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APPELLATE DIVISION ACCEPTS PIP APPEAL TIMELINE URGED BY M&W'S MICHAEL EATROFF

[Michael Eatroff](#) of Methfessel & Werbel's first party coverage team recently obtained a favorable ruling from the Appellate Division in [Personal Service Insurance Company v. Relievus a/s/o Rachel Sackie](#). The Court clarified the options available to a party aggrieved by an erroneous arbitration ruling. A party need not choose between an internal administrative appeal and an appeal to the Superior Court. Rather, a party may pursue an internal appeal and, if dissatisfied with that result, appeal to the Superior Court within 45 days of the internal appeal decision.

Personal Service Insurance Company (PSIC) terminated benefits to its insured on the basis that she failed to attend an independent medical examination. The insured assigned her rights to her medical provider, the respondent Relievus. Relievus filed a demand for arbitration with Forthright and received a favorable DRP award. PSIC filed an internal appeal before a three-member DRP panel pursuant to Forthright's internal policies rather than filing a summary action with the court to vacate the initial award. The panel confirmed the initial award, and thereafter PSIC sought summary action to vacate both the initial DRP award and the panel's decision. The trial court dismissed the

action, holding that PCIC's suit was untimely because it did not file the action within 45 days of the initial DRP award under N.J.S.A. § 2A:23A-13(a). The trial court's ruling essentially meant that a party must choose between an internal appeal and an appeal to the trial court.

The Appellate Division disagreed with the trial court's ruling, finding that the internal and Superior Court appeals could be made consecutively as a "two-step process."

The panel agreed with Mike's argument that affirming the trial court's decision would result in an incongruous result—one in which the appeal of the initial DRP award was untimely but the appeal of the DRP panel's decision was timely under the statute. The intent of N.J.S.A. § 2A:23A-13(a) and N.J.A.C. § 11:3-5.6(g) was to encourage parties to take advantage of the internal appeal process without forfeiting the right to seek Superior Court review thereafter.

Feel free to contact [Michael Eatroff](#) or [Matt Werbel](#) with any questions about your PIP claims and your appeal options.

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