[The text of this Vermont trial court opinion is unofficial. It has been reformatted from the original. The accuracy of the text and the accompanying data included in the Vermont trial court opinion database is not guaranteed.]

STATE OF VERMONT
ADDISON COUNTY

CODY MADRID Plaintiff v. MELANIE B. PAQUETTE Defendant	SUPERIOR COURT Docket No. 194-7-07 Ancv

RULING ON MOTIONS FOR PARTIAL SUMMARY JUDGMENT AND IN LIMINE

Plaintiff, Cody Madrid ("Madrid"), seeks to recover from Defendant, Melanie B. Paquette ("Paquette"), for injuries he suffered in a motor vehicle collision in July 2005. Madrid incurred medical expenses and was billed by the providers for $36,103.30. Medicaid paid the providers $11,481.89. Under the Medicaid program, providers are not entitled to any additional payment. Madrid moves for partial summary judgment, seeking a ruling that his damages for medical bills are the $36,103.30 figure. Madrid's summary judgment evidence consists of copies of the invoices for the medical services, as well as Paquette's responses to Requests to Admit.

The Requests to Admit specifically asked for admission of the allegations that the medical bills for $36,103.30 were (1) incurred as a result of the accident, (2) reasonably necessary, and (3) reasonable charges for the services rendered. Paquette's response to those requests does not deny the first two questions. *See* Defendant's Responses to Plaintiff's Requests to Admit, No. 1. Paquette did deny that the bills were reasonable charges for the services rendered. Id. However, the only basis for that denial was the fact that Medicaid paid only $11,481.89 for the services, rather than the full amount billed.

Madrid has also filed a motion in limine asking that the court exclude from trial any evidence as to the amount Medicaid paid for the medical bills.

Discussion

Paquette's responses to the Requests to Admit concede, by not disputing, that the bills for $36,103.30 were incurred as a result of this accident and were reasonably necessary. V.R.C.P. 36 ("A denial shall fairly meet the substance of the requested admission . . . Any matter admitted under this rule is conclusively established . . ."). The only issue Paquette disputes is whether they were reasonable charges given the lower Medicaid payment.

The "collateral source" rule prohibits a tort defendant from obtaining "a setoff for payment the plaintiff receives from a third, or collateral, source." Hal v. Miller, 143 Vt. 135, 141 (1983). "While the rule may result in plaintiff's obtaining a 'double recovery,' its essential purpose is not to provide the plaintiff a windfall but to prevent the wrongdoer from escaping liability for his or her misconduct." Windsor School District v. State, 2008 VT 27, ¶ 32. At least in Vermont, "one of the essential elements of the rule has always been its punitive nature." Id. ¶ 34. Thus, "[i]t is not of the slightest consequence who reimbursed plaintiff, or under what circumstances, if defendant was not connected therewith[.]" Hall v. Miller, 143 Vt. at 142 (the source could be an insurance company, a friend, or a neighbor). *See also* Northeastern Nash Automobile Co. v. Bartlett, 100 Vt. 246, 258 (1927) (the same is true of payments from charity)(dictum).

Paquette has offered no reasoned grounds on which the court should distinguish between Medicaid benefits and any other source of payment for medical bills. She merely points out that some other jurisdictions have done so. It is clear that under Vermont law

Medicaid benefits are to be treated the same as insurance, gifts, or charitable donations to an injured plaintiff. The collateral source rule bars any reduction in damages as a result of the Medicaid payments.

Paquette argues that the jury should nonetheless hear about the Medicaid payment in the context of determining what is a reasonable value for the medical services in this case. However, the fact of payment by another is not admissible in evidence. Northeastern Nash Automobile at 258 ("Neither can such payment or indemnity be shown in defense of the action."). *Accord*, Gormley v. GTE Products Corp., 587 So. 2d 455, 457 (Fla. 1991) (The collateral source rule functions as both a rule of damages and a rule of evidence."); Wills v. Foster, __ N.E. 2d __, 2008 WL 2446696 (Ill., June 19, 2008) ("the collateral source rule 'operates to prevent the jury from learning *anything* about collateral income'"); Papke v. Harbert, 2007 SD 87 ¶ 80, 738 N.W.2d 510, 536 (S.D. 2007)(Payments from collateral sources such as Medicare and Medicaid not admissible in evidence).

The same argument Paquette makes here – that the evidence is relevant to the reasonable value of services – was rejected by another court with the following explanation, with which this court agrees:

> Acuity argues that because it seeks to introduce as evidence only the amount actually paid for medical treatment, and not the source of these compromised payments, and does not seek to reduce damages by the amount of the collateral source payments, it is doing no violence . . . to the collateral source rule[.] . . .
>
> Although claiming that the evidence assists the fact-finder in determining the reasonable value of the medical treatment and does not limit or reduce the damages, Acuity, in essence, is seeking to do indirectly what it cannot do directly, that is, it is seeking to limit Leitinger's award for expenses for medical treatment by introducing evidence that payment was made by a collateral source . . .

> The collateral source rule prevents the fact-finder from learning about collateral source payments, even when offered supposedly to assist the jury in determining the reasonable value of the medical treatment rendered, so that the existence of collateral source payments will not influence the fact-finder.

Leitinger v. DBart, Inc., 2007 WI 84 ¶ ¶ 52-54, 736 N.W.2d 1, 14 (Wis. 2007). This court agrees that evidence of collateral source payments is inadmissible.

Order

Plaintiff's motions for partial summary judgment and for exclusion of evidence of the amounts paid by Medicaid are granted.

Dated at Middlebury this 28th day of July, 2008.

_____
Helen M. Toor
Superior Court Judge