



Coalition Against Insurance Fraud

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Dennis Jay
Executive Director

A national coalition of consumers, government agencies and insurers dedicated to combating all forms of insurance fraud through public information and advocacy.

October 17, 2011

Ms. Robin Scott Westcott
Insurance Consumer Advocate
Florida Department of Financial Services
200 E. Gaines Street
Tallahassee, FL 32399

Dear Ms. Westcott:

It was an honor to serve on the PIP Working Group you established to help formulate a policy paper on automobile no fault PIP reform that can be used by legislators and Florida officials to develop proposals to improve the state's automobile insurance system.

The Coalition supported efforts in the most recent legislative session through the Sunshine Alliance to Erase Fraud to strengthen Florida's automobile insurance fraud laws. As I mentioned several times during the Working Group's three sessions, regardless of where the state wants to take its automobile insurance system, the fraud issues still have to be addressed.

I am attaching a memorandum that discusses those issues that the Coalition believes will help Florida improve its anti-fraud effort. A number of the issues were part of the 2011 legislative effort but the increased licensing issues clearly go to a key discussion point during the Working Group's meetings.

Please let me know if you have any questions and of course, the Coalition continues to stand ready to work with you as you move forward on this issue.

Sincerely,

Howard Goldblatt
Director of Government Affairs



The Coalition Against Insurance Fraud applauds your efforts in creating the PIP working group to help focus all parties on the necessary discussions to strengthen the state's automobile insurance system. We also are very appreciative to have been asked to participate as a member of the Working Group.

Florida's automobile insurance system has been under enormous stress for several years and the fraud in the PIP system has exacerbated the problem. The Coalition has played an active role for the last few years to toughen the PIP fraud laws. We were instrumental in working with the Florida Insurance Council and the Consumer Federation of the the Southeast to create the Sunshine Alliance to Erase Fraud as a means to work with the CFO and others to enact stricter fraud laws that would benefit insurance consumers of Florida.

We look forward to the report that will help present a blueprint to improve the state's automobile insurance system.

The Coalition does have several recommendations for your consideration - all to specifically address the fraud issues facing PIP and any automobile insurance system:

- Require specific license to operate a clinic that treats automobile passengers. The state should not have clinics that perform any medical care not to be licensed. The state should expand the role of the Department of Financial Services and the Department of Health to work together to license and oversee any clinic that treats automobile passengers.

Rationale

It was clear from the discussions at the three Working Group meetings that the state has a system allowing for exemptions to licensing standards and that without standards, Florida truly does not know how many clinics are operating solely to treat automobile passengers.

- Require a warning on license forms clearly stating that submitting false, misleading or fraudulent information to obtain a clinic license is a crime.
- Give insurers more time to adequately investigate a suspicious automobile insurance claim. The current 30 day period is in most cases not enough time to do such an investigation. The additional time should be connected to the belief that the time is necessary to fully investigate a claim based on the belief that insurance fraud is suspected.

Rationale

The 2011 legislation that failed originally had an additional 90 day time period. Legislators felt that 90 additional days was too much time. We would recommend 45 additional days with the insurer required to notify the insured within 10 business days of the request for additional time that the claim is being investigated.

- Have all crash reports to include the names and addresses of all passengers involved in the crash.

Rationale

Legislation was enacted this year that has all information on the short form that is filed. For equity sake, we believe all reports, whether the short form or the long form under the state law should have the same identifying information so that it protects the parties involved in the crash and insurers. Knowing the names of all the passengers at the time of the crash will deter any attempt to add names of passengers at a later date.

- Clarify insurers have the right to request an Examination Under Oath from an insured.

Rationale

The Custer decision (Custer Medical Center v United Auto Insurance Co) has put doubt whether insurers have the right to request an Examination Under Oath. The state supreme court's opinion places Florida in a very unique position as the only state that puts EUOs in doubt. Insurers should not and the record shows that insurers do not abuse the system in other states by over utilizing EUOs; it is a costly process and insurers take that into consideration. However, placing doubt as to whether this could be a tool raises the concerns and belief that a clear statement in law that an insurer could request an EUO and medical exam is an important anti-fraud tool. Consumer protections can be built in to protect consumers to assure that the system is fair and equitable to all parties.

- Forbid providers from seeking payments from consumers when the insurer has denied the claim due to a suspected fraud.

Conclusion

The Coalition came to the Working Group table with a single solution in mind: to help reduce the fraud that is harming the economic vitality of Florida. The PIP fraud is draining resources from consumers, insurers and businesses that could otherwise be used for the betterment of the state. The Working Group recommendations should take a strong view on the fraud that is harming the state.