CONCURRING OPINION OF ACOBA, J.

I concur, but emphasize that in my view an insurer's prospective denial of future benefits does not necessarily deprive an insured of later status as a real party in interest.

In Government Employees Ins. Co. v. Dang, 89 Hawai'i 8, 967 P.2d 1066 (1998), this court held that Hawai'i Revised Statutes § 431:10C-308.6(c) and (d) (1993)[1] did not preclude an insurer from bringing a blanket challenge to prospective treatment of a no-fault insured and sustained such a challenge. Id. at 15-16, 967 P.2d at 1073-74. In doing so, it departed from a contrary interpretation of these statutory provisions by prior insurance commissioners. Id. at 15, 967 P.2d at 1073. Dang did leave for future determination the effect to be given "a treatment plan based upon the exacerbation of an injury after . . . determin[ation that] future treatment is unreasonable or inappropriate." Id. at 16 n.3, 967 P.2d at 1074 n.3.

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[1] Hawai'i Revised Statutes § 431:10C-308.6(c) and (d) (1993) provided in relevant part as follows:

> (c) The commissioner shall contract with one or more peer review organizations established for the purpose of evaluating treatment and rehabilitative services provided to any injured person. The evaluation shall be for the purpose of confirming that such treatment and rehabilitative services are appropriate and reasonable. . . .
>
> (d) A provider may request prior approval from the insurer for treatment exceeding the workers' compensation schedules or treatment guidelines. The request shall include a treatment plan with a time schedule of measurable objectives and an estimate of the total cost of service.

HRS § 431:10C-308.6 was repealed by the legislature in 1998.

When Dang allowed insurers to deny prospective treatment as a means "to reduce and stabilize the cost of motor vehicle insurance," id. at 15-16, 967 P.2d at 1073-74, it shifted to insureds the burden of pursuing insurance coverage and benefits in continuing treatment situations. The issue of "exacerbation of an injury" aside, it is not inconceivable that an insured may decide to continue with medical treatment after future no-fault benefits have been disallowed and, thereafter, be diagnosed as suffering from no-fault related injuries. In that event, an injured person should be eligible for reimbursement of no-fault related expenses which have been incurred.

I submit it is not uncommon in the nature of continuing treatment that medical opinions as to diagnoses and prognoses may be revised more than once in the resolution of any injury or disease. If that should occur, in any particular circumstance, I believe the no-fault insurer is obligated, as part of its duty of good faith dealing, to reinstate coverage:

> [I]n many no-fault cases, treatment may be of a continuing nature and . . . disputes as to the necessity and reasonableness of expenses may periodically arise. . . . Thus, independent of formal proceedings, . . . relevant post-denial information regarding an insured's condition or treatment . . . may be submitted to the insured's insurer . . . for its consideration. . . . Submittal of post-denial information is not only prudent and practical, but in keeping with the law's resolve to promote the timely determination of benefits. . . . [R]eview of such information is required by that "legal duty, implied in a first-party insurance contract that the insurer must act in good faith in dealing with its insured, and a breach of that duty of good faith gives rise to an independent tort cause of action."

Gamata v. Allstate Ins. Co., 90 Hawai‘i 213, 225, 978 P.2d 179, 191 (App. 1999) (quoting Best Place, Inc. v. Penn America Ins. Co., 82 Hawai‘i 120, 132, 920 P.2d 334, 346 (1996) (brackets and ellipsis points omitted)).

In the event an insured is thus affected, I consider he or she to be the real party in interest in a proceeding to obtain reimbursement for expenses incurred subsequent to the denial of prospective treatment. This basis for real party in interest status is independent of that afforded an insured who seeks to aggregate medical expenses for purposes of satisfying the statutory threshold for bringing suit recognized in Wilson v. AIG Hawai‘i Ins. Co., 89 Hawai‘i 45, 968 P.2d 647 (1998).