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INSURANCE CONSUMER ADVOCATE

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To: All Auto Insurers
Subject: Personal Injury Protection Data

As the Florida Insurance Consumer Advocate, I recently presented findings to the Governor and Cabinet, and members of the Florida Legislature, regarding Florida's No-Fault system. As I shared with the Governor and Cabinet, I believe that state lawmakers must take a comprehensive look at the medical procedures and providers in this system to assess whether our current system is effectively functioning as was intended under Personal Injury Protection (PIP).

The last review of Florida's Auto Injury Insurance Claims was published in 2007 by the Insurance Research Council and the data was collected in 2005 and earlier. The report issued by the Office of Insurance Regulation only had information from one company with respect to the types of medical procedures commonly billed for that company. This is not enough to make a persuasive argument for restructuring the PIP delivery system, especially given our goal to make changes that yield the greatest impacts needed to make this an affordable coverage for Floridians. For this reason, my office is going to coordinate data collection targeting the following areas:

- 1) The modalities or medical treatment for a claim.
- 2) Any diagnostic procedure performed.
- 3) The medical provider rendering treatment.
- 4) The medical facility providing treatment.

It is not feasible to gather this information internally. As we have looked at the most reliable and comprehensive way to assimilate this data and the amount of information that will be needed to have a statistically valid sample, we are currently pursuing use of a third party source to assimilate the information. Once this has been fully developed, I will ask companies to participate in this process.

Separately, we have requested information repeatedly from the industry regarding attorney involvement in claims and attorney's fees in the No-Fault system. The industry has made representations to policymakers and in the Personal Injury Protection (PIP) Working Group that attorneys' fees are a substantial cost driver for PIP, however, to date, we have received no information that would support this contention. This information was also sought prior to last

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year's legislative session. If this is such a concern for the industry, it would be reasonable to assume that the following information would be produced to support the position of proposed attorneys' fee caps and other punitive measures with regard to attorneys in the process.

We would expect to see the following information collectively from the industry in a format that would reflect the escalation since at least 2007:

- 1) The overall cost for the underlying claim.
- 2) The overall attorneys' fees paid to the plaintiff's counsel in settlement of the underlying claims.
- 3) The overall award and number of times any multiplier was granted in the litigation.

This has been discussed repeatedly, yet, to date we have no information with regard to this matter. I cannot believe that there has been any misunderstanding as to the type of information that has been requested and even if it were not crystal clear, the industry should have been diligent in its efforts to produce any data that would support redress regarding attorneys' fees. It is unreasonable to ask policymakers to approve any measure that would restrict an individual's access to the court system without sound data to support that there is an insurmountable problem without this type of reform.

With regards,



Robin Smith Westcott, Esq.