

SB 421 STAFF MEASURE SUMMARYCarrier: Sen. Frederick, Sen.
Prozanski**Senate Committee On Judiciary**

Action Date: 03/27/19
Action: Do pass.
Vote: 5-2-0-0
Yeas: 5 - Fagan, Gelser, Manning Jr, Prozanski, Thatcher
Nays: 2 - Bentz, Linthicum
Fiscal: No fiscal impact
Revenue: No revenue impact
Prepared By: Channa Newell, Counsel
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 contract 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. Takes effect on 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Examples of reimbursement leaving policy holder without settlement money
- Uses of personal injury protection moneys
- Current reimbursement process
- Effect of Senate Bill 411 (2015)

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 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 receiving 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 named 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 an injured person's recovery amount, which is a proportional 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 ratio of the amount of the lien before the reduction to the amount of the recovery.