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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE SERVICES
DEPARTMENT OF LABOR & ECONOMIC GROWTH
KEITH W. COOLEY, DIRECTOR

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ACTING COMMISSIONER

BILL ANALYSIS

BILL NUMBER: House Bill 5453, as introduced

TOPIC: Allow seniors to waive personal injury protection coverage

SPONSOR: Representative Joe Hune

CO-SPONSORS: Representatives Virgil Smith and Ed Gaffney

COMMITTEE: House Committee on Insurance

Analysis Done: February 8, 2008

POSITION

The Office of Financial and Insurance Services is neutral on this legislation.

PROBLEM/BACKGROUND

Michigan is the only state in the country that requires anyone who owns or operates a motor vehicle to purchase unlimited personal injury protection (PIP) coverage as part of our mandatory no-fault insurance system. If someone is injured in an auto accident, this PIP coverage pays for all reasonably necessary medical expenses. The cost of providing these unlimited benefits affects the amount that policyholders pay for auto insurance.

Michigan allows policyholders to coordinate their PIP coverage with a health insurance policy. If they choose to coordinate, their health insurance policy becomes the primary payer for any medical expenses related to an auto accident. The auto insurance policy would then cover any remaining eligible medical expenses not covered by the health insurance policy. This coordination is sometimes referred to as excess medical on the auto insurance policy. Because the auto insurance company would pay less in claims, the policyholder would pay less for their auto insurance.

However, some health insurance policies specifically restrict coverage for injuries related to auto accidents if the injured person is also covered by an auto insurance policy. For instance, you may not coordinate if your health insurance is provided by Medicaid, Medicare, a Medicare supplemental or Medicare Advantage policy. These types of policies under federal statute are always secondary and will only pay after all other coverages have been exhausted. Because of this, Michigan seniors who purchase or are covered under Medicare-type health insurance policies are prevented from coordinating their auto insurance policies and subsequently being eligible for reduced auto insurance premiums.

DESCRIPTION OF BILL

The proposed legislation would allow auto insurance policyholders 65 years of age or older who are enrolled in Medicare to waive the personal injury protection (PIP) portion of their Michigan no-fault policy in exchange for a reduction in premium.

SUMMARY OF ARGUMENTS

Pro

Michigan seniors pay the same premium for Medicare as seniors in other states. However, unlike seniors in other states, Michigan seniors are unable to collect Medicare benefits related to an auto accident. This is because Michigan is the only state that has mandatory unlimited medical benefits for auto insurance, and Medicare only pays for benefits that are not covered by other insurance policies. Every other state in the country either has no mandatory requirement for medical benefits coverage, or has significantly lower limits for its coverage. The proposed legislation would allow Michigan seniors who are enrolled in Medicare to waive their current unlimited PIP medical benefits, giving them the same opportunity as seniors in other states to collect benefits under their Medicare policy for injuries related to an auto accident.

Many seniors are on fixed or low incomes. Daily expenses such as housing, food, and prescription drug costs eat up a majority of any income they have. Therefore, any reduction in premium that would be offered to seniors who waive their unlimited auto insurance PIP benefits would be a welcome financial relief.

No-fault provides unlimited PIP benefits to anyone who is injured in or by an insured motor vehicle, including anyone who does not have their own auto insurance policy, such as a pedestrian. The proposed legislation addresses this by only allowing PIP benefits to be waived for those individuals who sign a waiver form, ensuring that anyone else injured in or by the vehicle would still remain eligible for full unlimited PIP benefits. This is similar to the way that seniors are currently allowed to waive work loss coverage only for themselves, while still maintaining coverage for others who may be injured by or in the senior's vehicle.

The proposed legislation would also continue to provide insurers with reinsurance protection through the Michigan Catastrophic Claims Association (MCCA) for those who are injured and who have not signed a medical benefits waiver form. The insurance company's MCCA assessment for each PIP-waived vehicle would be reduced to 20% of the full MCCA assessment amount to reflect the company's decreased probability of receiving a claim for unlimited medical benefits. This is similar to the way that historic vehicles are currently assessed by the MCCA and would ensure that adequate funds would be available to protect the injured party, the insurance company and the MCCA.

Con

A Michigan no-fault policy provides unlimited PIP medical benefits, including doctor's visits, hospital stays, medical supplies and prescriptions, rehabilitation and vocational training

expenses, a stay in a nursing home or long term care facility, or care at home. No-fault also provides modifications to the injured person's home and/or vehicle, work loss benefits, survivor's benefits and up to $20 a day for replacement services such as housekeeping and lawn care. Medicare does not provide work loss, replacement services or survivor's benefits, but does provide coverage for limited hospitalization and nursing home stays, as well as limited modifications and part-time home health services, once appropriate deductibles have been paid by the policyholder. Some Medicare supplement plans may also provide additional coverage for things such as prescription drugs, once the policyholder has reached their annual deductible limit and/or paid a co-pay amount. Any senior who considers waiving their current unlimited auto insurance PIP benefits should be aware of these differences in coverage and additional out-of-pocket expenses because they would be held personally responsible for any expenses not covered by their Medicare, Medicare supplemental or Medicare Advantage health insurance policy.

Medicare regulations state that Medicare is always the secondary payer of claims if other coverage is available. Litigation may be necessary to determine whether allowing only seniors to voluntarily opt out of a coverage that remains mandatory for every other age group meets Medicare's standard of no other available coverage.

FISCAL/ECONOMIC IMPACT

OFIS has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Services:

Budgetary: Because insurers are required to file rate changes with OFIS, any change to the current PIP premiums would require companies to refile their rating structure with OFIS. Because of this, more resources would need to be devoted to reviewing company filings. Additionally, OFIS would need to allocate staff and funds to ensure that seniors were adequately educated about the ramifications of opting out of PIP coverage.

Revenue:

Comments:

(b) To the Department of Labor & Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

None known.

ANY OTHER PERTINENT INFORMATION

None known.

ADMINISTRATIVE RULES IMPACT

The proposed legislation would amend the Michigan Insurance Code. The OFIS does have general rulemaking authority under the Insurance Code, 1956 PA 218.

Ken Ross
Acting Commissioner

2-14-08
Date