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# Recent Developments: Bishop v. State Farm Mutual Auto Insurance: The Primary Automobile Insurer Is Liable for Personal Injury Protection Benefits to a Passenger despite the Secondary Insurer's Payment of Benefits

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***Bishop v. State Farm Mutual Auto Insurance:***  
**The Primary Automobile Insurer Is Liable For Personal Injury Protection**  
**Benefits to a Passenger Despite the Secondary Insurer's Payment of Benefits**

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By Jason W. Hardman

The Court of Appeals of Maryland held that the statutory provision regulating Personal Injury Protection ("PIP") benefits requires the primary insurer for a car owner to pay PIP benefits to a passenger regardless of a secondary insurer's payment of benefits. *Bishop v. State Farm Mut. Auto Ins.*, 360 Md. 225, 757 A.2d 783 (2000). The court distinguished *Bishop* from previous decisions where it held there could be no duplicative recovery from secondarily liable insurers. In so holding, the court clarified the interpretation and application of Maryland's statutory provision regulating PIP benefits.

The petitioner, Michael D. Bishop ("Bishop"), was a passenger in an automobile owned and driven by Karen F. Scott ("Scott") and insured by the respondent, State Farm Mutual Auto Insurance ("State Farm"). *Id.* at 227, 757 A.2d at 784. While driving, Scott allegedly lost control of her vehicle and crashed. *Id.* As a result of the accident, Bishop allegedly suffered damages in excess of \$30,000 in medical bills and lost wages. *Id.* at 228, 757 A.2d at 784. The State Farm policy covering Scott's vehicle provided up to \$100,000 per person for medical expenses and \$15,000 per person for lost wages.

*Id.*

After the accident, Bishop filed a PIP claim with State Farm. *Id.* While the State Farm claim was pending, Bishop also filed a claim for PIP benefits with his own insurer, the Maryland Automobile Insurance Fund ("MAIF"). *Id.* MAIF paid Bishop \$2,500, the full amount of PIP coverage under his policy. *Id.* State Farm denied Bishop's claim three months later. *Id.*

Thereafter, Bishop filed a complaint against State Farm in the Circuit Court for Queen Anne's County, alleging that State Farm, as the primary insurer involved in the accident, wrongfully denied him PIP benefits. *Id.* However, the trial court granted State Farm's motion for summary judgment. *Id.* The court based its decision on the Maryland statutory provisions regarding PIP benefits, Article 48A, sections 539 and 543. *Id.* at 228, 757 A.2d at 784-85. Because Bishop had already received PIP benefits from MAIF, the court determined that any further recovery for PIP benefits from State Farm was barred as "duplicative or supplemental" under Article 48A, section 543(a). *Id.* at 229, 757 A.2d at 785.

On appeal, the Court of Special Appeals of Maryland affirmed

summary judgment in favor of State Farm. *Id.* However, the intermediate appellate court based its decision on an interpretation of the State Farm policy, rather than an interpretation of the statutory provisions regulating PIP benefits. *Id.* The court held that the priority provision in the State Farm policy prohibited Bishop from recovering under that policy. *Id.* Bishop then timely filed a petition for a writ of certiorari. *Id.*

The Court of Appeals of Maryland granted certiorari to determine whether Bishop was entitled to collect PIP benefits under the State Farm insurance policy despite the previous receipt of PIP benefits from his own insurer, MAIF. *Id.* at 227, 757 A.2d at 784. Initially, the court noted that the court of special appeals erred by affirming summary judgment based on its interpretation of the priority provision in State Farm's policy. *Id.* at 234, 757 A.2d at 787. The court proffered the general rule that an appellate court will review a grant of summary judgment only on the basis relied on by the trial court. *Id.* (citing *Gresser v. Anne Arundel County*, 349 Md. 542, 552, 709 A.2d 740, 745 (1998)). The court of appeals concluded that the court of special appeals should have

limited its inquiry to the trial court's interpretation and application of section 543, rather than an interpretation of State Farm's insurance policy. *Id.* at 234, 757 A.2d at 788.

In addition to the court of special appeals error in affirming summary judgment, the court of appeals determined that the trial court's interpretation and application of section 543 were likewise erroneous. *Id.* at 234, 757 A.2d at 788. The court noted that whenever there is PIP coverage under more than one insurance policy, the coordination of coverage is regulated by Article 48A, section 543 of the Maryland Code. *Id.* at 231, 757 A.2d 786. As such, the court recognized that section 543 governed the coordination of benefits under Scott's State Farm policy and Bishop's MAIF policy, and the question of primary liability. *Id.*

State Farm asserted that section 543(a) prohibited recovery of PIP benefits under more than one policy. *Id.* at 232, 757 A.2d at 787. Specifically, section 543(a) provided that, "[n]otwithstanding any other provision of this subtitle, no person shall recover benefits under the coverages described under section 539 . . . from more than one motor vehicle liability policy or insurer on either a duplicative or supplemental basis." *Id.* at 231, 757 A.2d at 786. State Farm relied on the court's interpretation of section 543 in *Travelers Ins. Co. v. Benton*, 278 Md. 542, 365 A.2d 1000 (1976).

*Id.* Since Bishop received PIP benefits under his MAIF policy, State Farm claimed that section 543(a) precluded recovery under State Farm's policy. *Id.*

Despite State Farm's argument, the court examined section 543 as a whole, including subsection (b). Section 543(b) provided, in part, "[a]s to any person injured in an accident while occupying a motor vehicle for which the coverage described under Section 539 of this subtitle is in effect . . . , the benefits shall be payable by the insurer of the motor vehicle." *Id.* at 235-36, 757 A.2d at 788. The court stated that "[t]he law always precluded collecting from both insurers . . . and required, where coverage was available from both sources, that the benefits be paid by the insurer of the vehicle involved in the accident." *Id.* at 236, 757 A.2d 789 (quoting *MAIF v. Perry*, 356 Md. 668, 676, 741 A.2d 1114, 1118 (1999)). After examining the language in section 543(b), the court concluded that the insurer of the vehicle must pay PIP benefits when a passenger in a motor vehicle is injured. *Id.* at 236, 757 A.2d at 788.

The court also distinguished fundamental differences between *Bishop* and *Travelers*. *Id.* at 236-38, 757 A.2d at 789-90. The court noted that in *Travelers*, after the recovery of PIP benefits from the primary insurers, the passenger made an effort to collect PIP benefits from the secondarily liable insurers. *Id.* (discussing *Travelers*, 278 Md. at 545-46, 365 at 1003-

4). There, the court held that there could be no duplicative recovery from the secondary insurers under Section 543. *Id.* The court in *Travelers* stated that "[w]here PIP coverage is 'in effect' on the motor vehicle involved in the accident, the insurer of that vehicle is liable for payment." *Id.* (quoting *Travelers*, 278 Md. at 545-46, 365 A.2d at 1003-4). Relying on *Travelers*, the court determined that payment of benefits by a secondarily liable insurer did not relieve a primarily liable insurer of its obligation to pay. *Id.* at 239, 757 A.2d at 791.

Since State Farm insured the vehicle that Bishop occupied when he was injured, the court found that State Farm was "the insurer of the vehicle involved in the accident." *Id.* at 239, 757 A.2d at 790. Under section 543(b), the court required State Farm to pay PIP benefits to Bishop. *Id.* at 236, 757 A.2d at 789. The court also held that State Farm's PIP payment did not result in a duplication of benefits in violation of section 543(a), because MAIF was entitled to a refund of the benefits that it paid Bishop. *Id.* Accordingly, the court held that under section 543(b), State Farm was liable for PIP benefits, and that MAIF's payment did not excuse State Farm's statutory liability. *Id.* at 238, 757 A.2d at 791.

The court of appeals decision in *Bishop* explained the proper interpretation and application of Maryland's statutory provision regulating PIP benefits. The decision permits Bishop to recover a much larger amount of PIP

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benefits under State Farm's policy. The decision should also decrease confusion between primary and secondary insurers about payment of PIP benefits to injured passengers. Most importantly, the decision should result in decreased litigation regarding PIP benefits between insurance companies and passengers.