Countrywide Insurance Co. v. 563 Grand Medical

2008 NY Slip Op 03059 (2008) | Cited 0 times | New York Supreme Court | April 3, 2008

Saxe, J.P., Sweeny, McGuire, Acosta, JJ.

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Defendant medical provider established prima facie its entitlement to judgment as a matter of law by demonstrating that the necessary billing documents were mailed to and received by plaintiff insurer and that payment of the no-fault benefits was overdue (see Insurance Law § 5106[a]; 11 NYCRR 65-3.8[a][1]; New York & Presbyt. Hosp. v Countrywide Ins. Co., 44 AD3d 729, 730 [2007]). However, in opposition to the motion, plaintiff raised a triable issue of fact whether the claimed benefits were properly denied for lack of medical justification. Plaintiff was not required to set forth the medical rationale in the prescribed denial of claim form (see A.B. Med. Servs., PLLC v Liberty Mut. Ins. Co., 39 AD3d 779 [2007]). Nor is a nurse's review denying no-fault claims for lack of medical necessity per se invalid (see Channel Chiropractic, P.C. v Country-Wide Ins. Co., 38 AD3d 294, 295 [2007]).

Plaintiff waived its objection to defendant's standing (see Hospital for Joint Diseases v Travelers Prop. Cas. Ins. Co., 9 NY3d 312, 320 [2007]).

THIS CONSTITUTES THE DECISION AND ORDER OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.