

**Colorado Senate Bill 211 & House Bill 1009:-
No Subrogation for Auto Medical Payments**

The Colorado Senate recently introduced a bill at the end of March requiring a minimum of \$25,000 in medical payment coverage per person in any one accident. Astonishingly, the bill bars subrogation arising from such required coverage. The bill states as follows:

an insurer providing benefits under medical payments coverage ... shall not have a right to recover against an owner, user, or operator of a motor vehicle, or against any person or organization legally responsible. An insurer shall not have a direct cause of action against an alleged tortfeasor for benefits paid under medical payments coverage. No cause of action will lie in subrogation unless the benefits were paid by reason of fraud.

The proposed legislation eliminates tort liability and protects negligent parties from payment of bills for first responders (ambulances), emergency rooms and necessary trauma care. Amendments to the Senate bill have lowered this mandatory coverage from \$25,000 to \$10,000.

If the injured insured has health insurance coverage, the bill also seeks to make this mandatory medical payments coverage primary (ahead of the health insurance) when the need for the medical treatment arises from an automobile accident. The medical payments coverage is supposed to apply to any coinsurance or deductible amount required by the health insurance coverage plan or policy.

The House version of the legislation currently does not include this anti-subrogation provision. However, NASP has learned that the Colorado House is seeking to amend the bill currently to match the anti-subrogation provisions found in the Senate Bill. There is support for the anti-subrogation provisions in both chambers.

Automobile insurance carriers writing in the state of Colorado may want to alert their legislative affairs offices regarding the impact this bill will have on subrogation rights and recovery dollars in Colorado. The Colorado legislature is hoping to finalize the bill and vote on it by May 2, 2008.

NASP would like to thank John M. Karr with American Family Insurance for bringing this bill to our attention.

Kammy Poff, State Net Chair
Daran Kiefer, NASP Amicus Chair