STATE OF MICHIGAN

COURT OF APPEALS

TIFFANY DRAPER, Personal Representative of the ESTATE OF PRESTON SINGLETON,

Plaintiff-Appellant/Cross-Appellee,

v

PROGRESSIVE MARATHON INSURANCE COMPANY,

Defendant-Appellee/Cross-Appellant.

UNPUBLISHED
June 27, 2024

No. 363795
Macomb Circuit Court
LC No. 2021-004659-NF

Before: YATES, P.J., and BORRELLO and GARRETT, JJ.

PER CURIAM.

In this case involving an insurance-coverage dispute, plaintiff appeals as of right the trial court's order granting summary disposition in favor of defendant under MCR 2.116(C)(10) and dismissing plaintiff's claims for personal protection insurance (PIP) benefits and underinsured motorist (UIM) benefits. Defendant also filed a cross-appeal, challenging the trial court's earlier order denying defendant's motion for partial summary disposition. For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

This action stems from the tragic death of five-year-old Preston Singleton. Singleton was struck by a motor vehicle and killed while riding his bicycle. The driver of the vehicle that struck Singleton is not a party to this action.

Singleton's mother, Tiffany Draper, filed the present action as the personal representative of Singleton's estate seeking to obtain PIP benefits and UIM benefits from defendant pursuant to an automobile insurance policy defendant issued to Jerry Chambers, Jr. This policy also listed Tina Draper in the "Drivers and resident relatives" section as a person who was eligible for PIP medical expense coverage under the policy. The declarations page expressly designated Chambers as the "Named insured," but no such designation is attached to Tina's name. Although the policy declaration page indicated that Chambers was married, it is undisputed that Tina was actually Chambers's fiancée, and there is no indication the couple has ever been married. Tina is Tiffany's

mother and Singleton's grandmother. Singleton, Tiffany, Tina, and Chambers were all living together in the same household at the time of the fatal accident.

The trial court granted defendant's motion for summary disposition and dismissed both the PIP and UIM claims. The court concluded that Chambers was the only named insured on the policy, that Tina was not a named insured on the policy, and that Tina was not the spouse of the named insured. Consequently, in light of those conclusions, the trial court ruled that Singleton did not fall within any of the policy definitions of persons entitled to UIM benefits and did not fall within any of the policy or statutory definitions of persons entitled to PIP benefits. This appeal followed after the trial court also denied plaintiff's motion for reconsideration.

II. STANDARD OF REVIEW

"This Court . . . reviews de novo decisions on motions for summary disposition brought under MCR 2.116(C)(10)." *Pace v Edel-Harrelson*, 499 Mich 1, 5; 878 NW2d 784 (2016). "In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties . . . in the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). Summary disposition is proper where there is no "genuine issue regarding any material fact." *Id*. "A genuine issue of material fact exists when reasonable minds could differ on an issue after viewing the record in the light most favorable to the nonmoving party." *Auto-Owners Ins Co v Campbell-Durocher Group Painting & Gen Contracting, LLC*, 322 Mich App 218, 224; 911 NW2d 493 (2017) (quotation marks and citation omitted). Resolution of this appeal requires this Court to address issues of statutory and contract interpretation, both of which present issues of law that we review de novo. *Saugatuck Dunes Coastal Alliance v Saugatuck Twp*, 509 Mich 561, 577; 983 NW2d 798 (2022); *Patel v FisherBroyles, LLP*, 344 Mich App 264, 271; 1 NW3d 308 (2022).

III. PIP BENEFITS

Plaintiff argues that because Singleton was entitled to PIP benefits under the terms of the Progressive insurance policy and the plain language of § 3114(1) of the no-fault act, MCL 500.3101 *et seq*., the trial court erred when it granted summary disposition in favor of defendant with respect to the claim for PIP benefits.

"PIP benefits are mandated by statute under the no-fault act, MCL 500.3105, and, therefore, the statute is the 'rule book' for deciding the issues involved in questions regarding awarding those benefits." *Rohlman v Hawkeye-Security Ins Co*, 442 Mich 520, 524-525; 502 NW2d 310 (1993) (citation omitted). "The policy and the statutes relating thereto must be read and construed together as though the statutes were a part of the contract, for it is to be presumed that the parties contracted with the intention of executing a policy satisfying the statutory requirements, and intended to make the contract to carry out its purpose." *Id*. at 525 n 3.

"Insurance policies are contracts and, in the absence of an applicable statute, are subject to the same contract construction principles that apply to any other species of contract." *Titan Ins Co v Hyten*, 491 Mich 547, 554; 817 NW2d 562 (2012) (quotation marks and citation omitted). "The primary goal in the construction or interpretation of any contract is to honor the intent of the

parties, but unambiguous contracts, including insurance policies, are to be enforced as written unless a contractual provision violates law or public policy." *Stone v Auto-Owners Ins Co*, 307 Mich App 169, 174; 858 NW2d 765 (2014) (quotation marks and citations omitted).

The principles of statutory interpretation are well settled:

> The primary goal of statutory construction is to give effect to the Legislature's intent. This Court begins by reviewing the language of the statute, and, if the language is clear and unambiguous, it is presumed that the Legislature intended the meaning expressed in the statute. Judicial construction of an unambiguous statute is neither required nor permitted. When reviewing a statute, all non-technical words and phrases shall be construed and understood according to the common and approved usage of the language, and, if a term is not defined in the statute, a court may consult a dictionary to aid it in this goal. A court should consider the plain meaning of a statute's words and their placement and purpose in the statutory scheme. Where the language used has been subject to judicial interpretation, the legislature is presumed to have used particular words in the sense in which they have been interpreted. [*McCormick v Carrier*, 487 Mich 180, 191-192; 795 NW2d 517 (2010) (quotation marks and citations omitted).]

Here, the insurance policy at issue provided that the "policy consists of the policy contract, your insurance application, the declarations page, and all endorsements to this policy." (Emphases omitted.) Part II of the insurance policy contract related to PIP coverage. It stated that defendant "will pay Personal Protection Insurance Benefits required by the Michigan No-Fault Law, Chapter 31 of the Michigan Insurance Code, as amended, for accidental **bodily injury** to an **eligible injured person** arising out of the ownership, operation, maintenance or use of a **motor vehicle** as a **motor vehicle**, subject to the exceptions, exclusions and limitations specified herein and as additionally provided by the law of the State of Michigan." The policy defined an "eligible injured person" in the following manner:

> **"Eligible injured person"** means:
>
> a. **you** or any **relative** who sustains accidental **bodily injury** in an accident involving a **motor vehicle**; and
>
> b. any other person who meets the statutory requirements of the Michigan No-Fault Act, Chapter 31 of the Michigan Insurance Code, as amended.

The policy's references to "you" and a "relative" also are defined in the policy itself, which, in relevant part, stated:

> **"Relative"** means a person residing in the same household as **you**, and related to **you** by blood, marriage or adoption, and includes a ward, stepchild, or foster child. **Your** unmarried dependent children temporarily away from home will qualify as a **relative** if they intend to continue to reside in **your** household.
>
> * * *

"You" and **"your"** mean:

a. a person shown as a named insured on the **declarations page**; and

b. the spouse of a named insured if residing in the same household at the time of the loss.

The insurance policy at issue in this case was renewed by Chambers, who lived with his fiancée, Tina. Tina's daughter, Tiffany, and grandson, Singleton, also lived with Chambers. On June 5, 2021, Chambers contacted defendant to alter the policy effective June 9, 2021. The changes included adding Tina and another vehicle to the policy. When Chambers added Tina to the policy, Chambers told defendant that Tina was his wife. As we have already noted, Chambers and Tina were not actually married, and this statement was therefore false. Chambers also indicated that he wanted Tina to be an insured driver on the policy, but he declined to make her a "named insured" with the same rights that he held to cancel or alter the policy.

Defendant then issued a revised declarations page. Both Chambers and Tina were listed in the "Drivers and resident relatives" section as follows:

Drivers and resident relatives | Additional information

jerry d chambers JR | Named insured

Eligible for PIP Medical Expense Coverage: Yes

Tina M Draper

Eligible for PIP Medical Expense Coverage: Yes

Total residents: 04

The total number of resident relatives and other drivers currently residing in your household. This count should include individuals listed in the Driver section above, and any other relatives, like young children, living in the home for 60 days or more during the next 12 months.

The question presented here is whether defendant was liable for paying PIP benefits on Singleton's behalf.

As noted above, the policy provides PIP coverage for "an eligible injured person," which includes "you or any relative" injured in an automobile accident. "You" refers only to a person listed as a named insured on the declarations page and that person's spouse residing in the same household. Here, the declarations page only listed one named insured: Chambers. Chambers was not married. Singleton does not qualify for coverage under the policy's definition of "you" because he clearly is not listed as a named insured and he clearly is not Chambers's spouse.

With respect to whether Singleton is a "relative" under the policy, a relative is defined as "a person residing in the same household as **you**, and related to **you** by blood, marriage or adoption," including "a ward, stepchild, or foster child." Although Singleton was a blood relative of Tina, his maternal grandmother, and lived in the same household with her, Tina does not fall

within the definition of "you" under the policy because she is not a "named insured"[1] and was not married to Chambers. Although Singleton also lived in the same household as Chambers and Chambers fell within the definition of "you" as the "named insured" on the policy, Singleton was not related to Chambers by marriage because Chambers and Tina were not married. There also is no evidence that Singleton was related to Chambers by blood or adoption. As a result, Singleton also did not fall within the policy's definition of "relative" either.

Next, the policy states that an "eligible injured person" entitled to PIP coverage under the policy also includes "any other person who meets the statutory requirements of the Michigan No-Fault Act, Chapter 31 of the Michigan Insurance Code, as amended." As this Court recently held, "a no-fault insurer *must* provide at the least the minimum coverage required by the statute" but "it *may* provide coverage for a broader group of persons." *Mapp v Progressive Ins Co*, ___ Mich App ___, ___; ___ NW3d ___ (2023) (Docket No. 359889); slip op at 11-12. By incorporating the "statutory requirements of the Michigan No-Fault Act," the policy indicates an intent to meet the insurer's obligation to provide the minimum coverage required by the statute. Thus, we turn to the relevant statutory provisions in the no-fault act.

"Except as provided in sections 3107d and 3109a, the owner or registrant of a motor vehicle required to be registered in this state shall maintain security for payment of benefits under personal protection insurance and property protection insurance as required under this chapter, and residual liability insurance." MCL 500.3101(1). Subject to certain exceptions not applicable to the instant case, "a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident." MCL 500.3114(1).

This Court has held that "the 'person named in the policy' under MCL 500.3114(1) is synonymous with the 'named insured.' " *Stone*, 307 Mich App at 175. This rule is well established. See *Corwin v DaimlerChrysler Ins Co*, 296 Mich App 242, 255; 819 NW2d 68 (2012) (holding that for purposes of MCL 500.3114(1), the "phrase 'the person named in the policy' is synonymous with the term 'the named insured' ") (citation omitted); *Cvengros v Farm Bureau Ins*, 216 Mich App 261, 264; 548 NW2d 698 (1996) ("[T]he phrase 'the person named in the policy,' as it is used in [MCL 500.3114(1)], is synonymous with the term 'the named insured.' "); *Transamerica Ins Corp of America v Hastings Mut Ins Co*, 185 Mich App 249, 254-255; 460 NW2d 291 (1990) (holding that for purposes of MCL 500.3114(1), " 'the named insured' and 'the person named in the policy' are synonymous terms"); *Dairyland Ins Co v Auto Owners Ins Co*, 123 Mich App 675, 686; 333 NW2d 322 (1983) (holding that that there is no "distinction between the phrase 'the person named in the policy' [used in MCL 500.3114(1)] and the phrase 'the named insured' "). Moreover, this Court has also held that "persons designated merely as drivers under a policy . . . are neither named insureds nor persons named in the policy." *Stone*, 307 Mich App at 175; accord *Cvengros*, 216 Mich App at 264 ("[M]erely listing a person as a designated driver

[1] Because the policy definition of "you" only extends to named insureds designated as such on the declarations page, the fact that Tina was listed as a named insured on the Certificate of No-Fault Insurance is not relevant.

on a no-fault policy does not make the person a 'named insured.' "); *Harwood v Auto-Owners Ins Co*, 211 Mich App 249, 253; 535 NW2d 207 (1995) (Same).

As previously discussed, Chambers was the only person designated as a "named insured" under the policy. Although Tina may have been listed as a covered driver, prior case law makes clear that being a covered driver did not make her a "named insured." *Stone*, 307 Mich App at 175; *Cvengros*, 216 Mich App at 264; *Harwood*, 211 Mich App at 253. Accordingly, because Chambers is the only "named insured" on the policy, he is also the only person who qualifies as "the person named in the policy" under MCL 500.3114(1). *Stone*, 307 Mich App at 175. Singleton clearly was not the spouse of Chambers and there is no argument that Singleton was a relative *of Chambers* in light of the undisputed fact that Chambers and Singleton's maternal grandmother, Tina, were never married.[2] Although Singleton was related to Tina, she was not a "person named in the policy," *Stone*, 307 Mich App at 175, or the spouse of a "person named in the policy." Accordingly, Singleton did not fall within the definition provided in MCL 500.3114(1) and was not entitled to PIP benefits on that basis.

Plaintiff makes an array of arguments to escape this conclusion. First, plaintiff argues that because the declarations page indicated that Tina was eligible for PIP medical benefits, she was not merely a listed driver and was a named insured even though there was not a "named insured" designation next to her name as there was for Chambers. However, a person can be an "insured" on an insurance policy without being the "*named* insured" or policy holder. See *Amerisure Ins Co v Coleman*, 274 Mich App 432, 436-439; 733 NW2d 93 (2007) (concluding that the policy at issue did "not limit its coverage only to the 'named insured' " but also extended its coverage to the named insured's spouse as an additional insured); *Lease Car of America, Inc v Rahn*, 419 Mich 48, 53-55; 347 NW2d 444 (1984) (observing that there is a distinction between the "named" or "designated" insured and the broader category of all those "insureds" covered under the policy). Thus, the fact that Tina may have been eligible for coverage herself under the policy did not render her a "named insured" through which coverage could be further expanded to resident relatives of Tina, such as Singleton.

Next, plaintiff argues that the parties intended for Tina to be either a "named insured" or Chambers's spouse under the contract. Plaintiff urges us to rely on the telephone call between Chambers and a representative of defendant that Chambers initiated to add Tina to the policy, as well as the certificate of insurance issued by defendant that listed Tina as a named insured. However, the insurance policy specifically provided that it "consist[ed] of the policy contract, your insurance application, the declarations page, and all endorsements to this policy." The contract further provided: "This policy contract, your insurance application (which is made a part of this policy as if attached hereto), the declarations page, and all endorsements to this policy issued by us, contain all the agreements between you and us." As we have already discussed, the contract

[2] Contrary to plaintiff's argument that the definition of "spouse" should include an engaged couple, we conclude that the definition in *Black's Law Dictionary* (11th ed) provides the plain and ordinary meaning of the term: "One's husband or wife by lawful marriage; a married person." We may use a dictionary to give meaning to undefined statutory terms. *Hecht v Nat'l Heritage Academies, Inc*, 499 Mich 586, 621 n 62; 886 NW2d 135 (2016).

language clearly and unambiguously provided that Tina was not a "named insured." "[P]arol evidence of contract negotiations, or of prior or contemporaneous agreements that contradict or vary the written contract, is not admissible to vary the terms of a contract which is clear and unambiguous." *Hamade v Sunoco Inc (R & M)*, 271 Mich App 145, 166; 721 NW2d 233 (2006) (quotation marks and citations omitted). "[T]he parol evidence rule . . . prohibits the use of extrinsic evidence to interpret unambiguous language within a document." *Kendzierski v Macomb Co*, 503 Mich 296, 316; 931 NW2d 604 (2019) (quotation marks and citation omitted; ellipsis in original). Plaintiff does not argue an exception to the parol evidence rule applies that would allow us to consider extrinsic evidence under the circumstances of this case.

Furthermore, plaintiff does not cite any authority to support her contention that Tina must be treated as a spouse because the declarations page seems to indicate that she was Chambers's spouse where, as here, she was not actually Chambers's spouse and any belief defendant may have had about Tina being Chambers's spouse when the policy updates were made was the result of information provided by Chambers. This argument is therefore abandoned. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998) ("It is not sufficient for a party simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.") (quotation marks and citation omitted). Plaintiff's argument that Singleton is entitled to benefits because the declaration page indicates that there were 4 resident relatives (which would presumably have included Singleton and was also premised on Chambers's false statement that Tina was his wife) suffers from the same deficiency. *Id.*

To the extent plaintiff argues that the telephone discussion that occurred between Chambers and defendant's representative should be used to interpret the contract because it constitutes the policy application, plaintiff also has not provided any authority for this proposition and has therefore abandoned this argument. *Id.* Plaintiff also does not explain how subsequent renewals of the policy that she cites in support of her argument are relevant to determining the coverage afforded during the policy period in which the fatal accident occurred. This argument is thus also abandoned. *Id.*

Plaintiff additionally argues that this Court should reform the insurance policy because it contravenes the no-fault act by allowing "Progressive to avoid liability for PIP benefits that are payable to injured people that Progressive personally insures; specifically, Tina Draper and her resident relatives, including Preston." "Reformation of an insurance policy is an equitable remedy." *Corwin*, 296 Mich App at 256 (quotation marks and citation omitted). "[W]hen reasonably possible, this Court is obligated to construe insurance contracts that conflict with the no-fault act and, thus, violate public policy, in a manner that renders them compatible with the existing public policy as reflected in the no-fault act." *Id.* at 257 (quotation marks and citation omitted).

However, as is evident from our discussion above, plaintiff has not demonstrated that anything in the policy is inconsistent with the no-fault act under the circumstances currently before us. It is evident that defendant provided Chambers with the policy that he requested and the policy failed to actually extend coverage to Singleton because Chambers affirmatively misinformed defendant that Tina was his wife. Had Chambers provided complete and accurate information about Tina's relationship with him, then different coverage decisions could have been made.

Plaintiff has not demonstrated that reformation is appropriate under the circumstances. *Id*. at 256-257.

Plaintiff further argues that we should decline any request from defendant for rescission of the insurance contract. However, defendant is not seeking rescission. This argument by plaintiff is entirely moot and will not be addressed. See *TM v MZ*, 501 Mich 312, 317; 916 NW2d 473 (2018) (holding that moot cases and issues generally will not be decided on appeal and that a case is moot when it "presents nothing but abstract questions of law which do not rest upon existing facts or rights" and "a judgment cannot have any practical legal effect upon a then existing controversy.") (quotation marks and citations omitted).

IV. UIM BENEFITS

Next, plaintiff argues the trial court erred when it summarily disposed of the claim for UIM benefits. Plaintiff maintains that Singleton was entitled to UIM benefits under the terms of the insurance policy.

"Neither uninsured motorist (UM) coverage nor UIM coverage is required by Michigan law, and therefore the terms of coverage are controlled by the language of the contract itself, not by statute." *Andreson v Progressive Marathon Ins Co*, 322 Mich App 76, 84; 910 NW2d 691 (2017) (quotation marks and citation omitted). Because this coverage is optional and not required by the no-fault act, "the rights and limitations of such coverage are purely contractual." *Id*. at 85 (quotation marks and citation omitted). The "insurance policy itself, which is the contract between the insurer and the insured, controls the interpretation of its own provisions providing benefits not required by statute." *Rohlman*, 442 Mich at 525. In interpreting the contract, our goal is to "honor the intent of the parties," and we enforce unambiguous contracts "as written unless a contractual provision violates law or public policy." *Stone*, 307 Mich App at 174 (quotation marks and citations omitted).

The language of the insurance contract regarding UIM benefits is similar but not identical with the language in the section related to PIP coverage. The policy states: "If **you** pay the premium for this coverage, **we** will pay for damages that an **insured person** is legally entitled to recover from the owner or operator of an **uninsured motor** vehicle because of **bodily injury** . . . sustained by an **insured person** . . . ." The definition of an "uninsured motor vehicle" includes a vehicle that is underinsured. The policy defined an "insured person" for purposes of UIM benefits in the following manner:

> **"Insured person"** means:
>
> a. **you**, a **relative**, or a **rated resident**;
>
> b. any person who is not an insured for Uninsured/Underinsured Motorist or similar coverage by any other insurance policy while operating a **covered auto** with the permission of **you**, a **relative**, or a **rated resident**; and

> c. any person who is not an insured for Uninsured/Underinsured Motorist or similar coverage by any other insurance policy **occupying**, but not operating, a **covered auto**; and
>
> d. any person who is entitled to recover damages covered by this Part III because of **bodily injury** sustained by a person described in a., b. or c. above.

The terms "you" and "relative" had the same definitions for purposes of UIM coverage as for PIP coverage. The policy also defined a "rated resident" as follows:

> **"Rated resident"** means a person residing in the same household as **you** at the time of the loss who is not a r**elative**, but only if that person is both:
>
> a. listed in the "Drivers and household residents" section on the **declarations page**; and
>
> b. not designated as either an "Excluded" or a "List Only" driver.

As summarized above, Singleton was killed when he was struck by a vehicle while riding his bike. At the time, he lived with Chambers, Tina, and Tiffany. Tiffany was Singleton's mother, Tina was his grandmother, and he was unrelated to Chambers. Tina and Chambers were not married.

The relevant question to consider is whether Singleton was an insured person under the insurance contract for purposes of UIM coverage. It is undisputed that Singleton was not operating or occupying a vehicle when he was struck and that he must fall within the definition of "you, a relative, or a rated resident" in order to qualify as an "insured person." For the same reasons discussed above, Singleton was not "you," or "a relative" as those terms are defined in the contract. For Singleton to be considered a "rated resident," he must have been "listed in the 'Drivers and household residents' section on the declarations page." Plaintiff argues that Singleton was "listed" in this section of the declarations page because he was included in the total number of 4 household residents designated on the declarations page. Singleton was not specifically listed by name on the declarations page.

It is evident from the plain language of the policy's definition of "rated resident" that in order to discern whether a specific person actually *is* "a person residing in the same household as **you** at the time of the loss who is not a r**elative**, but only if that person is both . . . listed in the 'Drivers and household residents' section on the **declarations page**; and . . . not designated as either an 'Excluded' or a 'List Only' driver," that person must be specifically identified by name and not merely one of several anonymous members of the class of total residents. Here, because Singleton was not identified by name in the "Drivers and household residents" section on the declarations page, he was not a "rated resident" as that term is defined in the policy.

Because Singleton does not qualify as you, a relative, or a rated resident, he was not "an insured person" under the insurance contract. Further, because only insured persons are entitled to UIM coverage according to the contract, Singleton was precluded from receiving UIM benefits.

As a result, there was no genuine issue of material fact related to plaintiff's claim for UIM coverage, and the trial court properly granted summary disposition in favor of defendant.

As noted above, to the extent plaintiff contends that rescission would not be warranted, that argument is moot because defendant does not seek rescission. *TM*, 501 Mich at 317.

V. DEFENDANT'S CROSS-APPEAL

Defendant's cross-appeal, which pertained to an earlier denial of its motion for partial summary disposition regarding plaintiff's claim for UIM benefits on another ground has, been rendered moot in light of the conclusions we have already reached in this opinion; we therefore decline to consider the merits of defendant's cross-appeal because defendant has already achieved the result it seeks. *TM*, 501 Mich at 317.

VI. CONCLUSION

For the reasons explained above, we affirm the trial court's opinion and order granting summary disposition in favor of defendant under MCR 2.116(C)(10). Affirmed. No costs are awarded.

/s/ Christopher P. Yates
/s/ Stephen L. Borrello
/s/ Kristina Robinson Garrett