

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
FISCAL IMPACT**

This fiscal note is prepared pursuant to Joint Rule 22(b)(2).

Drafting Number: LLS 10-0503

Date: February 22, 2010

Prime Sponsor(s): Rep. Levy
Sen. Steadman

Bill Status: House Judiciary

Fiscal Analyst: Sara McPhee (303-866-4782)

TITLE: CONCERNING A LIMITATION ON THE ABILITY OF AN INSURER TO OBTAIN REPAYMENT OF BENEFITS FROM AN INJURED PARTY WHO RECOVERS DAMAGES FROM THE PARTY RESPONSIBLE FOR THE INJURY IN SITUATIONS WHEN THE INJURED PARTY WOULD NOT BE FULLY COMPENSATED IF THE BENEFITS ARE REPAID TO THE INSURER.

Fiscal Impact Summary	FY 2010-2011	FY 2011-2012
State Revenue	See State Revenue Section	
State Expenditures	See State Expenditures Section	
FTE Position Change		
Effective Date: August 11, 2010, assuming the General Assembly adjourns May 12, 2010, as scheduled and no referendum petition is filed.		
Appropriation Summary for FY 2010-2011: None required		
Local Government Impact: None.		

Summary of Legislation

With Amendment L.001, the bill limits the ability of a benefits insurer to obtain repayment of benefits in circumstances where the injured party would not be fully compensated. Under current law, an insurer that pays benefits to a person who is injured may obtain repayment of those benefits out of the settlement money paid to the injured party, regardless of whether the injured party has been fully compensated.

In the event that an injured party is fully compensated, the bill limits the repayment amount to the amount actually paid by the insurer. The insurer must pay a proportionate share of attorney fees and costs incurred by the injured party in obtaining the recovery. Any dispute that occurs about an insurer's right to reimbursement is to be settled through arbitration.

State Revenue

Department of Personnel and Administration (DPA). The bill may reduce state revenue by limiting the state's ability to be reimbursed for health benefits paid through the self-funded employee health plan. Currently, the state self-funded employee health plan would be able to recover

these costs out of the repayment paid the injured party; however, this recovery would be limited under the bill if the injured party had not been fully compensated. At this time, the DPA has not been able to provide specific information concerning the amount of subrogation received by state employee health plans; the fiscal note will be updated as additional information becomes available.

State Expenditures

Judicial Branch. Because the bill specifies that the determination of whether or not an injured party has been fully compensated is to be decided through arbitration, the fiscal note assumes that the Judicial Branch will not require additional resources. The bill also states that a payer of benefits may bring a direct action for repayment of benefits against the third party who was responsible for the injuries; however, this cause of action is already permitted under current law.

Department of Personnel and Administration. The DPA may have costs for arbitration in cases where the self-funded health plan tries to obtain repayment for benefits, but the injured party claims that he or she was not made whole. At this time, these costs cannot be quantified; the fiscal note will be updated as additional information becomes available.

Local Government Impact

Local governments with self-funded health plans will have revenue losses and expenditures similar to those for the DPA. It is not possible to know how many local governments have a self-funded health plan or how often these cases may occur; therefore, these costs cannot be quantified.

Departments Contacted

Judicial
Health Care Policy and Financing

Regulatory Agencies
Personnel and Administration