STATE OF MICHIGAN

COURT OF APPEALS

BEAUMONT HOSPITAL TAYLOR, doing business as COREWELL HEALTH TAYLOR HOSPITAL,

Plaintiff-Appellant,

v

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED
August 17, 2026
9:25 AM

No. 375503
Wayne Circuit Court
LC No. 23-004410-NF

Before: LETICA, P.J., and O'BRIEN and REDFORD, JJ.

PER CURIAM.

Plaintiff, Beaumont Hospital Taylor, doing business as Corewell Health Taylor Hospital (Corewell) filed this lawsuit to recover nearly $900,000 in charges incurred for Hyperbaric Oxygen Therapy (HBOT) provided to DK, a minor, insured under a valid no-fault automobile insurance policy issued by defendant, State Farm Mutual Automobile Insurance Company (State Farm). Coverage is not in dispute. The only question is whether the HBOT, administered between October 2021 and November 2022 for which Corewell seeks reimbursement, is compensable under MCL 500.3107(1)(a). The trial court granted summary disposition under MCR 2.116(C)(10). Because the record presents a genuine question of material fact as to whether the HBOT is an allowable expense under MCL 500.3107(1)(a), we reverse the April 16, 2025 order and remand for further proceedings consistent with this opinion.

I. FACTS AND PROCEDURAL BACKGROUND

On July 17, 2016, eight-year-old DK was riding his bicycle when he was hit by a Ford F-150. He suffered a traumatic brain injury (TBI). A 2017 MRI "revealed tiny foci of hypointense blooming signal in the frontal lobes bilaterally (left more than right)," a finding that could be secondary to tiny spots of bleeding in the brain. Dr. Susan Smietana, D.O., a pediatric neurologist who treated DK in 2017, reported "cognitive and behavioral dysfunction and impaired attention and concentration" as a "sequela," i.e., a direct result of the TBI.

In 2019, she prescribed HBOT for DK, and it was paid for by the health insurance provider of DK's family. His case manager, Renee Braun, R.N., BSN, testified at deposition that this 2019 treatment came about because DK's mother asked Dr. Edward Dabrowski, M.D., one of DK's treating physicians, to write an order for HBOT because the mother's research indicated that HBOT was beneficial in treating TBI. According to Braun, Dr. Dabrowski "wouldn't agree to it because he said that . . . there wasn't enough supportive documentation to support that it is beneficial. So [DK's] mom went and obtained the order from the neurologist . . . Dr. Smietana instead." Progress notes from a November 19, 2020 appointment, state that the HBOT "helped with anxiety" and made DK "more alert."

The physician who administered the HBOT treatment was Dr. Bindesh Patel, M.D., a specialist in hyperbaric medicine with board certifications in undersea and hyperbaric medicine. Dr. Patel utilizes the standard of care recognized by the Undersea and Hyperbaric Medicine Society (UHMS), which according to Dr. Patel, provides "evidence based indications with regard to . . . administering hyperbaric medicine." He described HBOT as the "administration of usually 100 percent oxygen in a pressurized setting" often for a period of 90 minutes at a time. The measure of its effectiveness is often "unfortunately subjective" as providers rely on the patient's report as to whether he or she is receiving a benefit in terms of memory, concentration, and recall. However, objective measures, as identified in neuropsychological testing and school reports, are relevant as well.

Dr. Patel testified that the use of HBOT for a TBI is considered "off-label" and not currently acceptable evidence-based treatment of a TBI. The number of patients with TBI to whom he has administered HBOT are "rare, far and few between with regards to frequency." The FDA approved HBOT for treatment of several conditions, but not for TBIs. However, Dr. Patel testified that the odds of improvement with HBOT are "rather good" and "[t]here are certainly multiple case studies, as well as foreign medical data that indicate that [TBI] can benefit from the use of hyperbaric medicine, although not widely accepted here in the United States of America at this point in time." One of the "specific benefits" of HBOT is its ability to promote growth of new blood cells and "with regards to [TBI], the benefit is that they've actually healed and improved areas that have otherwise been damaged within the brain. It's a process that otherwise will stay viable and not break down in [any] sort of way." Moreover, while it would be ideal to treat a patient at or near the time of injury, it is not uncommon for a couple years to pass because of the other treatment and rehabilitative options provided to a person with a TBI.

Dr. Patel agreed that HBOT was offered to DK upon a "firm request" from DK's parent. While he did not specifically recall DK exhibiting "any outward symptoms" that would justify HBOT, he testified that previous medical records documented subjective reports of improvement after receiving treatment. He decided that HBOT would be a good option for DK because "this was something that the mother had wanted to pursue in the hopes of improving what [DK] had obtained up to that point in time."

During a May 27, 2021 office visit with Dr. Dabrowski and Braun, DK's mother again requested HBOT because DK reported difficulties with sleep. The progress notes report that DK was "having some problems with English, . . . cant [sic] comprehend his reading" and that "[s]leep has been an issue for the last couple months." She believed that the HBOT helped him sleep in

the past, and Dr. Dabrowski suggested a full neuropsychological evaluation to "then give approval for Hydro therapy."

The neuropsychological assessment was performed by Angela K. DeBastos, Ph.D., on July 15, 2021. Dr. DeBastos noted that "the majority" of DK's "skills are at or above expectation for age" and that he "demonstrated improvement in sustained attention and complex working memory, although he was still highly distractible by observation throughout the assessment" and reported difficulty with sleep. As a whole, the neuropsychological profile indicated that DK had "made substantial progress in his recovery from his [TBI]. However, he reportedly continues to exhibit challenges with self-regulation, judgment and motivation in daily life. The nature of these difficulties is particularly concerning and warrants intervention." Dr. DeBastos "strongly recommended" that individual counseling therapy "resume ASAP" and described strategies and academic accommodations to support executive functioning in daily life in her full report. During her deposition, Dr. DeBastos testified that she was not able to say whether the concerning behaviors reported by DK's mother are specific to the TBI or were typical for people of DK's age and gender. She testified that "[t]hey can be more common in patients who have had a [TBI] because their ability to evaluate the consequence is more impaired" than those who have not had this injury.

A meeting occurred on June 24, 2021, with DK's mother, DK, Braun and Dr. DeBastos. Notes from this meeting indicate that DK's mother reported that he appeared impulsive, while Dr. DeBastos reported that the psychological assessment showed "good impulse control on all tasks." DK's mother discussed her desire for DK to receive HBOT again, but Dr. Dabrowski was not willing to order it because "there is not enough supportive documentation [demonstrating that] the treatments are effective for traumatic brain injuries." According to the case notes, Dr. DeBastos "discussed she is in agreement with Dr. Dabrowski and based on [DK's] testing scores, [HBOT] would not be warranted."

At deposition, Dr. DeBastos testified that she did not recommend HBOT because she did not know anything about it and "deferred that decision to [DK's] medical provider who prescribed it." Her role as a pediatric neuropsychologist is to provide assessments and treatment recommendations to other professionals who would, ultimately, decide on the appropriate treatment. The most notable aspect of her assessment was that DK "was really struggling with maintaining focus." Testing scores demonstrated "severe" impairment in the area of attention. Dr. DeBastos refuted counsel's suggestion that most of DK's symptoms were reported by his mother. She explained that "[h]e was demonstrating them during testing as well . . . . The parent does report symptoms, but as does every parent that I see. That's why they're in my office."

At some point, DK's mother called Dr. Patel requesting additional HBOT. He testified at deposition that he reviewed the June 24, 2021 neuropsychological report and nothing in the results seemed concerning for a growing teenager or which "seemed to be absolutely necessary for [HBOT]." He ultimately recommended to proceed with HBOT to "see if there would be any added benefit."

Dr. Ateeq A. Haseeb, M.D., a board-certified pediatric neurologist based in Toledo, Ohio, signed a prescription for HBOT on November 23, 2021, which DK continued until March 2022. His office contacted Dr. Patel on November 29, 2021, with a "request that [DK] would benefit

from ongoing [HBOT] for his TBI symptoms and/or injury that is still present." Medical notes from this time indicated that Dr. Patel's office would obtain medical records for review, "[a]lthough [DK] appears to be a normal 14-year-old teenager." The notes also indicate that the office planned to request possible "HBO authorization" to be "reviewed by patient's medical insurance and on behalf of family request." The note indicated that DK and his family were made aware that DK does "not having an indication that currently meets the UHMS criteria and/or currently treatable diagnosis." Dr. Patel explained this note during deposition as follows:

> [DK's] mother really was pushing for [HBOT], and I was just letting her know that TBI, even though there has been documented improvement, it's not currently an acceptable indication with regards to the governing board of UHMS that provides evidenced based review of indications that would benefit from [HBOT].

Dr. Patel "strongly believe[d]" that DK "benefitted from the first go-around" of HBOT in 2019 and that "[t]here may have been some small gain the second, perhaps halfway through." However, once Dr. Haseeb became involved, Dr. Patel himself questioned the benefit. He could not find any measurable gain after this point.

DK's first meeting with Dr. Haseeb occurred on November 18, 2021, shortly before the prescription for the 2021 HBOT was signed. DK's mother "expressed interest for continuation of the [HBOT]" because she had seen improvements in DK when he received HBOT in the past. Dr. Haseeb did a "big literature search" and found evidence demonstrating that HBOT helps with "reducing mortality and incidence of coma," but the articles did not discuss long-term effects. Dr. Haseeb testified that this is an area for further research and, in fact, he cited one hospital that approved a multi-million dollar grant to look into HBOT. While HBOT has "shown to be promising," it is "still experimental" for the treatment of TBIs, and he agreed that it was "off-label," which means that it has been "shown to be promising, but more data is required." When a treatment is off-label, there is no requirement for a follow-up evaluation. Dr. Haseeb testified that if he was "getting a report that [HBOT] is helping," he would continue treatment.

Dr. Haseeb testified that the HBOT was "reasonable and necessary" to treat DK's TBI. He testified that while he made an independent decision as to the need to treat DK's TBI using HBOT, he did not consider other potential therapies because DK's mother asked for HBOT and reported that HBOT worked in the past. His treatment approach was that "if something is working, let's continue that." He did not observe any behavioral concerns from DK. Dr. Haseeb relied on the radiologist's report comparing a 2018 MRI to a 2022 MRI, which reported improvement and led him to conclude that HBOT was "probably" helping. When defendant's counsel asked about a report from an MRI conducted in 2016 after the accident, Dr. Haseeb acknowledged that this report did not show physical injury to the brain; however, this does not necessarily mean that the accident did not result in physical damage to his brain because certain injuries are not evident in the acute phase. Dr. Haseeb agreed with counsel that there was a chance that HBOT helped, but there was largely no objective evidence. Either DK or his mother reported improvements in anxiety, attention, impulsivity, and difficulty sleeping through the conclusion of HBOT in March 2022.

Medical notes drafted at the time of Dr. Haseeb's treatment protocol were consistent with his deposition testimony. Progress notes from January 19, 2022, and March 24, 2022, document that DK's mother reported that he had made significant improvement after treatment. The

March 24 note referenced the conclusion of HBOT just in the last week and reported that DK's mother "feels there has been a huge improvement" in terms of less anxiety and sleep. Similarly, a May 25, 2022 progress note stated that DK's mother reported that his "behavior continue[d] to improve by 80%." She also reported that DK "has shown an overall improvement with the [HBOT]" and that she felt HBOT "helped significantly with his anxiety and PTSD." This progress note also referenced an MRI from May 2022, which showed possible improvement when compared to a 2018 MRI "also per Radiology report." When DK and his mother requested a third round of treatment on May 25, 2022, Dr. Haseeb agreed. DK's third and final series of HBOT began in July 2022, and continued through November 11, 2022, and the charge for this treatment totaled $899,690.

State Farm issued a no-fault automobile insurance policy to DK's father which was in effect at the time of the accident which obligated it to pay benefits provided under MCL 500.3105. State Farm made a partial payment of $8,233.28 for some dates of service in an attempt to demonstrate good faith, but maintains that DK's health insurance policy is primary and that the charges for HBOT were not compensable under MCL 500.3107.

Corewell filed suit on April 7, 2023, seeking to collect $899,690 for the HBOT administered in 2021 and 2022. State Farm sought summary disposition, and after extensive briefing by all parties, the circuit court held a hearing on February 28, 2025. The circuit court granted summary disposition, noting that "State Farm points out that this kind of therapy is not approved for [TBI], so the Court's going to grant the motion." The April 16, 2025 order granted summary disposition, finding that the "hyperbaric oxygen therapy in question is experimental for the treatment for which Plaintiff claims" as well as the "reasons set forth on the record at oral argument." This appeal follows.

II. ANALYSIS

A. STANDARD OF REVIEW

A motion requesting summary disposition under MCR 2.116(C)(10) "tests the *factual sufficiency* of a claim." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159-160; 934 NW2d 665 (2019). Summary disposition under MCR 2.116(C)(10) may be granted only if "there is no genuine issue of material fact." *Id.* The court reviews "affidavits, pleadings, depositions, admissions, and documentary evidence . . . in the light most favorable to the party opposing the motion" to determine if the record "leaves open an issue upon which reasonable minds might differ." *Quinto v Cross & Peters Co*, 451 Mich 358, 362-363; 547 NW2d 314 (1996); *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003). In this case, the initial burden was on State Farm to support its position through documentary evidence and, then, the burden shifted to Corewell to "by documentary evidence, set forth specific facts showing that there is a genuine issue for trial." *Neubacher v Globe Furniture Rentals, Inc*, 205 Mich App 418, 420; 522 NW2d 335 (1994).

B. STATE FARM'S LIABILITY UNDER MCL 500.3107(1)(a)

For purposes of this appeal, coverage is not at issue. Neither party disputes that State Farm is liable for personal protection insurance benefits described in Michigan's No-Fault Act including

the allowable expenses described in MCL 500.3107 because of an insurance policy held by DK's father at the time of the accident. The question presented here is whether the HBOT administered to DK in 2021 and 2022 qualifies as an allowable expense under MCL 500.3107(1)(a).

1. PRINCIPLES OF STATUTORY CONSTRUCTION

To answer this question, we engage the well-known principles of statutory construction. The Court's "primary task . . . is to discern and give effect to the intent of the Legislature." *Ford Motor Co v Dep't of Treasury*, 496 Mich 382, 389; 852 NW2d 786 (2014), quoting *Sun Valley Foods Co v Ward*, 460 Mich 230, 236; 596 NW2d 119 (1999). We begin by examining the statutory language itself, which provides the most reliable evidence of the Legislature's intent. *People v Flick*, 487 Mich 1, 10-11; 790 NW2d 295 (2010). "The Legislature is presumed to have intended the meaning it has plainly expressed" and, "[u]nless defined in the statute, every word or phrase of a statute will be ascribed its plain and ordinary meaning." *Robertson v Daimler Chrysler Corp*, 465 Mich 732, 748; 641 NW2d 567 (2002).

2. ELEMENTS FOR RECOVERY UNDER MCL 500.3107(1)(a)

The pertinent statutory language is plain and unambiguous. MCL 500.3107(1)(a) requires personal protection insurance benefits be payable for "[a]llowable expenses consisting of reasonable charges incurred for reasonably necessary products, services and accommodations for [DK's] care, recovery or rehabilitation." MCL 500.3107(1)(a). Both the reasonableness of the charge and a finding that it is reasonably necessary for the care, recovery, or rehabilitation of injuries suffered in an automobile accident are "explicit and necessary elements of a claimant's recovery." *Nasser v Auto Club Ins Ass'n*, 435 Mich 33, 49; 457 NW2d 637 (1990). The determination of whether a service is reasonably necessary for DK's care, recovery, or rehabilitation must not be based "merely on the subjective perception that a service is necessary for [DK's] care, recovery, or rehabilitation. Rather the term 'reasonably' must be determined under an objective perspective." *Krohn v Home-Owners Ins Co*, 490 Mich 145, 159-160; 802 NW2d 281 (2011) (citations omitted). "Care, recovery, and rehabilitation" have been defined by our Supreme Court. *Admire v Auto-Owners Ins Co*, 494 Mich 10, 20-21; 831 NW2d 849 (2013). " '[C]are' can be broadly construed to encompass *anything* to reasonably necessary to the provision of a person's protection or charge." *Id.* at 20 (citation omitted). "Recovery" is defined as "restoration or return to any former and better condition [especially] to health from sickness, injury, addiction, etc." and "rehabilitate" is defined as "to restore or bring to a condition of good health, ability to work, or productive activity." *Id.* at 20 (citation omitted).

Corewell, therefore, bears the burden of demonstrating that the HBOT administered to DK in response to the 2016 automobile accident satisfies this standard. *Nelson v Detroit Auto Inter-Ins Exch*, 137 Mich App 226, 231; 359 NW2d 536 (1984). Moreover, the question of whether HBOT is reasonably necessary for the care, recovery, or rehabilitation of DK's TBI must be addressed through an objective standard, and it cannot be based solely on DK's or his mother's subjective reporting as to the treatment's efficacy. *Krohn*, 490 Mich at 158-159. "Where a plaintiff is unable to show that a particular, reasonable expense has been incurred for a reasonably necessary product and service, there can be no finding of a breach of the insurer's duty to pay that expense, and thus no finding of liability with respect to that expense." *Nasser*, 435 Mich at 50.

3. THE RECORD PRESENTS GENUINE QUESTIONS OF MATERIAL FACT PREVENTING SUMMARY DISPOSITION IN EITHER PARTY'S FAVOR UNDER MCR 2.116(C)(10)

In this case, the circuit court granted summary disposition in State Farm's favor because it determined that HBOT is an experimental treatment for a TBI and that it was not FDA-approved. Neither factor is dispositive in and of itself. As our Supreme Court explained in *Krohn*, 490 Mich at 163-164, a service is compensable under MCL 500.3107(1)(a) if it is "(1) objectively reasonable and (2) necessary for an insured's care, recovery, or rehabilitation." This is true regardless of whether it is an experimental procedure. As the Supreme Court explained, "MCL 500.3107(1)(a) does not require that medical treatment be shown to have gained general acceptance within the medical community" but, rather, an insured must present "objective and verifiable evidence that an experimental procedure is efficacious." *Id*. at 165-166.

Neither the transcript from the February 2025 hearing nor the April 16, 2025 order indicates the trial court carried out this analysis. When viewed in a light most favorable to Corewell, our review of the record finds the nonmoving party, presents a material question of fact as to whether the HBOT administered in 2021 to 2022 was both reasonable and necessary for the care, recovery, and rehabilitation of DK's TBI suffered in 2016.

First, the record leaves open the question as to whether the efficacy of HBOT for a TBI is supported by objective and verifiable scientific reports. While Dr. Dabrowski apparently found insufficient basis to prescribe this himself, Dr. Patel and Dr. Haseeb both testified about literature reviews and scientific studies supporting the use of HBOT for TBIs. Dr. Patel, in particular, testified about "multiple case studies" and "foreign medical data" supporting the use of HBOT to treat TBIs. He also explained that HBOT has a demonstrated "ability to promote growth of new blood cells," including in parts of the brain that have been damaged.

The record also leaves open a question as to whether HBOT was effective in DK's care, recovery, or rehabilitation as determined with objective measurements. Among other things, medical progress notes document that DK's anxiety, sleep, attention difficulties, and other concerns were symptoms of his TBI and, also, that HBOT assisted with the care, recovery, or rehabilitation of them. Moreover, MRI reports near the time of the accident indicated some physical injury of the brain that may have resulted from the 2016 accident. Subsequent MRIs arguably demonstrate some improvement after DK completed several series of HBOT.

Finally, DK's reported anxiety, behavioral challenges, and sleep difficulties are more than self-reported feelings that HBOT improved. Medical professionals recognized these as symptoms or conditions of his TBI in medical records both before and after DK received any HBOT. Dr. DeBastos, who conducted the 2021 psychological evaluation, testified at deposition that some of the cognitive or behavioral difficulties that DK reported, and which she witnessed during the 2021 psychological evaluation, could be attributable to his TBI. In addition, Dr. Haseeb testified about a professional practice of relying on reports from his patients as to improvements in cognitive and behavioral challenges such as these in determining whether HBOT is effective. Moreover, Dr. DeBastos testified that it was appropriate for them to rely on DK's mother's reports of his symptoms and their improvement. While precedent prohibits courts from relying solely on the insured's subjective reports, it does not prohibit it entirely; and in this case, it is unclear how one

could accurately measure whether a procedure helped in DK's care, recovery, or rehabilitation from his TBI without considering his reports of improvement in these areas.

Simply put, a review of the record in the light most favorable to Corewell, as the nonmoving party, reveals a genuine question of fact as to whether HBOT was both reasonable and necessary for DK's care, recovery, and rehabilitation from the TBI resulting from a 2016 accident.

Further, summary disposition is not warranted in Corewell's favor because the record leaves open multiple questions of fact as to this, as well. Specifically, at least one treating physician declined to order HBOT because he did not find support for its use for TBIs, and Dr. Patel at least testified that he had a question whether the HBOT administered in 2021 and 2022 was reasonably necessary. Dr. Patel also testified that this treatment is not widely accepted within the United States, and there is no dispute that it is "off-label" and perhaps "experimental."

We simply find that these are questions for the trier of fact. The circuit court erred in granting summary disposition in State Farm's favor under MCR 2.116(C)(10).

We reverse the circuit court's April 2025 opinion and order and remand this matter for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Anica Letica
/s/ Colleen A. O'Brien
/s/ James Robert Redford