

SB 421 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/5, 3/27

WHAT THE MEASURE DOES:

Modifies process for reimbursement of personal injury protection benefits made by an insurer on behalf of a person. Prohibits insurer from receiving reimbursement or subrogation of personal injury protection or health benefits provided by the insurer to the person unless the person receives full compensation for the injuries and the reimbursement or subrogation is paid from the amount of recovery in excess of the amount to fully compensate the person. Creates rebuttable presumptions relating to compensation for injuries. Prohibits insurer from refusing or denying benefits to a person due to potential for action or settlement. Prohibits naming insurer as payee in settlement. Makes contact or policy provisions that permit reimbursement or subrogation outside of parameters of Act void and unenforceable. Provides calculation for determining ratio of lien insurer is entitled to in action for damages.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Current Oregon law allows a provider of personal injury protection insurance to be reimbursed for payments made by the insurer on behalf of a person. The amount of recovery is limited to the total amount of benefits paid that exceed the the damages suffered by the person. A person is not required to reimburse an insurer for more than the amount paid in benefit.

Senate Bill 421 prohibits an insurer from relieving reimbursement unless the person receives full compensation for their injuries from an action or settlement, and the reimbursement is paid from the excess amount of recovery. The measure prohibits an insurer from denying a person benefits due to a potential action or settlement and prohibits the insurer from being names on a check or payment from a settlement. SB 421 also makes any contract or plan policy in violation of the measure void and unenforceable. Finally, the measure provides a method for determining the amount of a lien an insurer has against the injured person's recovery amount, which is a proportionate amount not more than 100 percent of expenses, costs, and attorney fees the insured person incurred in connection with the recovery. The amount must be a ration between the amount of the lien before the reduction and the amount of the recovery.