

Getman,
Schulthess,
Steere &
Poulin, P.A.



1838 Elm Street
Manchester, NH 03104
603-634-4300
www.gssp-lawyers.com

**TELEPHONE
EXTENSIONS**

Laurence W. Getman
x 703
Stephen J. Schulthess
x 702
Douglas N. Steere
x 704
Christopher J. Poulin
x 799
Jill A. DeMello
x 766
Naomi L. Getman
x 732
Elizabeth L. Hurley
x 788
Clara E. Lyons
x 725
Debbie L. Makris
x 726
Tracy L. McGraw
x 735
Jennifer L. Sanders
x 709
Edwinna Vanderzanden
x 742
Heather S. Ward

NEWSLETTER

New Hampshire, Massachusetts, Maine & Vermont

April 2018

Dear Michael,

This newsletter discusses updates and changes in the law. Should you have questions, please contact Larry Getman at lgetman@gssp-lawyers.com or (603) 634-4300 x 703. [Larry Getman's V-Card](#)

NEW HAMPSHIRE SUPREME COURT

AUTOMOBILE INSURANCE MEDICAL PAYMENTS BENEFITS, HEALTH INSURANCE LIENS & DUPLICATE PAYMENT PROHIBITION UNDER RSA 264:16, IV

Langevin v. Travco Insurance Company

(March 30, 2018)

The plaintiffs were injured in a motor vehicle accident. At the time of the accident, plaintiffs had health insurance coverage through Aetna. They also had automobile insurance coverage with Travco that included medical payments coverage in the amount of \$25,000 per person. The Travco policy contained an endorsement providing that "[n]o one will be entitled to receive duplicate payments for the same elements of loss under this coverage and a health insurance policy."

Plaintiff submitted their medical expenses in the amount of \$6,820.33 to Aetna. Aetna negotiated with the medical providers and paid \$1,861.90 in full satisfaction of the medical expenses. Other medical expenses, such as co-pays and deductible payments, were not paid by Aetna but were submitted to and paid by Travco.

Plaintiffs obtained a settlement from the driver responsible for the

x731
Brendan L. Wile
x 708

**Massachusetts
Licensed Attorneys:**

Laurence W. Getman
Christopher J. Poulin
Debbie L. Makris
Tracy L. McGraw
Clara E. Lyons
Jennifer L. Sanders
Heather S. Ward

**Vermont
Licensed Attorneys:**

Stephen J. Schulthess
and
Debbie L. Makris

**Maine
Licensed Attorneys:**

Douglas N. Steere
Elizabeth L. Hurley
Edwinna Vanderzanden

**New Hampshire
Licensed Attorneys:**

Laurence W. Getman
Stephen J. Schulthess
Douglas N. Steere
Christopher J. Poulin
Jill A. DeMello
Naomi L. Getman
Elizabeth L. Hurley
Clara E. Lyons
Debbie L. Makris
Tracy L. McGraw
Jennifer L. Sanders
Edwinna Vanderzanden
Heather S. Ward
Brendan L. Wile

accident and Aetna asserted a lien for the \$1,861.90 it had paid toward the medical expenses. The plaintiffs then submitted a medical payments benefits claim to Travco for the entire lien amount. Travco took the position that it was not contractually or statutorily obligated to pay the claim. The plaintiffs paid Aetna \$1,500 toward the lien and filed a declaratory judgment action against Travco. The trial court ruled that Travco was not obligated to pay because the plaintiffs had already received payment from Aetna and they were not entitled to a duplicate payment under RSA 264:16, IV. The court found that Aetna's assertion of the lien was irrelevant.

The Supreme Court reversed the decision, holding that payment from Travco for the lien amount would not be a prohibited "duplicate payment" under RSA 264:16, IV and was also not precluded by the policy language which tracked the statutory provision. The Court found that Aetna's lien negated the effect of its prior payment of the medical expenses due to plaintiffs' obligation to reimburse the amount paid. Since the plaintiffs did not retain the benefit of Aetna's prior payment, there was no prohibited "duplicate payment". Under RSA 264:16, IV, the insured has the exclusive right to elect whether to submit a claim for medical expenses under either medical payments coverage or a health insurance policy or both as long as the insured does not receive payment twice for the same expenses. The Court held that the plaintiff may receive a double benefit insofar as they recover from a third party tortfeasor while also receiving and retaining the benefit of medical payments coverage, however, this is not prohibited under RSA 264:16, IV which applies only to medical payments from health insurers and automobile insurers.

The Court pointed out that Travco benefitted from the fact that the plaintiffs first submitted their claims to Aetna, since Aetna was able to negotiate the amount of the bills and ultimately reduce the amount of Travco's exposure by approximately \$5,000.

Finally, the Court declined to consider whether a health insurance lien is a "medical expense" under RSA 264:16, IV and the policy, noting that the issue was not addressed by the trial court and the parties did not fully brief the issue.

**GETMAN,
SCHULTHESS,
STEERE & POULIN,
P.A.**

Laurence W. Getman
Getman, Schulthess,
Steere & Poulin, P.A.

1838 Elm Street
Manchester, NH 03104
(603) 634-4300
FAX (603) 626-3647

Website:
www.gssp-lawyers.com

**Phone Number for
ALL New Hampshire
Courts**

**New Hampshire
Courts
1-855-212-1234**

Join Our List

 Forward to a Friend

Join Our Mailing List!