

June 24, 2021

Florida Fourth District Court of Appeal Decision Clarifies the Admissibility of Past Medical Expenses Paid by Medicare

BY: Rina Clemens, Michael D. Logan

The Fourth District Court of Appeal in Palm Beach County, Florida, in the case of *Gulfstream Park Racing Association, Inc. v. Volin*, held that the trial court erred in allowing the plaintiff to introduce evidence of the gross amount billed by medical providers instead of the discounted amount Medicare paid in full satisfaction of plaintiff's medical expenses. In that same ruling, the Court reminds us of the *Thyssenkrupp* holding, that when a provider charges for medical services or products, but then later accepts a lesser sum in full satisfaction by Medicare, the original charge becomes irrelevant because it does not tend to prove that the claimant has suffered any loss by reason of the charge.

The Court also certified the question to the Florida Supreme Court as to whether the holding in *Joerg v. State Farm Mutual Automobile Insurance Co.* prohibits the introduction of evidence of Medicare benefits in a personal injury case for purposes of a jury's consideration of future medical expenses also apply to past medical expenses.

By certifying the question to the Florida Supreme Court, and should the Florida Supreme Court consider and answer the certified question, we should have greater clarity on the admissibility of past medical expenses paid by Medicare and Medicaid in the state of Florida. For now, the *Gulfstream* case is a beneficial case for practitioners to argue that the plaintiff cannot board the gross amount a provider billed for medical treatment rendered and instead only board what Medicare paid in full satisfaction of plaintiff's medical expenses.