

Tennessee Litigation Update

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Tennessee Supreme Court Rules on Evidence of Reasonable Medical Expenses in Personal Injury Actions

Dedmon v. Steelman

Procedural History

The case arises out of a motor vehicle accident that occurred in February 2010, involving Jean Dedmon and Fred Cook. Mrs. Dedmon was injured in the accident, and she and her husband (collectively, "Plaintiffs") filed suit against Mr. Cook. While Plaintiffs' case was pending in the Trial Court, the Tennessee Supreme Court issued its opinion in *West v. Shelby County Healthcare Corp.*, which held that a hospital's "reasonable charges" under Tennessee's Hospital Lien Act are the amounts that the hospital accepts in satisfaction of the hospital's bills—not the full, undiscounted amounts. The *West* decision noted that the undiscounted charges billed to a patient are "unreasonable" compared to the amount of the discounted bills actually paid by the insurer.

Based on the Court's holding in *West*, the Defendants in *Dedmon* filed a motion to exclude evidence at trial of Mrs. Dedmon's undiscounted medical bills, arguing that the undiscounted amounts were unreasonable. Defendants pointed out that Mrs. Dedmon's insurer had paid significantly less than the amounts billed by Mrs. Dedmon's medical providers; therefore, the undiscounted medical bills were irrelevant and should not be considered by the jury. Further, Defendants argued that the collateral source rule—which prohibits the introduction of evidence at trial of amounts paid by an insurer—would not be violated by the introduction of the amounts accepted in satisfaction of Mrs. Dedmon's medical bills because there would be no mention that the amounts actually paid resulted from an insurance contract. Instead, Defendants offered that the discounted amounts would be introduced only as the reasonable charges for the medical treatment Mrs. Dedmon received. The Trial Court granted Defendants' motion, concluding that after *West*, Mrs. Dedmon's reasonable medical expenses were the discounted amounts paid by her insurer as a matter of law.

Plaintiffs appealed the Trial Court's order granting Defendants' motion, and the Tennessee Court of Appeals reversed the Trial Court's order. The Court of Appeals held that *West* was limited to the context of Tennessee's Hospital Lien Act, and was not intended to apply to all determinations of reasonable medical expenses. The Court of Appeals explained that Mrs. Dedmon's undiscounted medical bills could be introduced at trial to prove her reasonable medical expenses, but Defendants could also present to the jury the amounts accepted by Mrs. Dedmon's medical providers in satisfaction of those bills, so long as insurance was not mentioned. The Tennessee Supreme Court accepted the case on appeal and issued its unanimous opinion on November 17, 2017.

Legal opinion

The Court began its analysis by reviewing Tennessee law relating to the proper method of proving medical expenses in personal injury actions. The Court noted that in personal injury actions, Plaintiffs must prove that their medical bills were necessary, reasonable, and caused by the Defendant's alleged negligent conduct. The "focus" under Tennessee law is "on the reasonable *value* of necessary services rendered." In addition, the collateral source rule, which was first introduced as a part of Tennessee law in the late nineteenth century, prevents Defendants from introducing "evidence that a plaintiff has received benefits or payments from a collateral source," most usually from an insurance policy.

The Court then turned to an examination of its ruling in the *West* case. After reviewing the legal and factual basis for that opinion, the Court explicitly held that its "holding in *West* is not directly applicable in personal injury cases" and that *West* did not "create[] a new legal standard for defining 'reasonable medical charges' in personal injury cases."

Even so, since the Defendant in *Dedmon* had also argued for introduction of the paid medical bills even if the *West* opinion did not apply to personal injury actions, the Supreme Court proceeded with a detailed review of Tennessee law surrounding medical damages, and particularly the collateral source rule, in light of the "tremendous changes" in health care since Tennessee adopted the collateral source rule.

The Court started by acknowledging that "one result of the increasing complexity of health care has been a widening gap between a medical provider's standard rate charged to uninsured patients and the amounts accepted from insurance or social legislation benefits." Finding a way to deal with the reality of this 'gap,' in a way that does not violate the collateral source rule, and in a manner that was fair to Plaintiffs and Defendants alike, was the Court's challenge in *Dedmon*.

Through a review of the law in other States, the Supreme Court determined that there were three basic approaches to dealing with medical specials: "(1) actual amount paid, (2) benefit of the bargain, and (3) reasonable value." The actual amount paid approach, which is the minority approach, allows the Plaintiff to only introduce their paid medical bills since the difference between the paid and billed amounts "is not an expenses 'incurred' by the Plaintiff." In *Dedmon*, the Defendant argued for this approach and was supported by an amicus brief filed by the Tennessee Defense Lawyers Association.

The benefit of the bargain approach allows the Plaintiff to introduce the billed amounts, but "only where the Plaintiff paid consideration for the insurance benefits." As the name implies, the reasonable value approach seeks to determine the true value of the medical treatment received by the Plaintiff. The definition of reasonable value differs from jurisdiction to jurisdiction, however. In some, it is the billed amount, in others, the paid amount, and in still others a hybrid approach is taken and both figures are provided to the jury.

The Supreme Court acknowledged that all three approaches had drawbacks and were subject to criticism. Nonetheless, the Court reasoned that the reasonable value approach, where “reasonable value” is defined as the full, billed amounts, was the only approach that complied with the collateral source rule. In support of its conclusion, the Court pointed out that the difference between the billed and paid amount is itself “as much of a benefit for which [the Plaintiff] paid consideration as are the actual cash payments made by [the Plaintiff’s] health insurance carrier to the health care providers.”

Further, the Court stated that the billed amounts are still valid and enforceable debts and pointed to the number of bankruptcies due to medical bill debt as support for this conclusion. Because the paid amount is itself a collateral benefit and since the billed amounts are more than “a sham for gouging liability carriers,” allowing defendants to introduce the paid amounts would require the Court “to reject or abrogate the collateral source rule.” The Court also felt that due to the complex world of “medical economics,” it was improper to conclude that the true value of medical treatment was simply the amount that the provider had accepted.

Finally, the Court concluded that following the actual amount paid approach would lead to inconsistent results depending upon whether a Plaintiff had private insurance, TennCare, Medicare, VA treatment, charitable treatment, etc. If the paid amount was used, as opposed to the billed amount, “awards for [Plaintiffs’] reasonable medical expenses [would] vary” considerably “even if the Plaintiffs had all received exactly the same medical services.”

The hybrid approach – allowing both the billed and paid amounts into evidence – was also considered by the Court. It too, was rejected by the Court because the Court concluded that it would either “cause confusion by inserting into the evidence discounted payments with no explanation” or “lead the jury to infer the existence of insurance.”

In closing, the Court admitted that there are “shortcoming[s]” with “the collateral source rule in the current health care environment” which are “substantial.” Even so, the Court had “no assurance” that the other approaches to the medical specials issue “would result in a more just and accurate assessment of the reasonable value of medical services received by Plaintiffs in personal injury cases.” At the same time, the Court expressed serious concern about “creat[ing] a whole different set of problems” by adopting one of the alternate approaches.

Conclusion

Plaintiffs may submit evidence of their full, undiscounted medical bills as proof of their reasonable medical expenses. Defendants are precluded from submitting evidence of discounted rates for medical services accepted by medical providers. Defendants remain free to submit any other competent evidence to rebut the Plaintiff’s proof on the reasonableness of the Plaintiff’s medical expenses, so long as the Defendants proof does not contravene the collateral source rule.

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