



Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 06-0209**Date:** January 9, 2006**Prime Sponsor(s):** Rep. Cloer
Sen. Tochtrop**Bill Status:** House Business Affairs and Labor
Fiscal Analyst: Gary J. Estenson (303-866-4976)

TITLE: CONCERNING CLAIMS PRACTICES FOR BODILY INJURY TO A THIRD-PARTY CLAIMANT ARISING OUT OF THE USE OF A MOTOR VEHICLE.

Summary of Assessment

This legislation establishes several new requirements for automobile insurance carriers related to both claim handling practices and claim settlements. These requirements are specific to the bodily injury/property damage liability component of an automobile insurance policy.

Specifically, this legislation establishes additional claims handling practices by requiring an insurance carrier to:

- clearly disclose to a third-party claimant the per party and per accident benefit limits of the insurance policy;
- promptly determine the liability of the insured;
- presume liability and pay benefits for bodily injury when benefits have been paid for property; and
- establish a fair and consistent methodology for valuing bodily injury claims and keep a record of this methodology for review by the Insurance Commissioner, the injured third-party, and a health care provider that has an assignment.

An insurance carrier found to intentionally fail to pay a compensable third-party claim, shall also be required to pay a penalty to the claimant in an amount equal to 50 percent of the nonpayment amount. Any penalty amount, including interest or attorney fees and court costs associated with insurance carrier defense of nonpayment, shall not apply against the limits of a liability policy and cannot be used as factors in any subsequent rate filing. Both the third-party claimant and the third-party claimant's health care provider shall possess a legal right to file a claim against an insurer for nonpayment.

This legislation also establishes additional circumstances whereby an insurance carrier is engaging in unfair claims settlement practices. These circumstances occur when an insurer fails to promptly determine liability in accordance with existing statute once a third-party claim has been filed:

- denies liability without having substantial evidence to support such claim; and
- delays payment to either a third-party claimant or health care provider with assignment once reasonable certainty exists that the insurer is liable.

Unrelated to insurance carrier requirements, this legislation also requires health care providers to charge the lesser of either the customary charge for a specific medical service or the average amount for that service reimbursed to the provider for care covered under the liability component of an automobile insurance policy.

This bill does not affect state or local revenues or expenditures and is assessed as having no fiscal impact. The Department of Regulatory Agencies, Division of Insurance, will be required to promulgate rules to implement provisions related to additional claims handling and settlement practices and health care charges for medical treatment.

The division may experience an increase in complaints filed by third-party claimants who believe they are entitled to additional penalty payments, as provided for in this legislation. However, time spent on complaints should be insignificant, as this legislation and the rules of civil procedure require these claims to be resolved by an appropriate state court of jurisdiction. Combined, the rule making and complaint process time will be minimal, and more than offset by the reduction in third-party complaints based on the claims handling and settlement provisions of this legislation. This legislation is effective January 1, 2007, unless a referendum petition is filed.

Departments Contacted

Regulatory Agencies