

Saiber Successfully Obtains Dismissal of Federal Class Action Complaint on Behalf of Insurance Client

November 10, 2021

Saiber attorneys Marc Wolin and Michael Grohs successfully obtained a dismissal with prejudice of a federal class action Complaint against an insurance client. The alleged classes consisted of insureds who were injured in automobile accidents in New Jersey and ambulatory surgical centers (“ASCs”) where they received treatment.

The Complaint alleged that the insurer improperly denied personal injury protection (“PIP”) benefits for a high-risk medical procedure that the insured had performed at an ASC instead of a hospital. New Jersey Regulations required that the procedure be performed at a hospital if the Current Procedural Terminology code for the procedure, like the one at issue, is not listed on New Jersey’s Physicians’ and ASC Facility Fee Schedule. Thus, benefits were denied. Plaintiffs claimed that the insurer incorrectly construed the regulations.

Plaintiffs filed a class action complaint in the United States District Court for the District of New Jersey. The Court granted Saiber’s motion to compel arbitration of Plaintiffs’ PIP-related claims because they were governed New Jersey’s Automobile Insurance Cost Reduction Act. The arbitrator entered an Award in favor of our client, finding that Plaintiffs were not entitled to reimbursement from the insurer. Subsequently, an appellate panel of arbitrators affirmed the Award in its entirety.

Plaintiffs sought to vacate the Arbitration Award in the New Jersey Superior Court pursuant to the Alternative Procedure for Dispute Resolution Act. Saiber opposed Plaintiffs’ application and cross-moved to confirm the Arbitration Award. The Court denied Plaintiffs’ application and confirmed the Arbitration Award. Plaintiffs appealed, and the Appellate Division dismissed Plaintiffs’ appeal. Plaintiffs then filed a Petition for Certification to the Supreme Court of New Jersey, which Saiber opposed.

The New Jersey Supreme Court denied Plaintiffs’ Petition for Certification and, thereafter, the United States District Court dismissed Plaintiffs’ class action Complaint with prejudice. The decision confirms that New Jersey law requires insureds to have certain high-risk medical procedures performed at a hospital instead of an ASC if they want to receive PIP reimbursement from their insurance company.