MEMORANDUM DECISION

APPELLANT PRO SE

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IN THE
COURT OF APPEALS OF INDIANA

W.A. Griffin, M.D.,
Appellant-Plaintiff,

v.

International Medical Group,
Appellee-Defendant.

January 3, 2022

Court of Appeals Case No. 21A-CC-1511

Appeal from the Marion Superior Court

The Honorable Kurt Eisgruber, Judge

Trial Court Cause No. 49D06-2102-CT-5018

Weissmann, Judge.

[1] W.A. Griffin, M.D., sued International Medical Group, Inc. (IMG) for breach of contract and bad faith after it refused to pay for medical services Dr. Griffin provided to a patient insured under an IMG-administered health insurance policy. On IMG's motion under Indiana Trial Rule 12(B)(6), the trial court dismissed Dr. Griffin's complaint for failure to state a claim upon which relief can be granted. Because IMG was not the patient's insurer and because Dr. Griffin's claims are based on the patient's invalid assignment of her health insurance benefits to Dr. Griffin, we affirm.

Facts

[2] Dr. Griffin is a medical provider in Atlanta, Georgia. In 2020, she provided $13,800 in medical services to a patient insured under a group health insurance policy (the Policy) issued by Sirius International Insurance Corporation (Sirius). In lieu of payment—and without Sirius' consent—the patient assigned her policy benefits to Dr. Griffin (the Assignment). Dr. Griffin, in turn, filed an insurance claim with IMG, the Policy's Indiana-based administrator. IMG denied the claim.

[3] Alleging her rights under the Assignment, Dr. Griffin sued IMG for breach of contract and bad faith. IMG responded with a motion to dismiss under Trial Rule 12(B)(6), arguing that Dr. Griffin's complaint failed to state a claim upon which relief could be granted. In pertinent part, IMG claimed the Assignment was invalid under the Policy's anti-assignment provision, which states:

> Notwithstanding any law . . . to the contrary which may be or may purport to be otherwise applicable within the jurisdiction, locale or forum state of any healthcare or medical service provider, *no transfer or assignment of any of the Insured Person's rights, benefits or interests under this insurance shall be valid, binding on or enforceable . . . unless first expressly agreed and consented to in writing by the [insurer]*.

Appellee's App. Vol. II, p. 48 (emphasis added).

[4] Without issuing findings of fact or conclusions of law, the trial court granted IMG's motion and dismissed Dr. Griffin's complaint for failure to state a claim. Dr. Griffin now appeals.

Standard of Review

[5] A motion to dismiss under Trial Rule 12(B)(6) tests the legal sufficiency of the plaintiff's claim, not the facts supporting it. *Smith v. Progressive Se. Ins. Co.*, 150 N.E.3d 192, 200 (Ind. Ct. App. 2020), *trans. denied*. Whether the complaint states a claim upon which relief can be granted is therefore a legal question that we review de novo. *Id.* When ruling on a motion to dismiss, we view the pleadings in the light most favorable to the nonmoving party, with every reasonable inference construed in the nonmovant's favor. *Id.* If the complaint states a set of facts that, even if true, would not support the requested relief, we will affirm the dismissal. *Id.*

Discussion and Decision

[6] Dr. Griffin claims her complaint stated viable claims against IMG for breach of contract and bad faith. We disagree. The Policy identifies Sirius, not IMG, as the insurer. *See* Appellee's App. Vol. II, p. 47 ("Sirius . . . agrees to provide the Insured Person with the benefits described in the Master Policy, as outlined herein[.]"). The Policy also expressly excludes contract liability against IMG:

> [IMG] acts solely as the disclosed and authorized agent and representative for and on behalf of the [Sirius], and does not have, and shall not be deemed, considered or alleged to have any, direct, indirect, joint, several, separate, individual, or independent liability, responsibility or obligation of any kind under the Master Policy, the Declaration, Riders or this Certificate to the Insured Person or to any other person or entity, including without limitation to any Physician, Hospital, Extended Care Facility, Home Health Care Agency, or any other health care or medical service provider or supplier.

Appellee's App. Vol. II, p. 70

[7] Even if IMG could be held liable under the Policy, that liability would not extend to Dr. Griffin. "Generally, only parties to a contract or those in privity with the parties have rights under the contract." *See OEC-Diasonics, Inc. v. Major*, 674 N.E.2d 1312, 1314-15 (Ind. 1996). Dr. Griffin is neither. The Policy's anti-assignment provision expressly required Sirius' written consent to the Assignment, which was not obtained. The Assignment is therefore invalid.

[8] Notwithstanding the foregoing, and despite prior adverse court rulings on the issue, Dr. Griffin claims the Policy's anti-assignment provision is unenforceable under Georgia Code § 33-24-54(a).[1] That statute provides:

> whenever an accident and sickness insurance policy, subscriber contract, or self-insured health benefit plan, by whatever name called, . . . provides that any of its benefits are payable to a [licensed] participating or preferred provider of health care services . . ., the [insurer] shall be required to pay such benefits either directly to any similarly licensed nonparticipating or nonpreferred provider who has rendered such services, has a written assignment of benefits, and has caused written notice of such assignment to be given to the [insurer] or jointly to such nonparticipating or nonpreferred provider and to the insured, subscriber, or other covered person; provided, however, that in either case *the [insurer] shall be required to send such benefit payments directly to the provider who has the written assignment*.

Ga. Code § 33-24-54(a) (emphasis added). Nothing in this statutory language supports Dr. Griffin's claim. At best, the statute recognizes the enforceability of a valid assignment of benefits, which the Assignment is not.

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[1] As the United States District Court for the Northern District of Indiana recently observed, "This is not Dr. Griffin's first rodeo." *Griffin v. Seven Corners, Inc.*, No. 4:18-CV-7-PPS, 2021 WL 3053220, at *2 (N.D. Ind. July 19, 2021) (appeal pending). In at least seven other lawsuits, she has argued that Georgia Code § 33-24-54 renders unenforceable an insurance policy's anti-assignment provision. And the United States Court of Appeals for the Eleventh Circuit has repeatedly held "the Georgia statute does not render anti-assignment provisions unenforceable." *Griffin v. Coca-Cola Enters., Inc.*, 686 F. App'x 820, 822 (11th Cir. 2017); *accord Griffin v. Habitat for Human. Int'l, Inc.*, 641 F. App'x 927, 931 n.5 (11th Cir. 2016); *Griffin v. S. Co. Servs.*, 635 F. App'x 789, 794 (11th Cir. 2015); *Griffin v. Focus Brands, Inc.*, 635 F. App'x 796, 800 (11th Cir. 2015); *Griffin v. Verizon Commc'ns, Inc.*, 641 F. App'x 869, 873 n.6 (11th Cir. 2016); *Griffin v. Gen. Mills, Inc.*, 634 F. App'x 281, 286 (11th Cir. 2015); *Griffin v. Health Sys. Mgmt., Inc.*, 635 F. App'x 768, 773 n.6 (11th Cir. 2015).

[9] Because IMG is not the Policy's insurer and because the Assignment is invalid, we affirm the trial court's dismissal of Dr. Griffin's complaint for failure to state a claim upon which relief can be granted under Trial Rule 12(B)(6).

Najam, J., and Vaidik, J., concur.