DEPARTMENT OF CONSUMER & BUSINESS SERVICES

MEMORANDUM

June 5, 2009

To: Sen. Devlin, Sen. Bonamici, Rep. Holvey, Rep. Wingard

From: Teresa Miller, Acting Administrator, Insurance Division

Subject: House Bill 2325 Data Call

SUMMARY: The Insurance Division received a request to undertake a data call concerning the possible effects on rates for Personal Injury Protection coverage if House Bill 2325 passes the Legislative Assembly and is signed into law by the Governor.

The bill would do two things: 1) Allow PIP insurers to subrogate for payments on PIP claims only to the extent that payments made exceed all damages, not just "economic" damages; and 2) extend the maximum timeframe for collection of PIP benefits from one year to two years.

Estimating the possible effects on PIP rates of these changes proved to be difficult. In particular, it is hard to gauge the impact of changing the subrogation threshold to include all damages. "All damages" would include both economic and non-economic damages, and the effect of including the non-economic damages, which are negotiated and subjective in nature, make it difficult to quantify the possible effects to PIP subrogation. (PIP subrogation is the recoupment of payments by PIP insurers from the liability coverage of third parties.)

Initial internal discussions involving Insurance Division staff did not lead to any solid conclusions concerning possible rate increases for PIP coverage, and the Top 10 insurers in Private Passenger Auto coverage in Oregon were approached for their estimates of possible premium increases. Nine of these insurers responded with specific estimates, and two other insurers also contributed their estimates of possible increases as well. The findings are listed in the attached table.

INCREASES DUE TO CHANGES ON SUBROGATION

With regard to the potential increases stemming from the changes to PIP subrogation, the insurers responded with widely varying numbers, with projected increases literally ranging from 0.0% to 50.0%. Four of the 11 insurers projected increases ranging from 0.0% to 2.7%. Three other insurers projected increases of 11.0%, 11.9% and 12.0% respectively. Then four other carriers projected increases anywhere from 23.1% to 50.0%. One insurer did not respond due to "insufficient data".

constitute about 11.0% of the total premiums paid for private passenger auto insurance in Oregon.

It should be noted that insurers make their rating decisions on auto insurance independently. Percentages of premium increases vary widely between insurers, and would likely continue to do so should this bill become law.

$155 million in higher insurance costs?
Oregon insurers urge you to vote NO on SB 411

As originally proposed, **SB 411** was an idea that was rejected by Oregon lawmakers in 2009 and 2011 – a bill that would increase the cost of **Personal Injury Protection (PIP)** insurance by an estimated **$55.6 million** according to data based on a survey of insurers conducted by the Oregon Insurance Division.

Now, the new bill is even *worse* – adding a provision that changes the basis on which **Underinsured Motorist (UIM)** insurance claims are determined – and possibly adding up to **$100 million** to the cost of Underinsured Motorist policies for Oregon drivers. Who will feel the impact of these cost increases the most? Drivers who carry the **minimum limits** for liability and PIP coverage (both required for all drivers under Oregon law).

PIP changes (est. $55 million increase):

Oregon drivers are required to buy PIP coverage when they purchase liability coverage. Liability coverage is insurance that compensates "the other party" that suffers injuries or damage in an auto accident. PIP coverage provides "first party" coverage ("you" or others in "your car" injured in an accident).

Under current law, PIP coverage pays for immediate out-of-pocket costs – medical bills, funeral costs, lost wages due to injuries. And to help manage the cost of this coverage, the PIP insurer – after paying for those immediate costs – is allowed under law to seek reimbursement from the at-fault party's liability insurance. As introduced, **SB 411** would require that the claimant be compensated not only for actual economic losses, but also non-economic damages (such as pain & suffering). Under this proposal, a PIP insurer's ability to recover any costs from the at-fault driver's liability insurer will be severely impaired – with these potential results:

- **A survey of the state's 10 largest auto insurers conducted by the Insurance Division in 2009 concluded that the change now proposed in SB 411 would result in a 21.9 percent increase in the cost of PIP insurance in Oregon.**
- **Based on the division's survey, the Property Casualty Insurers Association of America (PCI) produced an analysis showing that such a cost increase would mean a $55.6 million increase in annual PIP premiums for Oregon drivers.**
- **PCI's review of the 9 states that currently do not allow insurers to recover claims costs have higher claims severity (64%) and higher loss costs (24% per insured vehicle) than Oregon.**

For further information contact Shawn Miller:
503-551-7738
Analysis by PCI / February 2, 2015

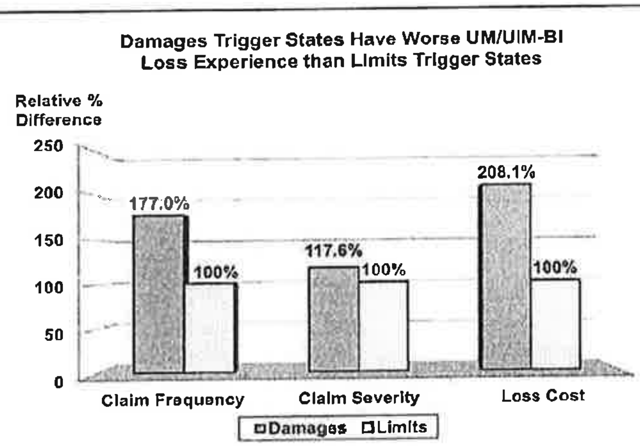
UIM changes (est. $100 million increase):

Under **SB 411**, the claimant's UIM policy will provide *additional* coverage and provide a greater amount of compensation...the cost of which ultimately may be passed on to all drivers.

Current law - At-fault party's liability coverage: $25,000. UIM coverage limit: $35,000. **Recovery available under combination of both policies: $35,000.**

SB 411 – At-fault party's liability coverage: $25,000. UIM coverage limit: $35,000. **Recovery available under combination of both policies: $60,000.**

- Claims frequency and severity and insurance loss costs are significantly higher in the 18 states that have laws similar to SB 411. Loss costs are more than double in those states than in the 29 states where the law is what Oregon has today.
- If SB 411 had passed in Oregon three years ago, the uninsured/underinsured-bodily injury premium would have more than doubled –**a total increase in UM/UIM-BI premiums of $100 million imposed on all Oregon drivers.**



Source: PCI, based on NAIC data

Today, only 18 states do not allow an insurer to pay a claimant the difference in the limits of their UIM policy and the at-fault party's liability policy. In those states, the frequency and severity of claims is higher than in 29 states with laws like Oregon's current law. Loss costs - which drive insurance rates – ***are more than twice as high.***