



National Association of Subrogation Professionals

Amicus Committee Update

Studies of Florida's No-Fault Personal Injury Protection (PIP) System are Underway

Florida's Personal Injury Protection System is again in the spotlight and under scrutiny. A Task Force has formed to study and research ways to implement changes, enhancements or repeal of the No-Fault Personal Injury Protection benefits offered by automobile insurance carriers in Florida. The concerns with the PIP system involve fraud and abuse, a marked increase in claims and lawsuits and increased premiums.

As you will recall on October 1, 2007 a sunset provision of Florida's No-Fault Law was to occur, unless the Legislature reenacted the law prior to that date. The Florida Legislature did reenact the law, effective on January 1, 2008, with modifications. However, once again the No-Fault system is being studied to determine if reform, repeal or other options are desirable in light of the many reported issues facing the PIP system in Florida.

Thanks to Sheri McKee with Aetna for advising NASP of these important efforts into Florida's No-Fault PIP system.

Update on Federal Employee Health Benefits (FEHB) plans Putative Class Action Lawsuits

As you may recall there were several putative class action lawsuits filed challenging a Federal Employee Health Benefits plans' right to recover or subrogate. In the Missouri case, *Jacks v. Meridian Resource*, the federal court recently remanded the case to state court, having interpreted the Class Action Fairness Act ("CAFA") and the Federal Employee Health Benefit Act adversely to the health plan. The same judge also has the *Morris v. Humana* case and is expected to remand the case to state court as well.

Thanks again to Dave Ermer with Ermer Law Group, PLLC (Washington, DC) for his assistance.

Ohio Group Studying Ways to Reduce Driver License Suspensions

While there are over 40 situations in which an Ohio driver's license can be suspended, suspension for failure to carry insurance is of most interest to subrogation professionals given its usefulness as a tool in recovering from uninsured motorists who cause property damage and personal injuries. The State

of Ohio is considering eliminating driver's license suspensions for non-driving related offenses. Recently, a working group comprised of representatives from the Ohio State Highway Patrol, Bureau of Motor Vehicles, municipal court clerks' offices, public defenders' offices, the Attorney General's Office, the insurance industry and others formed at the request of Ohio Senator Peggy Lehner (R-Kettering), issued recommendations regarding the suspension of driver's licenses in the state. The group's recommendations included making it easier for drivers in certain situations to regain their driving privileges.

No legislation has been proposed yet, but Lehner said she plans to introduce a bill once additional work has been done.

Thanks to Kit Rowlinson with United Ohio Insurance Company for alerting us to this event.

Suit Brought to Challenge New York's Anti-Subrogation Law

HealthNow New York Inc. ("HealthNow) brought suit against the State of New York and the Attorney General of New York, Eric T. Schneiderman, to declare New York General Obligations Law, Section 5-335 (the anti-subrogation law) invalid and enjoin enforcement of the law. As you may recall New York's anti-subrogation law eliminated subrogation and reimbursement rights for health and disability plans in personal injury and wrongful death actions based upon settlement of a claim. The District Court dismissed the case for lack of subject matter jurisdiction, holding that the Attorney General was not a proper defendant. HealthNow voluntarily dismissed the State of New York. The United States Appellate Court for the Second Circuit affirmed the district court decision.

Thanks to Ken Levine with Nelson Levine de Luca & Horst, LLC, (Blue Bell, Pennsylvania) and President of NASP for alerting us to this case.

NASP wanted to alert you of these highlights and newsworthy items in the subrogation industry. We will continue to track these events and keep you informed of any major developments.

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