SunSentinel

October 28, 2013

Opinion

Eliminating PIP insurance won't magically stop fraud

By Frank Goldstein

The PIP (Personal Injury Protection), or "No Fault," insurance provision is complex and not always easily understood.

When the First District Court of Appeal in Tallahassee ruled Oct. 23 against a challenge to the 2012 PIP reform law enacted by Florida's Legislature, one headline I read said: "Appeals court tosses out PIP reform."

In fact, the court had upheld the reforms.

In a nutshell, PIP is auto insurance that covers the first $10,000 of an injured party's medical bills, no matter who was at fault. PIP has been plagued by fraud so, in 2012, Florida's legislature passed a bill to reform it.

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Before the law took effect, it was challenged by healthcare professionals whose treatment expenses would have been limited under the new PIP law. The challenge was upheld by a Leon County circuit judge who granted the healthcare professionals' temporary injunction and ruled the law unconstitutional; however, the appeals court decision effectively overrides that ruling.

Now there's a move, led by State Sen. David Simmons, R-Altomonte Springs, who chairs the Senate Banking and Insurance Committee, to eliminate PIP altogether, replacing it instead with mandatory bodily insurance. I, for one, oppose eliminating PIP — at least not yet. Here's why.

No one knows how well the new law will perform because it's never been given a chance. Why should we, in effect, throw out the baby with the bathwater?

While not perfect, the 2012 law incorporates two provisions that I believe can effectively help curb auto insurance fraud.

The first permits insurance companies to take statements about claims under oath, which, recent years has been prohibited by the courts, because the prior statute did not specifically provide for it. Insurance companies also would be allowed to toll payment for up to 90 days so they can investigate claims whenever there's reasonable belief a fraudulent insurance act has been committed.

Both provisions have the potential to be

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strong deterrents to fraud.

It's understandable why PIP comes off as the villain when it comes to auto insurance fraud and premiums we pay. PIP often is referred to as "fraud-plagued" insurance and it has been suggested lower rates would result if it were eliminated.

One proposed solution is to replace PIP with mandatory bodily injury (BI) coverage. Sen. Simmons believes that can significantly reduce fraud and our astronomical auto insurance rates.

But eliminating PIP doesn't suddenly stop fraud. Many of the same frauds infecting PIP would simply migrate into bodily injury coverage. In fact, staged car accidents and unscrupulous physician schemes may actually expand because payouts could potentially be larger.

On top of that, mandatory BI could spawn all-new types of fraud — frauds we've never had to deal with before.

Right now, we're getting better at beating PIP fraud. As someone who defends insurance companies against fraud, we generally know what form it takes, how to recognize it, and how to combat unscrupulous practices. But substituting mandatory bodily injury coverage instead could potentially sprout uncharted new forms of fraud and coverage complicities.

It could mean taking several steps backward and starting from scratch. That doesn't strike me as a good plan.

I agree with Chief Financial Officer Jeff Atwater who has said we should allow the new legislation to play itself out before making revisions or deletions. Let's give it two to three years to run its course, review its impact on fraud and premiums and then adjust it based on rational feedback.

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