

Wisconsin Court Rules That Filed-Rate Doctrine Bars All Claims Against Long-Term Care Insurer

11.30.21



(Article from *Insurance Law Alert*, November 2021)

For more information, please visit the [Insurance Law Alert Resource Center](#).

Last month's [Alert](#) reported on a Washington Supreme Court decision holding that the filed-rate doctrine can bar suits against intermediaries who do not file rates. That decision emphasized the broad scope of the doctrine to any claim for which damages are based on a filed rate. This month, a Wisconsin district court applied the doctrine to bar class action claims alleging breach of contract, breach of the covenant of good faith and fair dealing and common law fraud. *French v. Northwestern Mut. Life Ins. Co.*, 2021 WL 5162646 (E.D. Wisc. Nov. 5, 2021).

The plaintiff class consisted of individuals who had purchased long-term care policies from Northwestern. The policy stated that it was “guaranteed renewable for life upon timely payments of premiums for the life of the Insured and can neither be cancelled nor have its terms, other than premiums, changed by the Company. Premiums may be changed by class.” In 2016, Northwestern filed a request with the Texas Department of Insurance (“TDI”) for an average premium rate increase of 86 percent. The TDI approved a 62 percent average rate increase and Northwestern subsequently implemented that increase in accordance with a plan provided to the TDI. Thereafter, plaintiffs sued, alleging that the substantial increase was part of a scheme to “drive policyholders off their plans” after many years of premium payments and thus relieve Northwestern of its duty to provide contractual benefits.

The court dismissed the suit, ruling that under Texas law, the filed-rate doctrine warranted dismissal of all claims. In particular, the court explained that the TDI’s approval of Northwestern’s rate increase, as well as its continued oversight of the implementation of rate increases, is precisely the type of regulatory conduct that triggers the filed-rate doctrine. The court rejected the plaintiffs’ contention that the filed-rate doctrine does not apply where, as here, an insurer allegedly misled regulators about policy terms, noting that the “doctrine is not subject to equitable considerations.” Similarly, the court held that even if the plaintiffs were not directly challenging the rates themselves, but rather Northwestern’s allegedly illicit behavior that precipitated those rates, the filed-rate doctrine nonetheless applied.

Authors and

[Bryce Friedman](#)[Joshua Polster](#)

Contacts

Partner

bfriedman@stblaw.com

+1-212-455-2235

Partner

joshua.polster@stblaw.com

+1-212-455-2266

