

IN THE CIRCUIT COURT OF COUNTY, MISSISSIPPI

AND PLAINTIFFS

VS. NO.

DEFENDANT

RESPONSE TO DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT

COME NOW the Plaintiffs, and , by and through counsel, and respond to Defendant's Motion for Partial Summary Judgment as follows, to-wit:

I. INTRODUCTION

This action is an alleged wrongful denial of benefits claim. The Plaintiffs have alleged that hospital confinement at from , to , was pre-certified as a covered medical expense.

On or about , sustained an injury and was admitted to on that date by and was discharged on , . Following discharge, went home and developed a fever and other complications due to his/her injuries.

On or about , was seen by and was admitted to in for treatment of a fever of unknown origin and lumbosacral strain. was discharged from on , .

paid the physicians' charges in connection with admission to from , to , , however, has denied the payment of charges to for the to , admission stating that the hospitalization was not medically necessary.

II. UNDISPUTED FACTS

1. purchased a Contract, Type , covering himself/herself, his/her husband/wife, , and his/her children.

2. sustained an injury on or about , , and was seen by and admitted to and was discharged on , .

3. On or about , was seen by and was admitted to in for treatment of a fever of unknown origin and lumbosacral strain. was discharged on , . Affidavit of is attached as Ex. .

4. pre-certified admission. Affidavit of is attached as Ex. .

5. The hospital bill in questions was for \$, of which owes the sum of \$.

6. has denied payment of the hospital charges in connection with treatment of through , , but has paid the physicians' charges in connection with treatment of , to , .

7. does not have an 'arguable defense' for denying claim. It took approximately () months from the time claim was initially reviewed by its in-house physician and denied to send claim to an independent physician for review.

8. does not have a legitimate or arguable reason for denying claim.

III. ARGUMENT

It is inconceivable that the Defendant could determine that hospital confinement was not 'medically necessary,' when had a fever of unknown origin and an injury to his/her area. Neither the Defendant's in-house consulting physician or the independent outside consulting physician ever personally examined . is family physician and was his/her attending physician when was admitted to . personally examined and knew the nature of condition and knew that he/she needed to be hospitalized, based upon his/her examination of and his/her medical opinion.

Further, the investigation made by was late, inefficient, and not properly conducted. The Court should deny any relief. The Plaintiffs are entitled to actual and punitive damages for Defendant's willful, wanton, malicious and intentional or grossly negligent acts in handling claim.

CONCLUSION

There is genuine issue of material fact, and Summary Judgment is not appropriate in this instance. The Defendant is not entitled to judgment as a matter of law, and Defendant motion should be denied and this cause should proceed to trial on its merits.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully request that the Defendant's Motion for Partial Summary Judgment be dismissed and that this cause proceed to trial on its merits and for such other and additional relief as the Court may deem proper.

RESPECTFULLY SUBMITTED, this the day of , .

and

BY: _____

OF COUNSEL:

CERTIFICATE

I, _____, attorney for Plaintiffs, do hereby certify that I have this date served via United States mail, postage prepaid, a true and correct copy of the above and foregoing Response to Defendant's Motion for Partial Summary Judgment upon:

This the _____ day of _____, _____.
