SUPREME COURT OF NEW JERSEY
Docket No. 090337

ALLSTATE NEW JERSEY INSURANCE COMPANY, ALLSTATE NEW JERSEY PROPERTY and CASUALTY INSURANCE COMPANY, ALLSTATE INSURANCE COMPANY, ALLSTATE FIRE & CASUALTY INSURANCE COMPANY, ALLSTATE NORTHBROOK INDEMNITY COMPANY, and ALLSTATE PROPERTY AND CASUALTY INSURANCE COMPANY,

Plaintiffs-Respondents,

v.

CARTERET COMPREHENSIVE MEDICAL CARE, P.C., d/b/a MONROE COMPREHENSIVE MEDICAL CARE, d/b/a COMPREHENSIVE MEDICAL CARE, d/b/a FASSST SPORT, d/b/a COMPREHENSIVE VEIN CARE, INIMEG MANAGEMENT COMPANY, INC., 311 SPOTSWOOD-ENGLISHTOWN ROAD REALTY, L.L.C., 72 ROUTE 27 REALTY, L.L.C., SAME DAYPROCEDURES, L.L.C., MID-STATE ANESTHESIA CONSULTANTS, L.L.C., NORTH JERSEY PERIOPERATIVE CONSULTANTS, P.A., INTERVENTIONAL PAIN CONSULTANTS OF NORTH

Civil Action

ON PETITION FOR CERTIFICATION FROM:

Superior Court of New Jersey
Appellate Division
Docket No. A-778-23

Sat Below:

HON. ROBERT J. GILSON, J.A.D.
HON. LISA A. FIRKO, J.A.D.
HON. AVIS BISHOP-THOMPSON, J.A.D.

JERSEY, L.L.C., d/b/a PAIN MANAGEMENT PHYSICIANS OF NEW JERSEY, d/b/a METRO PAIN CENTERS, d/b/a METRO PAIN and VEIN, SOOD MEDICAL PRACTICE, L.L.C., ONE OAK MEDICAL GROUP, L.L.C., d/b/a NEW JERSEY VEIN TREATMENT CLINIC, ONE OAK ORTHOPAEDIC & SPINE GROUP, L.L.C., ONE OAK HOLDING, L.L.C., JOSEPH BUFANO, JR., D.C., CHRISTOPHER BUFANO, MICAH LIEBERMAN, D.C., RICHARD J. MILLS, M.D., JENNIFER M. O'BRIEN, ESQ., GERALD M. VERNON, D.O., D.C., ALVIN F. MICABALO, D.O., JOSE CAMPOS, M.D., JOHN S. CHO, M.D., MICHAEL C. DOBROW, D.O., RAHUL SOOD, D.O., SACHIN SHAH, M.D., FAISAL MAHMOOD, M.D., RAVI K. VENKATARAMAN, M.D., MANGLAM NARAYANAN, M.D., SHANTI EPPANAPALLY, M.D.,

Defendants-Appellants.

PLAINTIFFS-RESPONDENTS' SUPPLEMENTAL BRIEF

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Plaintiffs-Respondents (Plaintiffs) respectfully rely in support of affirmance on their briefs to the Appellate Division and this supplemental brief.

PRELIMINARY STATEMENT

This case concerns the intersection of separate statutory regimes, one created to root out insurance fraud by authorizing insurers to sue, and the other created to permit efficient resolution of small-denomination benefit disputes between automobile insurers and covered individuals or their medical providers. The Appellate Division correctly held that mandatory alternative dispute resolution under the Automobile Insurance Cost Reduction Act of 1998 (AICRA) does not apply to insurers' affirmative fraud claims under the Insurance Fraud Prevention Act of 1983 (the IFPA).

For more than forty years, insurers have employed the IFPA's right to sue and robust remedies to further their mandated role in combatting insurance fraud in this State. Those actions offer the full panoply of judicial rights and procedures, including a jury trial, complete discovery under the Rules of Court, the ability to join all necessary parties as defendants, and the right of the State to intervene to protect the public. Insurers bring IFPA actions, often (as in this case) along with anti-racketeering (RICO) and common-law claims, to enjoin future fraudulent acts by the defendants, to deter fraud by others, and to obtain damages. And IFPA cases often (again, as in this case) involve allegations of

yearslong, complex fraud conspiracies involving medical providers, attorneys, and businesspeople. If an insurer prevails, the IFPA requires the court to award compensatory damages, including attorneys' fees, costs of investigation, and costs of suit, all of which are trebled for a pattern of violations.

For nearly thirty years, insurers and individuals injured in automobile accidents or their assignee medical providers have resolved tens of thousands of disputes concerning whether the insurers must pay no-fault insurance benefits (PIP benefits) through AICRA's streamlined and informal dispute resolution that is sometimes called "PIP Arbitration," likely because, until AICRA, PIP disputes were resolved in a specialized form of arbitration before the American Arbitration Association (AAA). Automobile insurers must offer PIP benefits in New Jersey and resolve benefit claims within 105 days. Disputes about whether an insurer owes PIP benefits under a policy must be submitted to PIP Arbitration at the request of the insurer, a covered person, or an assignee medical provider.

Unlike contractual arbitration, the rules and scope of PIP Arbitration are not governed by the parties' agreement but by AICRA and the implementing regulations promulgated by the Department of Banking and Insurance (DOBI). As DOBI has explained in its amicus briefs, PIP Arbitration is a one-way street: dispute resolution professionals (which is what PIP "arbitrators" are called) can award successful claimants PIP benefits and attorneys' fees, but they cannot

award insurers any remedies. Moreover, discovery is limited to information relating to the medical treatment and condition of the injured individuals; only the covered individual, the medical-provider assignee, and the insurer can be parties; and separate PIP Arbitrations must be filed for each accident. PIP Arbitration awards are subject to limited judicial review, not a trial de novo.

Those two systems—suits in the Law Division to remedy insurance fraud and PIP Arbitration to resolve PIP payment disputes—have long coexisted and served their separate purposes. Recently, however, some courts, including the trial court in this case and the U.S. Court of Appeals for the Third Circuit, have interpreted AICRA to allow defendants to elect PIP Arbitration of insurers' affirmative fraud claims. The Appellate Division in this case corrected those courts' mistakes. The statutory text read in context of the surrounding provisions and the applicable canons of interpretation point to a clear conclusion: AICRA does not deprive insurers of the right to sue for fraud. If it did, AICRA would violate the constitutional right to a jury trial, enfeeble efforts to prevent and remedy PIP-related insurance fraud, and require DOBI to scrap the dispute system that has been in place for decades. This Court should affirm.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

With the following addition, Plaintiffs incorporate by reference the statement of facts and procedural history in their Appellate Division brief. See

Pb4-16.[1] The Appellate Division reversed the Law Division's order compelling PIP Arbitration of Plaintiffs' claims. See Allstate N.J. Ins. Co. v. Carteret Comprehensive Med. Care, P.C., 480 N.J. Super. 566 (App. Div. 2025).

ARGUMENT

Applying de novo review of the issues of law raised on this appeal, see Isaac v. Bd. of Trs., Police & Firemen's Ret. Sys., 261 N.J. 381, 388 (2025), this Court should affirm the Appellate Division's judgment because Plaintiffs' claims are not subject to PIP Arbitration under AICRA or Plaintiffs' Decision Point Review Plan (DPR Plan).

I. Plaintiffs' claims are not subject to PIP Arbitration under AICRA.

The Appellate Division correctly held that AICRA's PIP Arbitration provisions do not apply to affirmative fraud claims such as those asserted here. As explained below, the text of AICRA's PIP Arbitration provisions, read in the context of the related statutory provisions, makes clear that it applies to disputes between an insurer and a covered individual or assignee about whether the

[1] "Pb" refers to Plaintiffs' Appellate Division brief. "Pa" refers to Plaintiffs' Appellate Division appendix. "Prb" refers to Plaintiffs' Appellate Division reply brief. "PSb" refers to Plaintiffs' Appellate Division response to the opposing amicus curiae brief. "PSCa" refers to Plaintiffs' Supreme Court appendix submitted with this brief. "DOBI App. Div. Br." refers to the Appellate Division amicus brief submitted by DOBI and the Office of the Insurance Fraud Prosecutor (OIFP) dated July 25, 2024. "DOBI Cert. Opp. Br." refers to DOBI/OIFP's February 25, 2025, letter brief in opposition to the petition for certification.

insurer must pay PIP benefits, not to insurers' affirmative fraud claims. See infra Point I.A. Applying relevant canons of interpretation confirms that conclusion. See infra Point I.B.

A. AICRA's statutory text, read in the context of the overall statutory scheme, demonstrates that Plaintiffs' claims are not subject to PIP Arbitration.

When interpreting statutes, this Court "ascribe[s] to the statutory words their ordinary meaning and significance and read[s] them in context with related provisions so as to give sense to the legislation as a whole." Musker v. Suuchi, Inc., 260 N.J. 178, 185 (2025) (internal quotation marks omitted); see also State v. Cromedy, 261 N.J. 421, 431 (2025) (holding that the meaning of a statutory provision "is informed by a review of neighboring subsections"). "[T]echnical terms, terms of art, and terms with existing legal meanings . . . are understood to have been used [by the Legislature] in accordance with those meanings." Verizon N.J., Inc. v. Borough of Hopewell, 258 N.J. 255, 257 (2024) (alterations in original) (internal quotation marks omitted).

Here, statutory interpretation begins with the words in AICRA's PIP Arbitration provisions, placed in context with the neighboring statutory provisions. AICRA amended the no-fault laws to state: "Any dispute regarding the recovery of medical expense benefits or other benefits provided under personal injury protection coverage . . . arising out of the operation, ownership,

maintenance or use of an automobile may be submitted to dispute resolution on the initiative of any party to the dispute." N.J.S.A. 39:6A-5.1(a).

The phrase "recovery of [PIP] benefits" must be read in light of its meaning in the insurance field. See Verizon, 258 N.J. at 257. Disputes about the recovery of insurance benefits concern "how much money should the insured receive from the insurer." 11A Couch on Ins. § 168:1 (3d ed. 1995); see also Ochs v. Fed. Ins. Co., 90 N.J. 108, 114 (1982) (stating that "a suit to recover PIP benefits seeks essentially a declaration of [the insurer's] liability"); Dukes v. U.S. Healthcare, Inc., 57 F.3d 350, 357 (3d Cir. 1995) (holding that malpractice claims are not claims "to recover benefits" due under ERISA plan because that phrase "is concerned exclusively with whether or not the benefits due under the plan were actually provided"); Craig & Pomeroy, N.J. Auto Ins. Law § 10:1 (2024) (stating that PIP Arbitration covers "[d]isputes between an insurer and a claimant as to whether or not benefits are due under the PIP statute"). That is also how the Legislature has used the phrase recovery of benefits in other statutes. See, e.g., N.J.S.A. 39:6A-4.2 ("No person shall recover personal injury protection benefits under more than one automobile insurance policy for injuries sustained in any one accident."). And this Court has held that claims for the recovery of insurance benefits do not include tort

claims "[b]ecause money damages based on tort claims are not 'benefits.'" Rodriguez v. Shelbourne Spring, LLC, 259 N.J. 385, 400 (2024).

Thus, disputes regarding the recovery of PIP benefits are disputes regarding whether the insurer must pay the insured or an assignee under a no-fault policy. Disputes about whether an insurer is entitled to money damages and other remedies are not, because such tort claims are not seeking "benefits."

The neighboring provisions in the no-fault statutes, as amended by AICRA, confirm that interpretation. AICRA is primarily concerned with the timely and proper payment of PIP benefits, while remedying insurance fraud is the province of the IFPA and other remedial statutes. The trial court and Third Circuit based their interpretations exclusively on the PIP Arbitration provision in section 5.1(a) without placing that provision in its statutory context. See Pa6, Pa13-14; Gov't Emps. Ins. Co. v. Mount Prospect Chiropractic Ctr., P.A., 98 F.4th 463, 469-70 (3d Cir. 2024). But even if the literal language of section 5.1(a) could be interpreted to encompass insurers' affirmative fraud claims, "[w]hen a literal interpretation of individual statutory terms or provisions would lead to results inconsistent with the overall purpose of the statute, that interpretation should be rejected." Sanjuan v. Sch. Dist. of W. New York, 256 N.J. 369, 379 (2024) (internal quotation marks omitted).

The PIP Arbitration provision is found in Chapter 6A of Title 39, which is titled "Compulsory Automobile Liability Insurance—No Fault Provisions." PIP Arbitration under section 5.1 of Chapter 6A is the last step in a process to determine whether PIP benefits are payable. Section 1.1 of Chapter 6A sets out the Legislature's purposes in enacting AICRA. The Legislature declared that "[t]he present arbitration system has not sufficiently addressed the . . . goal of eliminating payment for treatments and diagnostic tests which are not medically necessary, leading to the belief that a revised dispute resolution mechanism needs to be established which will accomplish this goal." N.J.S.A. 39:6A-1.1. AICRA was therefore intended to "provide[] for cost containment of medical expense benefits through a revised dispute resolution proceeding." Ibid. AICRA also "more precisely define[s] the benefits available under the medical expense benefits coverage, and establishes standard treatment and diagnostic procedures against which the medical necessity of treatments reimbursable under medical expense benefits coverage would be judged." Ibid.

Thus, the Legislature intended AICRA's PIP Arbitration system to better advance the goal of "cost containment," which was also furthered by AICRA's standardization of treatments subject to reimbursement. The only mention of fraud in the statutory purposes is the Legislature's conclusion that "greater consolidation of agencies which were created to combat fraud is necessary" "to

aggressively combat fraud." Ibid. Accordingly, AICRA amended the IFPA to create the OIFP. See L. 1998, c. 21, § 32 (codified at N.J.S.A. 17:33A-16). It would be inconsistent with the Legislature's stated purposes to interpret AICRA to remove insurers' ability to fight fraud through lawsuits under the IFPA and RICO. See State v. Gomes, 253 N.J. 6, 33 (2023) (interpreting statute consistent with the Legislature's statutory findings).

The other no-fault provisions, as amended by AICRA, reflect that the Legislature intended PIP Arbitration to resolve benefit payment disputes, not affirmative fraud claims by insurers. Section 4 requires standard automobile insurance policies after AICRA's effective date to provide PIP benefits to the named insured, family members injured in an automobile accident, and others injured while in or using an insured's vehicle. N.J.S.A. 39:6A-4. Section 4 also defines what benefits must be provided. N.J.S.A 39:6A-4(a).

Section 4.6 requires DOBI's Commissioner to promulgate medical fee schedules for "reimbursement of health care providers providing services or equipment for medical expense benefits for which payment is to be made by an automobile insurer under [PIP] coverage." N.J.S.A. 39:6A-4.6(a). Providers may not bill more than permitted under the fee schedule. N.J.S.A. 39:6A-4.6(c).

Section 4.7 requires professional licensing boards to promulgate "a list of valid diagnostic tests to be used in conjunction with the appropriate health care

protocols in the treatment of persons sustaining bodily injury." N.J.S.A. 39:6A-4.7. Thus, section 4.7 requires administrative guidance on the diagnostic tests that PIP benefits cover.

Section 5 contains important provisions. It is titled "Payment of personal injury protection coverage benefits." N.J.S.A. 39:6A-5 (emphasis added). Section 5(a) requires prompt notice by a healthcare provider that treatment is subject to a claim for PIP benefits. N.J.S.A. 39:6A-5(a). Section 5(g) provides that benefits "shall be overdue if not paid within 60 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same." N.J.S.A. 39:6A-5(g). The insurer can extend the time to resolve a claim for up to an additional 45 days. Ibid.

Thus, an insurer has a maximum of 105 days to pay or deny a claim for PIP benefits. Insurers owe the claimant interest on overdue payments. N.J.S.A. 39:6A-5(h). Insurers could not possibly discover a complex fraudulent scheme like the one alleged in this case within 105 days. Indeed, it took an extensive investigation and cooperating witnesses to uncover the facts giving rise to Plaintiffs' claims. See Pb9-10.

Section 5(i) requires insurers to "provide any claimant with the option of submitting a dispute under this section to dispute resolution pursuant to" sections 5.1 and 5.2. N.J.S.A. 39:6A-5(i) (emphasis added). The obligation to

provide a claimant with the opportunity to submit a dispute "under this section" to PIP Arbitration has been included in the no-fault statutes since 1983. See L. 1983, c. 362, § 8.[2]

Section 5 is critical to understanding the scope of PIP Arbitration because it defines when PIP benefits are "overdue" and requires—as it has since 1983—insurers to permit claimants to submit payment disputes "under" section 5 to PIP Arbitration. There is no mention in section 5 of an insurer seeking or obtaining damages, and we are not aware of any case since 1983 noting that an insurer obtained damages in a PIP Arbitration. Rather, PIP Arbitration is and always has been focused on whether a claimant is entitled to recover benefits under a policy.

The other subsections in section 5.1 underscore the limited scope of PIP Arbitration. The Legislature instructed DOBI's Commissioner to select an organization to administer "dispute resolution proceedings regarding medical expense benefits." N.J.S.A. 39:6A-5.1(b). The issues that can be considered in such proceedings include: (1) interpretation of the insurance contract; (2) whether the treatment is consistent with the required scope of PIP benefits under

[2] From 1983 until AICRA's enactment in 1998, section 5 required insurers to provide the option of "arbitration" before the AAA, see L. 1983, c. 362, § 8, which might be the origins of the term "PIP Arbitration," even though AICRA substituted the phrase "dispute resolution" for "arbitration."

other provisions of the no-fault laws or the terms of the policy; (3) the treatment's eligibility for compensation; (4) the provider's eligibility for compensation under the terms of the policy or under DOBI regulations; (5) whether the disputed medical treatment was actually performed; (6) whether any diagnostic tests are recognized by DOBI; (7) the necessity or appropriateness of consultations by other healthcare providers; (8) application of and adherence to the fee schedules; and (9) whether the treatment performed is reasonable, necessary, and compatible with treatment protocols established elsewhere in the no-fault laws. N.J.S.A. 39:6A-5.1(c). All those issues are relevant to whether an insured or assignee may recover (or be paid) benefits by an insurer. If PIP Arbitration could resolve affirmative claims by insurers, there would be references to such claims and insurers' remedies in section 5.1, but there are not.

Section 5.1(d) provides that dispute resolution professionals shall refer issues relating to "diagnosis, the medical necessity of the treatment or diagnostic test administered to the injured person, whether the injury is causally related to the insured event or is the product of a preexisting condition, or disputes as to the appropriateness of the protocols utilized by the provider to" a medical review organization for a determination. N.J.S.A. 39:6A-5.1(d). Once again, the focus is on whether an insurer is required to compensate a provider for treatment.

Section 5.1(e) states that a person "may submit [to PIP Arbitration] for review all or a portion of a disputed treatment or treatments or a dispute regarding a diagnostic test or tests or a dispute regarding the providing of services or durable medical goods." N.J.S.A. 39:6A-5.1(e). In addition, "[a]ny portion of a treatment or diagnostic test or service which is not under review shall be reimbursed in accordance with" section 5. Ibid. If the proceeding "results in a determination that all or part of a treatment or treatments, diagnostic test or tests or service performed, or durable medical goods provided are medically necessary and appropriate, reimbursement shall be made with interest payable in accordance with" section 5. Ibid.

Thus, Section 5.1(e) also makes clear that the Legislature was concerned with disputes about whether PIP benefits are due. The only remedies provided are reimbursement to the claimant and interest. Indeed, the Appellate Division has interpreted the statutes to limit the remedies available in PIP Arbitration to reimbursement, interest, and attorneys' fees, to claimants only; "if the insurance carrier is successful [in PIP Arbitration], there is no 'award.'" N.J. Coal. of Health Care Providers, Inc. v. DOBI, 323 N.J. Super. 207, 262 (App. Div. 1999), certif. denied, 162 N.J. 485 (1999).

Section 5.2 governs the medical review organizations to which dispute resolution professionals refer treatment-related questions. DOBI's

Commissioner must promulgate standards and oversee the selection of such organizations. See N.J.S.A. 39:6A-5.2.

Finally, section 13 provides that insurers have the right to specified discovery relating to a PIP claimant: information regarding lost wages due to the automobile accident; records regarding the injured person's history, condition, treatment dates, and costs of treatment; and an independent examination by a licensed medical professional of the injured person. See N.J.S.A. 39:6A-13(a)-(e). An insurer can obtain an order under section 13(g) enforcing its right to that discovery. See N.J.S.A. 39:6A-13(g). This Court has held that "[t]he Legislature set clear parameters on the scope of permissible PIP discovery under N.J.S.A. 39:6A-13," Selective Ins. Co. of Am. v. Hudson E. Pain Mgmt. Osteopathic Med., 210 N.J. 597, 609 (2012), and thus "in PIP arbitrations, N.J.S.A. 39:6A-13(g) limits the exchange of discovery to information concerning a patient's 'history, condition, treatment, dates and cost of such treatment' and the scope of this cannot be expanded," In re N.J. Healthcare Coal., Order No. A12-114, 2012 WL 6653982, at *10 (DOBI Nov. 23, 2012) (PSCa8).

That detailed and reticulated statutory scheme, of which section 5.1(a) is a part, does not once mention insurers' right to remedies for insurance fraud or any affirmative claims by insurers. Instead, the scheme is focused on what

benefits an insurer must provide and efficiently resolving disputes concerning the payment of those benefits in a manner consistent with the Legislature's goal of containing costs for unnecessary medical treatment. As this Court has said, "[t]he goal of PIP is to provide prompt medical treatment for those who have been injured in automobile accidents without having that treatment delayed because of payment disputes." Hudson E., 210 N.J. at 609 (emphasis added).

B. Applying canons of statutory interpretation confirms that Plaintiffs' claims are not subject to PIP Arbitration.

Application of the relevant canons of statutory interpretation was extensively covered in Plaintiffs' Appellate Division briefs. See Pb16-49; Prb1-13. Plaintiffs incorporate, and highlight certain aspects of, those arguments here.

1. The Appellate Division's interpretation avoids rendering AICRA unconstitutional in violation of the right to a jury trial on damages claims.

Interpreting AICRA to require PIP Arbitration of insurers' fraud claims for damages would violate the right to a jury trial. See N.J. Const. art. I, ¶ 9. The Appellate Division correctly avoided that result because courts have a "duty to interpret a statute to avoid running afoul of constitutional protections." DeSimone v. Springpoint Senior Living, Inc., 256 N.J. 172, 187 (2024); see also Whirlpool Props., Inc. v. Dir., Div. of Tax'n, 208 N.J. 141, 151 (2011) ("A court is duty-bound to give to a statute a construction that will support its constitutionality.").

Two of this Court's precedents make clear that PIP Arbitration could not constitutionally apply to insurers' fraud claims such as those in this case. First, parties have a constitutional right to a jury trial on IFPA claims seeking damages. Allstate N.J. Ins. Co. v. Lajara, 222 N.J. 129, 134-35 (2015). The Court explained in Lajara: "[T]he right to a jury trial under Article I, Paragraph 9 of the New Jersey Constitution is triggered because the IFPA provides legal relief in the form of compensatory and punitive damages and because an IFPA claim is comparable to common-law fraud." Id. at 151. It is notable that Lajara, like this case, involved claims that the defendants fraudulently obtained PIP benefits. See id. at 135. The Court's reasoning also applies to RICO, which similarly provides for compensatory and punitive damages. See N.J.S.A. 2C:41-4(c) (granting private right of action for compensatory and treble damages on RICO claims).

Second, this Court has held that the Legislature may not require parties to arbitrate claims on which they have a right to a jury trial unless the Legislature also provides for a jury trial de novo after mandatory arbitration. See Jersey Cent. Power & Light Co. v. Melcar Util. Co., 212 N.J. 576, 600 (2013). The Court in that case held that "mandatory, binding arbitration is impermissible because it effectively denies . . . private litigants their constitutionally guaranteed right to a trial by jury for a common-law cause of action in

negligence." Id. at 593-94. The Court further stated that "even when the Legislature has acted to compel the use of arbitration [in other statutes], this Court has highlighted the important caveat of permitting a right to a trial de novo following mandatory arbitration whenever the constitutional right to jury trial was implicated." Id. at 597.

The Legislature understood the requirement to provide a trial de novo on claims at law when it enacted AICRA. Another provision of the no-fault laws imposes mandatory arbitration for tort claims under $15,000 arising out of automobile accidents. See N.J.S.A. 39:6A-25. But the statute permits a party to request a trial de novo following arbitration, N.J.S.A. 39:6A-31, and thus "preserves the parties' right to a jury trial by providing for a trial de novo for any party dissatisfied with the arbitration award," Grey v. Trump Castle Assocs., L.P., 367 N.J. Super. 443, 447 (App. Div. 2004).

In contrast, AICRA requires PIP Arbitration whenever a party to the dispute requests it. N.J.S.A. 39:6A-5(i); see also Badiali v. N.J. Mfrs. Ins. Grp., 220 N.J. 544, 556 (2015) (recognizing that "the legislature has mandated binding arbitration of PIP claims at the option of the insured" (internal quotation marks omitted)). But there is no right to a jury trial de novo after PIP Arbitration. Instead, by regulation, see N.J.A.C. 11:3-5.6(g), PIP Arbitration awards can be

vacated or modified only on the limited grounds specified in the Alternative Procedure for Dispute Resolution Act, N.J.S.A. 2A:23A-13.

The Legislature did not provide for a jury trial de novo after PIP Arbitration because it did not intend for tort claims like fraud to be resolved in that forum. The Legislature was presumably aware of the Appellate Division's longstanding view that "there is no right to a jury trial for PIP benefits where the issue is what benefits, if any, are due." Manetti v. Prudential Prop. & Cas. Ins. Co., 196 N.J. Super. 317, 320 (App. Div. 1984); see also Liberty Ins. Corp. v. Techdan, LLC, 253 N.J. 87, 104 (2023) ("The Legislature is presumed to be familiar with its own enactments, with judicial declarations relating to them, and to have passed or preserved cognate laws with the intention that they be construed to serve a useful and consistent purpose." (quoting State v. Federanko, 26 N.J. 119, 129 (1958)).

Because this Court "must presume that the [L]egislature acted with existing constitutional law in mind and intended the [statute] to function in a constitutional manner," Whirlpool Props., 208 N.J. at 172 (alterations in original) (internal quotation marks omitted), it should interpret the PIP Arbitration provisions to cover payment disputes, not affirmative fraud claims.

2. The Appellate Division's interpretation accords with DOBI's interpretation, which is entitled to substantial deference.

The Appellate Division's interpretation is also consistent with DOBI's interpretation. That interpretation, which is entitled to substantial deference, is found in both DOBI's regulations implementing AICRA, and in DOBI and the OIFP's amicus briefs in this case.

This Court has made clear that "[a]ssistance in interpreting a statute can also be derived from the understanding of the administrative agency charged with enforcing it." J.H. v. R&M Tagliareni, LLC, 239 N.J. 198, 216 (2019) (internal quotation marks omitted). "The meaning ascribed to legislation by the administrative agency responsible for its implementation, including the agency's contemporaneous construction, long usage, and practical interpretation, is persuasive evidence of the Legislature's understanding of its enactment." Ibid. (internal quotation marks omitted); see also Saint Peter's Univ. Hosp. v. Lacy, 185 N.J. 1, 17 (2005) (stating that "we are required to give considerable weight to an agency's interpretation of a statute the agency is charged with enforcing" (internal quotation marks omitted)). Moreover, "when reviewing an administrative agency's interpretation of one of its regulations implementing a state statute, [this Court] ordinarily defer[s] to an agency's reasonable interpretation." G.C. v. Div. of Med. Assistance & Health Servs., 249

N.J. 20, 40 (2021). DOBI's interpretation and implementation of AICRA's PIP Arbitration provisions is persuasive evidence of legislative intent, and its reasonable interpretation of the implementing regulations should be controlling.

DOBI's regulations interpret AICRA's PIP Arbitration provisions to concern payment disputes. DOBI promulgated regulations to "establish procedures for the resolution of disputes concerning the payment of medical expense and other benefits provided by the personal injury protection coverage in policies of automobile insurance." N.J.A.C. 11:3-5.1(a) (emphasis added). In addition, before initiating such a payment dispute in PIP Arbitration, a claimant must exhaust the insurer's internal appeals process. N.J.A.C. 11:3-5.6(a)(2). DOBI established a dispute system consistent with the goal of efficient and informal PIP dispute resolution. DOBI and the OIFP's amicus briefs thoroughly explain that system, and their views are incorporated here. See DOBI App. Div. Br. 14-25; DOBI Cert. Opp. Br. 15-19. It is notable that, unlike the trial court and the Third Circuit in Mount Prospect, the Appellate Division had DOBI and the OIFP's views on the meaning of the statute and regulations at issue here.

DOBI and the OIFP confirm that PIP arbitrators cannot decide IFPA and other fraud claims. Under AICRA, DOBI selected an organization called Forthright to administer PIP Arbitrations, and DOBI approved Forthright's rules that apply in those proceedings. DOBI Cert. Opp. Br. 10-11. Under DOBI's

regulations and Forthright's rules, insurers cannot obtain any remedies in PIP Arbitration—no damages, injunctive relief, attorneys' fees, or other remedies—and the only decision a dispute resolution professional makes is whether benefits are due and in what amounts. DOBI App. Div. Br. 25. In addition, only the insurer, injured person, and provider that is seeking payment—ordinarily, a legal entity that employs the treating professionals—can be parties to a PIP Arbitration. Id. at 21-22. Parties who did not sign a bill or make a claim for services, like the non-provider entities, lay persons, and attorneys in this case, cannot be joined in PIP Arbitration. Ibid. Discovery is limited to information about medical treatment and lost wages with no procedure to compel discovery or subpoena witnesses, id. at 22, and a different PIP Arbitration must be filed for each accident, id. at 21.

Finally, Forthright's reports to DOBI—publicly available documents that this Court can judicially notice under N.J.R.E. 201(b)(3), see In re Grant of Charter Sch. Application of Englewood on Palisades Charter Sch., 164 N.J. 316, 320 n.1 (2000), show that the system is designed to resolve a high volume of small-denomination claims. More than 49,000 PIP Arbitration cases were initiated in 2024 alone. Those cases were assigned to about 40 dispute resolution professionals, who resolved between 11,000 and 13,000 cases per quarter. The

average amount awarded in PIP benefits and attorneys' fees to claimants in 2024 was less than $7,500.[3]

Sending Plaintiffs' fraud claims here to PIP Arbitration would simply wipe them out. Plaintiffs allege that thirty-six defendants conspired to obtain more than $1.7 million dollars through approximately 800 claims for PIP benefits. See Pa37, Pa74. Yet, in PIP Arbitration, Plaintiffs could not obtain any remedies; could not name as defendants the physicians, attorneys, non-medical provider entities and employees alleged to have facilitated the conspiracy; would need to commence separate PIP Arbitrations according to each accident that led to the numerous claims for fraudulent treatment; and could not obtain discovery to prove the complex fraud conspiracy. Moreover, seeking to shoehorn complex fraud cases like this one into a system that handles nearly 50,000 cases a year is simply not possible. That result would only immunize insurance fraud when the Legislature has long sought to eradicate it.

3. The Appellate Division's interpretation harmonizes AICRA, the IFPA, and RICO consistent with their statutory purposes.

The Appellate Division correctly harmonized AICRA with the IFPA and RICO. "An overriding principle of statutory construction compels that every

[3] Forthright's quarterly reports to DOBI containing these statistics are available at https://nj.gov/dobi/pipinfo/aicrapg.htm

effort be made to harmonize legislative schemes enacted by the Legislature." Richter v. Oakland Bd. of Educ., 246 N.J. 507, 538 (2021). Courts do so by "determin[ing] an overarching consistent and logical construction that carries out manifest legislative intent." Gomes, 253 N.J. at 31. As the Appellate Division recognized, that task is straightforward here: interpreting AICRA's PIP Arbitration provisions to apply to payment disputes but not affirmative fraud claims promotes the Legislature's objectives of reducing insurance fraud while streamlining payment disputes. See Carteret, 480 N.J. Super. at 581-86.

It is simply nonsensical to assert that a Legislature intent on "confront[ing] aggressively the problem of insurance fraud in New Jersey," as it was in the IFPA, N.J.S.A. 17:33A-2, would have sub silentio deprived insurers of their express rights to sue "in any court of competent jurisdiction" for IFPA violations relating to PIP claims. See N.J.S.A. 17:33A-7(a)-(b). Courts must construe the IFPA's "provisions liberally to accomplish the Legislature's broad remedial goals" in seeking to address a "problem of massive proportions that . . . results in substantial and unnecessary costs to the general public in the form of increased rates," Liberty Mut. Ins. Co. v. Land, 186 N.J. 163, 172-73 (2006) (internal quotation marks omitted), and "the IFPA is aimed primarily at the areas of automobile and health insurance, where fraud has been most rampant," Chi. Title Ins. Co. v. Bryan, 388 N.J. Super. 550, 558 (App. Div. 2006), certif. denied,

190 N.J. 254 (2007). Significantly, had it been the Legislature's intent to require IFPA disputes to be resolved in PIP Arbitration, the Legislature could have said so when (as noted above) it amended the IFPA in AICRA to create the OIFP.

4. The Appellate Division's interpretation avoids absurd results and accords with the presumption that the Legislature does not make major statutory changes silently or impliedly.

Plaintiffs incorporate their arguments concerning these issues from their Appellate Division briefs. See Pb39-49; Prb7-15. Interpreting AICRA to require PIP Arbitration of insurer fraud claims would lead to the absurd result that those claims would be impossible to effectively vindicate due to PIP Arbitration's limitations. Such an interpretation would also fundamentally change the IFPA and RICO by carving out PIP-related fraud without any evidence the Legislature intended to do so and contrary to the Legislature's efforts to combat fraud.

II. Plaintiffs' claims are not subject to PIP Arbitration under Plaintiffs' DPR Plan.

The Appellate Division correctly held that Plaintiffs' DPR Plan does not provide an independent basis to compel PIP Arbitration.

As detailed in Plaintiffs' Appellate Division briefs, see Pb13-15, Prb15, PSb3-9, Plaintiffs' DPR Plan requires assignees to agree, as a condition of assignment of an injured person's PIP benefits, to "(e) Submit disputes to alternative dispute resolution pursuant to N.J.A.C. 11:3." Pa511. That provision

does not independently define the disputes subject to PIP Arbitration but merely incorporates the scope of PIP Arbitration as set forth in AICRA's regulations. The Appellate Division correctly held that, "[b]y referencing N.J.A.C. 11:3, [Plaintiffs] made it clear that the arbitration called for in its DPR Plans or assignment of benefits contracts was no broader than the PIP arbitration under AICRA." Carteret, 480 N.J. Super. at 587-88. Because Plaintiffs' affirmative fraud claims are not subject to PIP Arbitration under AICRA, they are also not subject to PIP Arbitration under the DPR Plan. This case does not require the Court to decide whether DPR Plans containing different language might provide an independent basis for PIP Arbitration.

CONCLUSION

For the foregoing reasons, the Court should affirm the judgment of the Appellate Division reversing the trial court's order compelling submission of Plaintiffs' claims to PIP Arbitration.

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