral sources" subject to offset. The Legislature included within its definition of collateral sources "health, accident and sickness" insurance, except, among other payments and benefits, "payments made pursuant to the United States Social Security Act." Minn. Stat. § 548.251, subd. 1(2). The language of the statute encompasses the entire area of medical insurance, without leaving anything to the common law. *Id.*; *see also Swanson*, 784 N.W.2d at 278 ("The plain language of the statute demonstrates that while the Legislature intended to maintain the common-law collateral-source rule in instances of familial gifts, *the Legislature intended to abrogate the rule in instances of coverage of the plaintiff's health insurance*." (emphasis added)).

That the Legislature affirmatively identified "payments made pursuant to the United States Social Security Act" as an exception to the collateral-source statute does not mean that the common law applies—the legislative intent was that those payments are *not* subject to offset, and we must give effect to the Legislature's intent. Minn. Stat. § 645.16. The Legislature, by exempting those payments from its definition of collateral source, expressly disallowed defendants from bringing motions to reduce damage awards by the amount of those payments. In sum, because the negotiated discounts are "payments made pursuant

to the United States Social Security Act" under Minnesota Statutes section 548.251, subdivision 1(2), Peace cannot offset the damages award for those payments.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

D I S S E N T

GILDEA, Chief Justice (dissenting).

The majority concludes that discounted payments negotiated between Getz's managed-care insurers and Getz's medical-care providers are payments made "pursuant to" the Social Security Act. To get to this result, the majority contends that it must broadly construe an exception to the collateral-source statute, Minn. Stat. § 548.251, subd. 1(2) (2018). Broadly construed, the majority holds that the negotiated discounts are "in accordance with" the Social Security Act, and, therefore, Getz is entitled to a windfall. Because the majority's analysis is inconsistent with the plain language of the collateral-source statute, the Social Security Act, and our precedent, I respectfully dissent.

I.

Under Minn. Stat. § 548.251, payments the plaintiff receives from collateral sources "related to the injury . . . in question" are typically deducted from the plaintiff's recovery in personal injury cases. Minn. Stat. § 548.251, subd. 1. There is an exception in the statute, however, for payments made "pursuant to the United States Social Security Act." Minn. Stat. § 548.251, subd. 1(2). That exception is at issue here.

The jury awarded Getz $224,998 for her past medical expenses. Peace sought to reduce that amount to $45,979, which was the amount Getz's managed-care insurers actually paid for Getz's medical expenses. The district court agreed with Peace and reduced the award. As the district court found, the government was not involved in the negotiations that led to the payment amounts; the negotiations were conducted privately between the managed-care insurers and medical-care providers. Moreover, "[t]here is no

evidence . . . that [the managed-care insurers] had an obligation to the [government] to negotiate any discounts with the providers . . . ." Based on these findings, the district court concluded that the negotiated discount payments were not made "pursuant to" the Social Security Act. I agree with the district court.

The majority comes out differently. According to the majority because the collateral-source statute abrogates the common law, we have to construe the statute narrowly. And, according to the majority, applying that canon here means that exceptions to the statute must be construed broadly. The problem for the majority is that the canon of construction on which it builds its statutory analysis does not apply.

The majority broadly construes the exception by relying on our canon of construction that requires "statutes in derogation of the common law . . . to be strictly construed." *Do v. Am. Family Mut. Ins. Co.*, 779 N.W.2d 853, 858 (Minn. 2010) (citation omitted) (internal quotation marks omitted). But that canon applies only if a statute is ambiguous. *See Swanson v. Brewster*, 784 N.W.2d 264, 280 (Minn. 2010) (refusing to apply this canon of construction when interpreting another part of the collateral-source statute because the language was unambiguous and the Legislature's intent was clear);[1]

[1] The majority argues that we did not refuse to apply the canon in *Swanson*. But when faced with a choice between narrowly construing the statute under the canon and adopting a broader construction supported by the plain language of the statute, we chose the latter. *Swanson*, 784 N.W.2d at 279–80. Thus, after starting with the plain language of the statute and determining its meaning, we refused to apply the canon to alter that meaning.

The majority also argues that we have applied the canon before finding ambiguity in the statutory language. For this proposition, the majority cites *Staab v. Diocese of St. Cloud*, 813 N.W.2d 68 (Minn. 2012). In *Staab*, we did not apply the canon at all, let alone before finding ambiguity. The majority admits as much when it explains that *Staab* "consider[ed] whether a statute abrogate[ed] the common law before determining that it

Hyatt v. Anoka Police Dep't, 691 N.W.2d 824, 827 (Minn. 2005) (explaining that we can "disregard a statute's plain meaning only in rare cases where the plain meaning utterly confounds a clear legislative purpose" (citation omitted) (internal quotation marks omitted)); *Arlandson v. Humphrey*, 27 N.W.2d 819, 823 (Minn. 1947) ("[L]anguage which is plain and unambiguous requires no construction . . . ."); *see also* Minn. Stat. § 645.16 (2018). The majority does not find any ambiguity in the collateral-source statute and neither do I. Accordingly, this canon does not apply.[2]

[wa]s ambiguous." Obviously, determining whether a statute abrogates the common law is not the same thing as applying the canon to construe the statute. Accordingly, *Staab* does not support the majority's application of the canon here. The majority also cites *Dahlin v. Kroening*, 796 N.W.2d 503 (Minn. 2011), and *Wirig v. Kinney Shoe Corp.*, 461 N.W.2d 374 (Minn. 1990), for the proposition that we have applied the canon of strict construction in other cases without first concluding that the statute at issue was in derogation of the common law. Neither case supports the majority. We did not apply the canon of strict construction in either case. We merely stated in each case that we presume that statutes are consistent with the common law unless the Legislature tells us otherwise. *Dahlin*, 796 N.W.2d at 505; *Wirig*, 461 N.W.2d at 377. In short, the majority has no authority to support its proposition that we can apply the canon requiring strict construction in the absence of a conclusion that the statute at issue is ambiguous.

Further, even if it were appropriate to apply the canon before determining if the statute is ambiguous, it is well-established that " 'strict construction should not be pushed to the extent of nullifying the beneficial purpose of the statute, or lessening the scope plainly intended to be given thereto.' " *Swanson*, 784 N.W.2d at 280 n.14 (quoting *Maust v. Maust*, 23 N.W.2d 537, 540 (Minn. 1946)). As discussed below, the scope of the statute plainly does not extend to discounted payments that resulted from private party negotiations, and the majority cannot ignore this plain language by resorting to the canon of strict construction.

[2] Cases outside of Minnesota also recognize the principle that the canon applies only after the court has concluded that the statute at issue is ambiguous. *See, e.g.*, *In re Diamond Mfg. Co., Inc.*, 123 B.R. 125, 129 (Bankr. S.D. Ga. 1990) (stating that the canon "is inapplicable in the present case" because "[o]nly where the language of the statute in question is ambiguous do courts use such rules of construction"), *aff'd sub nom. Moore v. Diamond Mfg. Co.*, 959 F.2d 972 (11th Cir. 1992); *Justus v. Atchison*, 565 P.2d 122, 132 (Cal. 1977) (rejecting the use of the canon when the statute is unambiguous), *disapproved*

Instead of turning to an inapplicable canon of statutory construction, I would simply apply the plain meaning of the statute. Under our rules of statutory interpretation, "words and phrases are construed according to rules of grammar and according to their common and approved usage." Minn. Stat. § 645.08(1) (2018); *see also A.A.A. v. Minn. Dep't of Human Servs.*, 832 N.W.2d 816, 819 (Minn. 2013) ("When interpreting a statute we give the words and phrases of the statute their plain and ordinary meaning."). When words or phrases have acquired special, legal meaning, we look to legal dictionaries to define them. *Cox v. Mid-Minn. Mut. Ins. Co.*, 909 N.W.2d 540, 544–45 (Minn. 2018); *see also* Minn. Stat. § 645.08(1).

We cited the *Black's Law Dictionary* definition of "pursuant to" approvingly in *Risdall v. Brown-Wilbert, Inc.*, 753 N.W.2d 723, 731 (Minn. 2008). This law dictionary defines "pursuant to" as: "[i]n compliance with," "under," and "authorized by." *Pursuant To, Black's Law Dictionary* (8th ed. 2004). Based on these definitions, we said in *Risdall* that "pursuant to" meant "required." 753 N.W.2d at 730 n.6. Other jurisdictions have similarly interpreted "pursuant to" as "a restrictive term." *Knowles v. Holly*, 513 P.2d 18, 23 (Wash. 1973) (citations omitted); *see also Fabianich v. Hart*, 31 A.2d 881, 883 (D.C. 1943) (holding

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of for other reasons by Ochoa v. Super. Ct., 703 P.2d 1 (Cal. 1985); *Phillips v. Larry's Drive-In Pharmacy, Inc.*, 647 S.E.2d 920, 927 (W. Va. 2007) (applying the canon only after finding a statute ambiguous because a "statute is open to construction only where the language used requires interpretation because of ambiguity" (citation omitted) (internal quotation marks omitted)); *Wis. Bankers Ass'n (Inc.) v. Mut. Sav. & Loan Ass'n of Wis.*, 291 N.W.2d 869, 877 (Wis. 1980) (stating three requirements that must be met before a court can apply the canon, including "the statute must be ambiguous on its face").

that only orders specifically listed in the Rent Control Act were orders "made pursuant to" the Act).

I would adhere to *Risdall*'s interpretation. Applying that interpretation, the negotiated discounts were not made "pursuant to" the Social Security Act. This is so because nothing in the Act required these discounts. The discounts were the result of negotiations between Getz's managed-care insurers and her medical-care providers. The government did not require these negotiations and the government was not otherwise involved in them, as the district court found. Based on this analysis, I would reverse the court of appeals.[3]

But even if I applied the dictionary definitions that the majority cites, I would reach the same outcome. As the majority asserts, the dictionary provides several definitions of "pursuant to." One dictionary defines the phrase to mean "in the course of carrying out," "in conformance to or agreement with," or "according to." *Webster's Third New International Dictionary* 1848 (2002). Similarly, another gives the definition "[i]n accordance with." *The American Heritage Dictionary of the English Language* 1431 (5th ed. 2011).

The majority concludes that these dictionary definitions of "pursuant to" describe a broad range of relationships. The majority also concludes, without citation to any

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[3] The majority notes that our interpretation of "pursuant to" in *Risdall* was dicta. I do not disagree, but we have recognized that "[e]ven dictum, if it contains an expression of the opinion of the court, is entitled to considerable weight." *In re Estate of Bush*, 224 N.W.2d 489, 501 (Minn. 1974). We interpreted the same phrase that is at issue here and that interpretation, even though dicta, is helpful to our analysis. *See, e.g.*, *Sanchez v. Dahlke Trailer Sales, Inc.*, 897 N.W.2d 267, 277 n.9 (Minn. 2017) (relying on dicta as "persuasive" because the analysis interpreted the statutes at issue).

authority, that the meaning of "pursuant to" changes based on what comes after the term. Because the Social Security Act itself is broad, the majority concludes that "pursuant to" must also be given a broad meaning. And because the phrase is broad, the majority concludes that it applies to the negotiated discounts at issue in this case. Specifically, the majority concludes that the payments were negotiated "in accordance with the Act."[4] The majority is wrong.

Negotiated discounts are not "in accordance with" or "in compliance with" the Social Security Act, as the majority asserts, because managed-care insurers do not act in discord or out of compliance with the Act by failing to negotiate discounts. There is no penalty for a failure to negotiate discounts nor a mandate that managed-care insurers do so. The majority does not demonstrate otherwise. At most, the Act contemplates that states may choose to incentivize managed-care insurers to negotiate for discounts through the use of capitated rates. *See supra* at 12 n.6. But the Social Security Act's mere contemplation

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[4] The majority also confuses the relevance of Medicaid benefits as opposed to the negotiated discounts at issue in this case. According to the majority, the Social Security Act authorizes states to allow managed-care organizations to administer Medicaid benefits, and, therefore, under our decision in *Swanson*, the negotiated discounts are authorized as well. *Supra* at 12. This conclusion misapprehends the scope of our decision in *Swanson*.

In *Swanson*, we held that negotiated discounts are collateral sources. 784 N.W.2d at 282. To reach this conclusion, we analyzed whether negotiated discounts qualify as "payment[s] related to the injury . . . in question" under the collateral-source statute. *Id.* at 273–74. We determined that negotiated discounts are "payments" because the discharge of a debt is included in the plain meaning of the term. *Id.* at 274–75. But just because both Medicaid benefits and negotiated discounts might qualify as "payments" under the collateral-source statute does not mean that the Social Security Act authorizes both. The negotiated discounts, rather than Medicaid benefits, are the collateral sources at issue in this case. *Swanson* did not interpret the subdivision at issue in this case nor does it have any bearing on whether these negotiated discounts—while undoubtedly payments—were made "pursuant to" the Social Security Act.

that some states *may* choose to create *non-mandatory* incentives in this manner is not enough for the negotiated payments at issue in this case to be "in accordance with" the Act.

Nor do the discounts qualify under any of the other dictionary definitions of "pursuant to" set out above. The discounts involved here were not "under" or "authorized by" the Social Security Act because nothing in the Act requires or empowers Medicaid providers to negotiate for such discounts, or directs providers what the amounts of any such discounts should be. Similarly, the discounts were not negotiated to "carry[] out" the Social Security Act, because there is no such obligation in the Act. Thus, under any common and approved usage of the phrase "pursuant to," the discounted payments at issue in this case were not made pursuant to the Social Security Act.

I would reverse the court of appeals and hold that discounts the managed-care insurers negotiated are not "payments made pursuant to the United States Social Security Act" under Minn. Stat. § 548.251, subd. 1(2).

ANDERSON, Justice (dissenting).

I join in the dissent of Chief Justice Gildea.