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0431 Study of Mandatory Motor Vehicle Insurance

Auto Insurance



Study of
Mandatory
Motor Vehicle
Insurance

Report to the
COLORADO
LEGISLATIVE COUNCIL

Colorado Legislative Council
Research Publication No. 431
November 1997

RECOMMENDATIONS FOR 1998

**STUDY OF MANDATORY
MOTOR VEHICLE INSURANCE**

**Report to the
Colorado Legislative Council**

**Research Publication No. 431
November 1997**

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November 14, 1997

To Members of the Sixty-first General Assembly:

Submitted herewith is the final report of the Study of Mandatory Motor Vehicle Insurance. The interim committee was created pursuant to House Joint Resolution 97-1043 to determine the causes of increasing motor vehicle insurance rates and to consider changes that may be made to mandated coverages to reduce premium costs.

At its meeting on November 13, 1997, the Legislative Council reviewed the report of this committee. A motion to forward this report and the bills therein for consideration in the 1998 session was approved.

Respectfully submitted,

/s/ Representative Chuck Berry
Chairman
Legislative Council

CB/LT/pw

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STUDY OF MANDATORY MOTOR VEHICLE INSURANCE

Members of the Committee

Representative Bill Swenson Chairman	Senator Joan Johnson
Senator Ray Powers Vice Chairman	Senator Elsie Lacy
Representative Barry Arrington	Senator Ed Perlmutter
Representative Jennifer Veiga	Senator MaryAnne Tebedo
Representative Tambor Williams	

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EXECUTIVE SUMMARY

Committee Charge

Pursuant to House Joint Resolution 97-1043, the Interim Committee on Mandatory Motor Vehicle Insurance is directed to determine the causes of increasing motor vehicle insurance rates and to consider changes that may be made to mandated coverages or insurance policy requirements to reduce premium costs. The committee is also required to evaluate the effectiveness of no-fault insurance programs in other states.

Committee Activities

The committee held five meetings and received testimony on motor vehicle insurance issues from the following organizations: Colorado Division of Insurance, National Association of Independent Insurers, Colorado Hospital Association, Colorado Health Care Providers Coalition, Sloans Lake Managed Care, Colorado Trial Lawyers Association, and the American Insurance Association. Public testimony and testimony from a number of automobile insurance companies was also provided. The focus of the meetings was to consider proposals for auto insurance cost containment. A portion of one meeting was devoted to evaluating Colorado's current no-fault insurance statutes.

Committee Recommendations

As a result of committee discussion and deliberation, the committee recommends five bills for consideration in the 1998 legislative session.

Bill A — Required automobile insurance coverage amounts. Bill A reduces the minimum automobile insurance coverages for personal injury protection, rehabilitation procedures, and loss of gross income. The bill requires insurers to make available policy options that provide more than the minimum coverages.

Bill B — Requirements for wage loss replacement coverage. The requirement that motor vehicle insurance policies include coverage for loss of wages is eliminated by Bill B. The bill requires insurance companies to make available optional wage loss replacement coverage to persons who have obtained motor vehicle insurance.

Bill C — Personal injury protection coverage policies. Bill C requires insurers offering personal injury protection coverage to make available deductibles and co-insurance in their coverage options.

Bill D — Disclosure requirements for optional managed care arrangements.

When a person applies for motor vehicle insurance coverage, the insurer, pursuant to Bill D, is required to disclose that such coverage may include managed care arrangements. Bill D also requires that insurers disclose that an insured may accept or reject managed care options.

Bill E — Prohibition against adverse actions against a person for failure to maintain motor vehicle insurance coverage in the past. Bill E prohibits any insurer from adding any surcharge or rating factor to a premium for a person solely because the person did not maintain a motor vehicle insurance policy or certificate of self-insurance for any time period in the past.

COMMITTEE ACTIVITIES

Overview of Colorado's Automobile Insurance Premiums

A portion of two committee meetings was devoted to comparing Colorado's auto insurance rates to those of other states and receiving testimony on the causes for Colorado's high ranking for insurance premiums.

Insurance rate comparisons. A report prepared by the National Association of Insurance Commissioners (NAIC) on auto insurance premiums was reviewed by the committee. Included in that report is a 50 state review, for the years 1991 through 1995, of the states' average annual insurance expenditures and combined average premium.

The average annual expenditure measures what consumers actually spend for insurance on each automobile they own. In 1995, Colorado's average annual expenditure for private passenger automobile insurance was \$721.93. Colorado ranked sixteenth among the states and the District of Columbia with this expenditure. In 1991, Colorado ranked twentieth with an average expenditure of \$587.56. Over this four-year period, the average annual expenditure in Colorado grew 22.9 percent, the twelfth-highest increase in the United States.

Colorado's 1995 combined average premium (i.e., liability average premium plus collision average premium plus comprehensive average premium) for private passenger automobile insurance was \$823.69 per policy. Colorado ranked thirteenth among the states with this premium. In 1991, Colorado ranked nineteenth with a combined average premium of \$684.81 per policy. During this time, the combined average premium grew 20.3 percent in Colorado, the twelfth-highest increase in the nation.

The NAIC noted that the average expenditures and average premiums for automobile insurance are affected by a number of factors in a state which include: the relative amounts of the coverages that are purchased; the types of vehicles insured; the proportion of drivers in urban areas; the cost of living; medical costs; and auto repair costs.

Causes for high premiums in Colorado. Testimony by a representative of the Division of Insurance and several auto insurance industry spokespersons indicated a variety of reasons why Colorado has such a high ranking for auto insurance premiums. Major reasons for the thirteenth-highest insurance rates include:

- high personal injury protection limits for no-fault coverage;
- severity of personal injury protection claims in this state;
- low monetary threshold (i.e., \$2,500) in order to make a claim for noneconomic damages;

- high costs for comprehensive coverage, due in part to the frequency and severity of hail storms;
- high number of uninsured motorists;
- rating practices in this state (e.g., “rating up” a person because they have not had insurance for more than 30 days); and
- frequency of injury claims relative to vehicle damage claims.

Testimony also revealed that a high percentage of the Colorado population resides in urban areas. An additional factor driving up rates is that the average household income in Colorado is higher than in most states, resulting in persons purchasing more expensive cars which require a higher level of insurance coverage.

Levels of Automobile Insurance Coverage

A major focus of the testimony and written materials provided to the committee was on the required coverage set forth in the “Colorado Auto Accident Reparations Act.” The committee reviewed the required benefits and thresholds in Colorado compared to those mandated in other no-fault states.

Required Colorado coverage. The “Colorado Auto Accident Reparations Act” requires every owner of a motor vehicle who operates or permits the operation of a vehicle on Colorado highways to carry minimum insurance coverage (Section 10-4-705, C.R.S.). All insurance policies sold in the state must provide liability insurance, personal injury protection, and uninsured/underinsured motorist insurance. The uninsured/underinsured motorist coverage may be waived if the insured rejects it in writing.

Liability insurance provides coverage for bodily injury that the insured causes to another person or for damage to another’s property through negligent operation of a vehicle. The minimum amount of liability insurance required by statute is: \$25,000 per person for bodily injury; \$50,000 per accident for bodily injury; and \$15,000 per accident for property damage.

Personal injury protection (PIP), commonly referred to as no-fault insurance, provides coverage to the insured for certain medical and rehabilitation expenses, lost wages, and loss of essential services resulting from injuries sustained in an automobile accident. This protection also provides coverage for persons injured in an accident involving the insured, such as passengers and pedestrians. This coverage is different from liability coverage because it will pay benefits for injuries whether or not the insured person is negligent or “at fault.” The minimum amount of no-fault insurance required by law is as follows: \$50,000 per person for medical expenses; \$50,000 per person for rehabilitation expenses; up to \$400 per person per week for loss of gross income; up to \$25 per person per day for essential services, such as cooking and cleaning; and \$1,000 per person death benefit.

Comparison of coverage requirements. A review of a report prepared by the NAIC and testimony indicated that PIP coverage requirements in Colorado are significantly higher than those in most states. The report can be found in Appendix A. Colorado requires a total of \$100,000 in PIP medical coverage. Most no-fault states set the PIP medical amount at between \$5,000 and \$20,000. Regarding wage loss, Colorado provides a benefit of up to \$400 per person per week (52 week maximum). In comparison, New Jersey has a limitation of \$100 per week for one year and a lifetime maximum of \$5,200. In Kentucky, also a no-fault state, income loss benefits of up to \$200 weekly are provided, with a \$10,000 overall maximum on first party benefits.

“What if” scenarios for Colorado auto insurance. In response to a committee directive, representatives of Farmers Insurance Group of Companies and Guaranty National reviewed a number of scenarios for revisions (i.e., reductions) in mandatory insurance coverage requirements. The scenarios provided sample six-month premiums for male drivers in Denver, Colorado Springs, and Mesa County. Premium costs were calculated for a 35-year-old male as well as a 17-year-old male. For example, using current requirements for PIP coverage, a 17-year-old male in Colorado Springs would pay \$684 for six months of coverage. If the total PIP coverage was reduced to \$25,000, said driver would have a \$458 premium, a savings of \$226. A 35-year-old male in Mesa County pays a \$282 premium for six months of PIP coverage. If the PIP coverage was reduced to \$25,000, said driver would have a \$189 premium, a savings of \$93.

Concerns relating to scenarios. A representative of the Colorado Hospital Association (CHA) noted that the position of the CHA is that current levels of coverage and compulsory auto insurance in Colorado should be maintained. The representative stated that current levels of coverage address not only lower-cost accident injuries but also afford the opportunity for those with more serious injuries to be adequately compensated after accidents. The CHA representative expressed concern that lowering benefit levels could shift medical and rehabilitation expenses to the business community, to Medicaid and medically indigent programs, and to health care providers as uncompensated care.

The CHA said there is no guarantee that insurance premiums would diminish as a result of decreased benefits, and there is no evidence that a reduction in premiums would increase the numbers of those purchasing auto insurance.

A representative of the Colorado Trial Lawyers Association also questioned the value of a potential reduction in benefit levels to insurance consumers. The representative said it is likely that any potential reduction in benefits would not be commensurate with resulting premium reductions.

Recommendations. The committee concluded that current PIP coverage requirements should be lowered. In response to these concerns, the committee recommends Bills A, B, and C. A review of the provisions of those bills is provided on pages 7 and 8.

Managed Care Legislation

Testimony was provided concerning the effectiveness of managed care in containing the medical costs of claims under the mandated provisions of personal injury protection coverage. Managed care relies on the use of medical fee schedules, negotiated with member providers, to limit the cost of specified medical services and procedures. Utilization review, provided by member provider's peers, to review the appropriateness of treatment and the number of visits, is another important component of managed care.

Background. In 1991, a managed care option was adopted by the General Assembly to allow insurers to offer an option that restricts direct medical benefits incurred after the first 24 hours of an accident. Insureds, who select such an option, agree to treatment supplied by a managed care program or HMO after the first 24 hours of an accident. The managed care option applies only to the named insured, resident spouse, resident relatives, and persons operating the vehicle under the insured's permission.

Approximately 60 percent of Colorado's insureds have opted for no-fault managed care. According to insurance company sources, a significantly greater percentage of new policyholders are currently opting for no-fault managed care. The actual number of insureds opting for no-fault managed care varies widely from one insurance company to another depending on policyholder profiles.

Effectiveness of managed care. Testimony indicated that the use of a medical fee schedule and the utilization of peer review organizations for all policyholders could provide additional cost containment and premium reduction opportunities for the 40 percent of Colorado's insureds who have not opted for no-fault managed care. Representatives of the Division of Workers' Compensation, Colorado Department of Labor and Employment, testified that a medical fee schedule has helped to control workers' compensation insurance premium costs. According to testimony from one managed care program provider for automobile insurance policyholders, additional advantages of a medical fee schedule are reduced cost shifting to the casualty-health care insurance industry and a stable price per unit of service. Their testimony concluded that a very small percentage of persons who they treat file appeals as a result of dissatisfaction with the care provided under their program.

Additional issues regarding the "quality of care" under managed care programs were raised in testimony by persons injured in automobile accidents. Testimony was presented by the Colorado Trial Lawyers Association that, rather than mandating a medical fee schedule, deductibles (and co-insurance provisions) for the current PIP managed care option should be made available. Other provider groups expressed opposition to medical fee schedules because of their impact on the private rights of the provider. One individual testified that her insurance company had included her and her husband in a managed care plan even though they had specifically informed the insurance agent that they did not want managed care coverage.

Recommendations. The committee recommends Bill D which requires insurance companies at the time of initial application for insurance coverage to clearly disclose information about managed care options. A complete review of the provisions of Bill D is provided on page 8.

Other Issues Considered

Evaluation of Colorado's no-fault insurance statutes. The committee was briefed by automobile insurance company representatives, health care providers, the Colorado Trial Lawyers Association, and the public regarding the effectiveness of Colorado's no-fault insurance laws. The consensus from the testimony was that Colorado should remain a no-fault state and that a number of statutory changes should be enacted that would result in a reduction in insurance premiums.

Several interested persons endorsed giving insureds a choice in the level of benefit package which they purchase. Other suggestions for lowering rates included:

- prohibiting "rating up" or refusing to cover a person solely because the person had not been insured for more than 30 days;
- eliminating the current statutory threshold of "death, dismemberment, permanent disability, or \$2,500 in medical costs" for recovery of non-economic damages and replacing it with a descriptive threshold;
- adopting a medical fee schedule for auto accident victims similar to the schedule currently utilized in workers' compensation cases;
- limiting the ability of uninsured motorists to sue for non-economic damages after an auto accident ("no pay-no play" legislation); and
- establishing monetary penalties on insureds who select the preferred provider option (PPO) and subsequently go outside the PPO network.

With the exception of the suggestion to prohibit "rating up" by insurance companies, the committee makes no recommendations on the aforementioned proposals. The committee recommends Bill E which prohibits any insurer from adding any surcharge or rating factor to a premium for a person solely because the person did not maintain a motor vehicle insurance policy or certificate of self-insurance for any time period in the past. A review of the provisions of Bill E is provided on page 9.

Elimination of mandatory auto insurance. A representative of Progressive Insurance Company spoke in support of eliminating statutory requirements for liability insurance coverage. The representative suggested that mandatory insurance laws do nothing to prevent uninsured motorists from owning or operating motor vehicles. The representative also stated that mandatory insurance laws force all consumers to purchase an insurance product which may be inappropriate or unnecessary. A Division of Insurance representative enumerated reasons for retention of mandatory insurance laws. The

spokesperson stated that the goals of auto insurance regulation are to seek affordable premiums for consumers, reduce the number of uninsured motorists, provide protection to injured parties, and encourage personal responsibility. The consensus of committee members was that auto insurance should continue to be mandatory.

Implementation of Senate Bill 96-078. A representative of the Division of Insurance briefed the committee on the implementation of Senate Bill 96-078, concerning the provision of services in conjunction with a claim under a policy issued pursuant to the "Colorado Auto Accident Reparations Act." The PIP exam program, established pursuant to Senate Bill 96-078, officially began January 1, 1997. A total of 993 providers have been enrolled, representing the equivalent of 1,095 available specialists. A total of 1,791 requests for a PIP exam had been processed and received. Regarding PIP exam outcomes, 71 percent of all treatments reviewed by panel members have been found to be reasonable, necessary, and accident related.

Concerns about the effectiveness of Senate Bill 96-078 were raised by a spokesman for American Family Insurance who stated that cost increases have resulted due to record keeping, internal grievance procedures, and out-of-state independent medical examinations.

SUMMARY OF RECOMMENDATIONS

As a result of the committee's activities, the following bills are recommended to the Colorado General Assembly.

Bill A — Required Automobile Insurance Coverage Amounts

Colorado's required minimum amounts of personal injury protection (PIP) coverage are among the highest in the country. The committee believes that consumers should be given a choice to buy lower PIP benefits to save money. In addition, Colorado's population of uninsured drivers may decrease if lower, less expensive PIP benefits are offered.

Bill A reduces the minimum automobile insurance coverages for personal injury protection, rehabilitation procedures, and loss of gross income. The specific reduction amounts are:

<u>Item</u>	<u>Reduction Amount</u>
PIP Coverage	\$50,000 to \$5,000
Rehabilitation Procedures	\$50,000 to \$5,000
Loss of Gross Income	\$400 per week to \$5,000

The bill allows the benefits to be used on an aggregate basis. For example, if a person buys the minimum aggregate amount of PIP coverage (i.e., \$15,000), that amount could be used for any one or a combination of current PIP benefits so long as the total did not exceed \$15,000.

Insurers are required by Bill A to make available insurance policy options that provide more than the minimum coverages. Since the bill provides for substantial reductions in required minimum coverages, current statutory requirements for a basic PIP policy, designed for low-income persons, have been eliminated.

Insurance industry testimony indicated that enactment of Bill A could result in a 30 to 35 percent reduction in average personal injury protection premiums for those insureds who opt for the lower mandated coverage limits.

This bill is assessed as having no fiscal impact.

Bill B — Requirements for Wage Loss Replacement Coverage

Bill B eliminates the requirement that motor vehicle insurance policies include coverage for loss of wages. The committee believes that such coverage should be optional. Individuals through their place of employment, or on their own initiative, have access to long-term disability coverage. Having such coverage makes it unnecessary to also purchase coverage for wage losses.

Bill B requires insurers to make available optional wage loss replacement coverage to persons who have obtained motor vehicle insurance.

This bill is assessed as having no fiscal impact.

Bill C — Personal Injury Protection Coverage Policies

Bill C requires insurers who offer personal injury protection coverage to make available to insurance consumers deductibles and co-insurance in their coverage options. The bill also requires that insurers disclose these options and eliminates language that merely permitted insurers to offer the options. This bill is recommended by the committee for the purpose of reducing insurance premiums. The committee heard testimony that such deductibles and co-insurance are available under current managed care arrangements and believes that such coverage options should be extended to all insureds.

This bill is assessed as having no fiscal impact.

Bill D — Disclosure Requirements for Optional Managed Care Arrangements

Insurers are required, pursuant to Bill D, to disclose information concerning managed care arrangements to persons making initial applications for motor vehicle insurance coverage. The bill mandates that insurers disclose that motor vehicle insurance policies in Colorado may include optional managed care arrangements including Health Maintenance Organizations and Preferred Provider Organizations and whether the insurer offers a managed care option. Insurers are directed to explain what managed care is, and how it affects the consumer. If an insurer offers a managed care option, the insurer must disclose that potential cost savings may be obtained from choosing managed care.

The bill requires that disclosure forms for managed care arrangements state that insurance policies with a managed care option may be accepted or rejected by the insured, at a minimum, on each policy anniversary period or renewal date. The forms must also state that obtaining or renewing the policy is not dependent upon accepting a managed care option, and must disclose the approximate cost savings from using the managed care option.

This bill is recommended by the committee as a means of informing insurance consumers of the benefits of the managed care option and the potential cost savings that may be realized from choosing managed care. An additional purpose of the bill is to assure that the consumer is making an informed decision on whether or not to use managed care.

This bill is assessed as having no fiscal impact.

Bill E — Prohibition Against Adverse Actions Against a Person for Failure to Maintain Motor Vehicle Insurance Coverage in the Past

Bill E prohibits insurers from denying coverage, restricting coverage or adding surcharges and rating factors to premiums for an insured solely because the insured did not obtain or maintain a motor vehicle insurance policy or certificate of self-insurance for any time period in the past. However, this prohibition does not apply to persons convicted of a driving offense within the 12-month period preceding the insurer's action. The committee recognizes that a number of situations may occur which compel a person to allow motor vehicle insurance policies to lapse for certain time periods. Examples of these situations are military assignments overseas and foreign work assignments. The committee believes that it is inappropriate to financially penalize a person who has let motor vehicle insurance coverage lapse for a legitimate reason.

This bill is assessed as having no fiscal impact.

MATERIALS AVAILABLE

The materials listed below are available upon request from the Legislative Council staff.

Meeting Summaries	Topics Discussed
July 22, 1997	State and proposed federal regulation of automobile insurance and cost containment initiatives of the Colorado Division of Insurance; review of commonly used auto insurance terms; setting of automobile insurance rates in Colorado; evaluation of recent insurance cost containment enactments in other states; and health care provider perspectives on Colorado's mandatory motor vehicle insurance requirements
August 12, 1997	Development of a relative value fee schedule for payment of automobile accident medical claims; Colorado automobile insurance accident scenarios; current costs for various required and optional coverages in a sampling of automobile insurance policies; and "what if" scenarios for revisions in mandatory insurance coverage requirements and responses to the scenarios
September 9, 1997	Further responses to "what if" scenarios; evaluation of the Colorado no-fault insurance law; alternatives to mandatory auto insurance; national perspective regarding auto insurance cost containment; and implementation of Senate Bill 96-078, regarding creation of a PIP Examination Program
September 24, 1997	Briefing on assigned risk insurance; public testimony on automobile insurance issues; costs of liability insurance and cost-shifting issues; committee review of proposals relating to automobile insurance; and committee member proposals for automobile insurance legislation
October 29, 1997	Current consumer information activities of the Division of Insurance; review and final action on draft legislation; and review of other committee member proposals for automobile insurance legislation

Memoranda and Reports

Legislative Council staff memoranda titles:

Study Topics, Schedule of Meeting Dates, and Membership for the Committee, July 10, 1997

No-Fault Insurance Law, July 14, 1997

Automobile Insurance Premiums, July 14, 1997

Motor Vehicle Insurance Cost Containment Measures, July 14, 1997

Automobile Medical Insurance Cost Containment Measures, August 5, 1997

Review of Benefits and Thresholds in No-Fault States, August 6, 1997

Uninsured Motorists and Efforts to Limit Their Ability to Sue for Non-Economic Damages After an Auto Accident, August 28, 1997

Financial Responsibility Laws, September 2, 1997

Proposals Relating to Automobile Insurance, September 17, 1997

Reports provided to the committee:

Auto Insurance Reform Proposals, Colorado Division of Insurance, September 9, 1997

Colorado Automobile Insurance Reform Alternatives, American Insurance Association

Summary of Recommendations of Insurance Companies and Insurance Associations, State Farm Insurance Companies, American Insurance Association, Farmer's Insurance Group, National Association of Independent Insurers, Colorado Insurance Coalition, September 18, 1997

Automobile Insurance: Basic Overview, Colorado Auto Reparations System, Joy Keyser Pickar, State Farm Insurance Companies

Where the Premium Dollar Goes - Private Passenger Auto, 1995, Insurance Information Institute

BILL A

By Representative Veiga

A BILL FOR AN ACT

CONCERNING CERTAIN REQUIRED AUTOMOBILE INSURANCE COVERAGE AMOUNTS.

Bill Summary

"Reduction Of Min. Auto. Ins. Cov. Amts."

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Mandatory Motor Vehicle Insurance. Effective July 1, 1998, reduces the described minimum automobile insurance coverages as follows:

Item	Reduction Amount
Personal injury protection (PIP) coverage	\$50,000 to \$5,000
Rehabilitation procedures	\$50,000 to \$5,000
Loss of gross income	\$400/week to \$5,000

States that, to the extent the above-described benefits have not been exhausted, the remaining benefit amounts may be used for the other described benefits. Requires insurers to make available policy options that provide more than the minimum coverages.

- Retains legal liability minimum coverages at current levels.
- Eliminates basic policies for qualified low-income persons.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-706 (1) (b) (I), (1) (c) (I), (1) (d) (I), and (3), Colorado Revised Statutes, are amended, and the said 10-4-706 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

10-4-706. Required coverages - complying policies - PIP examination program. (1) Subject to the limitations and exclusions authorized by this part

7, the minimum coverages required for compliance with this part 7 are as follows:

(b) (I) Compensation without regard to fault, up to a limit of ~~fifty~~ FIVE thousand dollars per person for any one accident, for payment of all reasonable and necessary expenses for medical, chiropractic, optometric, podiatric, hospital, nursing, x-ray, dental, surgical, ambulance, and prosthetic services, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing, performed within five years after the accident for bodily injury arising out of the use or operation of a motor vehicle; except that, to the extent that the benefits offered pursuant to ~~paragraph~~ PARAGRAPHS (c) AND (d) of this subsection (1) have not been exhausted, the remaining value of such benefits shall be available to the insured or injured person entitled to benefits for treatment pursuant to this paragraph (b).

(c) (I) Compensation without regard to fault up to a limit of ~~fifty~~ FIVE thousand dollars per person for any one accident within ten years after such accident for payment of the cost of rehabilitation procedures or treatment and rehabilitative occupational training necessary because of bodily injury arising out of the use or operation of a motor vehicle; EXCEPT THAT, TO THE EXTENT THAT THE BENEFITS OFFERED PURSUANT TO PARAGRAPHS (b) AND (d) OF THIS SUBSECTION (1) HAVE NOT BEEN EXHAUSTED, THE REMAINING VALUE OF SUCH

BENEFITS SHALL BE AVAILABLE TO THE INSURED OR INJURED PERSON ENTITLED TO BENEFITS FOR TREATMENT PURSUANT TO THIS PARAGRAPH (c).

(d) (I) (A) Payment of benefits equivalent to one hundred percent of the first one hundred twenty-five dollars of loss of gross income per week, seventy percent of the next one hundred twenty-five dollars of loss of gross income per week, and sixty percent of any loss of gross income per week in excess thereof, with the total benefit under this subparagraph (I) not exceeding ~~four hundred dollars per week~~ FIVE THOUSAND DOLLARS, from work the injured person would have performed had he not been injured during a period commencing the day after the date of the accident, and not exceeding fifty-two additional weeks. In addition payment shall be provided for expenses not exceeding twenty-five dollars per day which are reasonably incurred for essential services in lieu of those the injured person would have performed without income during the period commencing the day after the date of the accident and not exceeding fifty-two additional weeks.

(B) NOTWITHSTANDING SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (I), TO THE EXTENT THAT THE BENEFITS OFFERED PURSUANT TO PARAGRAPHS (b) AND (c) OF THIS SUBSECTION (1) HAVE NOT BEEN EXHAUSTED, THE REMAINING VALUE OF SUCH BENEFITS SHALL BE AVAILABLE TO THE INSURED OR INJURED PERSON ENTITLED TO BENEFITS FOR TREATMENT PURSUANT TO THIS PARAGRAPH (d).

(f) EVERY INSURER PROVIDING POLICIES PURSUANT TO THIS SUBSECTION (1) SHALL MAKE POLICY OPTIONS AVAILABLE TO CONSUMERS THAT PROVIDE COVERAGES GREATER THAN THE MINIMUMS SET FORTH IN PARAGRAPHS (b), (c), AND (d) OF THIS SUBSECTION (1).

~~(3) (a) Notwithstanding anything in subsection (1) of this section, an insurer may offer, as an alternative to the minimum coverages required under subsection (1)(b), (1)(c), (1)(d), and (1)(e) of this section, to persons qualified pursuant to paragraph (c) of this subsection (3), a basic personal injury protection policy which shall be deemed to provide minimum coverages required for compliance with this part 7. Acceptance of any policy offered pursuant to this subsection (3) shall be voluntary and shall be subject to all requirements of this subsection (3).~~

~~(b) For persons qualified pursuant to paragraph (c) of this subsection (3), the coverages and limitations provided in a basic personal injury protection policy shall be as follows:~~

~~(I) Compensation without regard to fault, up to a limit of twenty five thousand dollars per person for any one accident for payment of all reasonable and necessary expenses for medical, chiropractic, optometric, podiatric, hospital, nursing, x ray, dental, surgical, ambulance, and prosthetic services, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing, performed within five years after the accident for bodily injury arising out of the use or operation of a motor vehicle;~~

~~(II) No compensation shall be offered for rehabilitative occupational training;~~

~~(III) Compensation on account of the death of a person for whom direct benefits are provided under this section, payable to the estate of the deceased, in the total amount of five thousand dollars.~~

~~(c) (I) To qualify for a basic personal injury protection policy, a person and such person's resident spouse shall not have a combined annual gross income, from all sources, of more than twenty thousand dollars.~~

(H) The base year for calculation of the maximum qualifying combined annual gross income for purposes of this paragraph (e) shall be 1991, and such maximum qualifying combined annual gross income shall be readjusted annually on January 1, starting January 1, 1993, based on the increase, if any, for the preceding calendar year in the consumer price index for all urban consumers as published by the United States bureau of labor statistics.

(I) Income verification for a basic personal injury protection policy shall be through written evidence from the person seeking to qualify for a policy issued pursuant to this subsection (3) of the annual gross income of such person and such person's resident spouse for the most recent tax year available. Such evidence shall be contained in a document acceptable to the policy provider. For persons qualified pursuant to this paragraph (e), further verification of annual gross income shall be required in the same manner every third year following the date upon which the policy is issued.

(J) Any insurer providing policies pursuant to this subsection (3) may offer to any person qualified for such policies pursuant to paragraph (e) of this subsection (3) any cost containment measure, as a part of any such policy, as specified in subsection (2) of this section.

(K) Any insurer providing policies pursuant to this subsection (3) shall provide to any person qualified for such policies pursuant to paragraph (e) of this subsection (3) a loss of gross income benefit, except that if the insured represents in writing that neither the insured nor the insured's resident spouse has received, during the thirty-one days previous to applying for coverage, any earned income from wages from regular employment and that none is anticipated for at least the next one hundred eighty days the insured may waive loss of gross income

benefits. Such benefit shall be for a loss of gross income due to an injury arising out of the use or operation of a motor vehicle if such injury prevents the injured insured from earning income of up to and including five thousand dollars which shall be paid as follows:

(A) The equivalent of one hundred percent of the first one hundred twenty-five dollars of loss of gross income per week;

(B) Seventy percent of the next one hundred twenty-five dollars of loss of gross income per week; and

(C) Sixty percent of any loss of gross income per week in excess thereof, with the total loss of gross income benefit up to four hundred dollars per week.

(D) A loss of gross income benefit shall not be payable for more than fifty-two weeks.

(E) The basic personal injury protection policy shall apply only to the named insured, resident spouse, and resident child. For purposes of this subsection (3), a child is a resident if such child qualifies as a dependent of the named insured under the federal income tax code, 26 U.S.C.A., sec. 151 (e).

(F) Any person injured in an accident, other than those persons whose coverage is specifically limited in a basic personal injury protection policy pursuant to subparagraph (1) of this paragraph (f), shall, if expenses incurred by such injured person exceed the limits of such basic personal injury protection policy, receive coverage for such expenses of not less than the minimum coverages mandated by paragraphs (b), (c), (d), and (e) of subsection (1) of this section.

(G) All persons who qualify for and opt for a basic personal injury protection policy pursuant to this subsection (3) shall be deemed in violation of

this part 7 if such persons do not obtain a policy providing legal liability coverage as specified in paragraph (b) of subsection (1) of this section.

(h) For the first year an insurer offers the coverages authorized in this subsection (3), such insurer shall demonstrate in rate filings submitted to the commissioner that a savings of a minimum of fifteen percent of the personal injury protection coverage premium shall be realized under the plan. Any disclosure form to be used to record an insured's election for any coverage authorized in this subsection (3) shall be submitted to the commissioner for preapproval.

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to policies issued and renewed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 98-146
Prime Sponsor(s): Rep. Veiga
Sen. Tebedo

Date: November 18, 1997
Bill Status: Mandatory Motor Vehicle
Insurance
Fiscal Analyst: Will Meyer (866-4976)

TITLE: CONCERNING CERTAIN REQUIRED AUTOMOBILE INSURANCE COVERAGE AMOUNTS.

Summary of Assessment

The provisions of this bill would make the following changes to Motor Vehicle ("No Fault") Insurance statutes: 1) reduce the required minimum personal injury protection "PIP" coverages; 2) allow the total benefit amount to be used for all offered benefits; 3) require insurers to make available policy options that provide more than the minimum coverages; 4) retain legal liability minimum coverages at current levels; and 5) eliminate basic policies for qualified low-income persons. It would retain current level coverages for essential services of \$25 per week and death benefits of \$1,000.

The bill would reduce the PIP medical coverage from \$50,000 to \$5,000, rehabilitation coverage from \$50,000 to \$5,000, and loss of income coverage from \$400 per week for a maximum of 52 weeks to \$5,000, for a aggregate total coverage of \$15,000. The bill would eliminate the statutory provisions for basic policies for qualified low-income persons, including the PIP medical coverage of \$25,000, no compensation for rehabilitation, and death benefits of \$5,000.

These changes would require auto insurance carriers to file new rate and form certifications with the Division of Insurance, and the division to make an amendment to a current regulation. This would have a minimal impact on the workload of the division. This increase in workload could be absorbed by current staff, but may require re-prioritizing existing workload. This bill would not impact any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact. The bill would become effective July 1, 1998 and would apply to policies issued or renewed on or after said date.

Departments Contacted

Regulatory Agencies

BILL B

By Senator Powers

A BILL FOR AN ACT

CONCERNING ELIMINATION OF THE REQUIREMENT THAT MOTOR VEHICLE INSURANCE POLICIES INCLUDE WAGE LOSS REPLACEMENT COVERAGE, AND, IN CONNECTION THEREWITH, REQUIRING INSURERS TO PROVIDE OPTIONAL WAGE LOSS REPLACEMENT COVERAGE.

Bill Summary

"Auto Insurance Wage Loss Replacement"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Mandatory Motor Vehicle Insurance. Eliminates the requirement that motor vehicle insurance policies include coverage for loss of wages. Requires insurance companies to make available optional wage loss replacement coverage to persons who have obtained motor vehicle insurance.

Modifies the limitation on tort motor vehicle actions to allow recovery in a tort action if a motor vehicle accident causes loss of earnings and earning capacity extending beyond the 52-week period for which wage loss replacement coverage is available and if such loss is not compensated by a motor vehicle insurance policy.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-706 (1) (d) (I), (1) (d) (III), (1.1), and (3) (e), Colorado Revised Statutes, are amended to read:

10-4-706. Required coverages - complying policies - PIP examination program. (1) Subject to the limitations and exclusions authorized by this part

7, the minimum coverages required for compliance with this part 7 are as follows:

(d) (I) ~~Payment of benefits equivalent to one hundred percent of the first one hundred twenty five dollars of loss of gross income per week, seventy percent of the next one hundred twenty five dollars of loss of gross income per week, and sixty percent of any loss of gross income per week in excess thereof, with the total benefit under this subparagraph (I) not exceeding four hundred dollars per week, from work the injured person would have performed had he not been injured during a period commencing the day after the date of the accident, and not exceeding fifty two additional weeks. In addition Payment shall be provided for expenses not exceeding twenty-five dollars per day which THAT are reasonably incurred for essential services in lieu of those the injured person would have performed without income during the period commencing the day after the date of the accident and not exceeding fifty-two additional weeks.~~

(III) ~~Notwithstanding the requirements of this subsection (1), the coverage set forth in this paragraph (d) may be declined at the option of the insured, if the insured represents in writing that neither the insured nor the insured's resident spouse has received, during the thirty one days previous to applying for coverage, any earned income from wages from regular employment and that none is anticipated for at least the next one hundred eighty days. Neither the insurer nor any agent of the insurer shall have any duty to verify any such representation made by the insured. However, if such option to decline such coverage is exercised by the insured, it shall apply only to such insured and the insured's~~

resident spouse. All other covered persons shall be entitled to the coverage as set forth in subparagraph (l) of this paragraph (d).

(1.1) The provisions of subparagraph (III) of paragraph (d) of subsection (1) of this section as enacted by House Bill 92-1175, enacted at the second regular session of the fifty-eighth general assembly, which provide an insured the option of declining required coverages shall apply to policies issued on and after July 1, 1992.

(3) (c) (f) Any insurer providing policies pursuant to this subsection (3) shall provide to any person qualified for such policies pursuant to paragraph (e) of this subsection (3) a loss of gross income benefit, except that if the insured represents in writing that neither the insured nor the insured's resident spouse has received, during the thirty one days previous to applying for coverage, any earned income from wages from regular employment and that none is anticipated for at least the next one hundred eighty days the insured may waive loss of gross income benefits. Such benefit shall be for a loss of gross income due to an injury arising out of the use or operation of a motor vehicle if such injury prevents the injured insured from earning income of up to and including five thousand dollars which shall be paid as follows:

(A) The equivalent of one hundred percent of the first one hundred twenty five dollars of loss of gross income per week;

(B) Seventy percent of the next one hundred twenty five dollars of loss of gross income per week; and

(C) Sixty percent of any loss of gross income per week in excess thereof, with the total loss of gross income benefit up to four hundred dollars per week.

~~(H) A loss of gross income benefit shall not be payable for more than fifty two weeks.~~

SECTION 2. 10-4-710, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

10-4-710. Required coverages are minimum. (5) EVERY INSURER SHALL MAKE AVAILABLE FOR INCLUSION IN A COMPLYING POLICY, IN ADDITION TO THE COVERAGES DESCRIBED IN SECTION 10-4-706, AT THE OPTION OF THE NAMED INSURED, COMPENSATION FOR LOSS OF INCOME. THE BENEFITS OF SUCH INSURANCE COVERAGE SHALL BE EQUIVALENT TO AT LEAST ONE HUNDRED PERCENT OF THE FIRST ONE HUNDRED TWENTY-FIVE DOLLARS OF LOSS OF GROSS INCOME PER WEEK, SEVENTY PERCENT OF THE NEXT ONE HUNDRED TWENTY-FIVE DOLLARS OF LOSS OF GROSS INCOME PER WEEK, AND SIXTY PERCENT OF ANY LOSS OF GROSS INCOME PER WEEK IN EXCESS THEREOF, WITH THE TOTAL BENEFIT AVAILABLE UNDER THE POLICY BEING AT LEAST FOUR HUNDRED DOLLARS PER WEEK, FROM WORK THE INJURED PERSON WOULD HAVE PERFORMED HAD HE OR SHE NOT BEEN INJURED. SUCH BENEFIT SHALL COMMENCE THE DAY AFTER THE DATE OF THE ACCIDENT AND SHALL COVER AT LEAST FIFTY-TWO ADDITIONAL WEEKS.

SECTION 3. 10-4-714 (1) (f), Colorado Revised Statutes, is amended to read:

10-4-714. Limitation on tort actions. (1) No person for whom direct benefit coverage is required by operation of sections 10-4-705 to 10-4-707, or for whom direct benefits would have been payable but for exercise of a deductible option or but for a waiting period or percentage limitation, shall be allowed to recover against an owner, user, or operator of a motor vehicle, or against any person or organization legally responsible for the acts or omissions of such

person, for damages for bodily injury caused by a motor vehicle accident, except in those cases in which there has been caused by a motor vehicle accident:

(f) Loss of earnings and loss of earning capacity extending beyond the fifty-two week period ~~provided in section 10-4-706 (1) (d) or (3) (e)~~ FOR WHICH INSURANCE COVERAGE MAY BE OBTAINED UNDER SECTION 10-4-710 (2) (a) (IV) and THAT IS not compensated by an applicable complying policy.

SECTION 4. Effective date. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to motor vehicle insurance policies issued or renewed on or after the applicable effective date of this act.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 98-147	Date: November 18, 1997
Prime Sponsor(s): Sen. Powers Rep. T. Williams	Bill Status: Mandatory Motor Vehicle Insurance
	Fiscal Analyst: Will Meyer (866-4976)

TITLE: CONCERNING ELIMINATION OF THE REQUIREMENT THAT MOTOR VEHICLE INSURANCE POLICIES INCLUDE WAGE LOSS REPLACEMENT COVERAGE, AND IN CONNECTION THEREWITH, REQUIRING INSURERS TO PROVIDE OPTIONAL WAGE LOSS REPLACEMENT COVERAGE.

Summary of Assessment

The provisions of this bill would make changes to the Motor Vehicle ("No Fault") Insurance statutes. It would eliminate the requirement that motor vehicle insurance policies include coverage for wage loss; but would require auto insurance companies to make available optional wage loss replacement coverage, at current statutory minimum levels, to persons who have obtained motor vehicle insurance.

It also would modify the limitation on tort motor vehicle actions i.e., the right to sue. It would allow recovery for loss of earnings and earning capacity extending beyond the 52-week period for which optional wage loss replacement coverage is available, regardless of whether or not the individual purchased the optional wage loss replacement coverage, and if such loss is not compensated by a motor vehicle insurance policy.

The changes provided for in this bill would need to be reviewed by the Division of Insurance and would be reviewed as part of the division's regular policy rate and form review process. This would have an insignificant impact on the workload of the division. This bill would not impact any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact.

The bill will become effective at 12:01 a.m. on the day following the ninety-day period after adjournment sine die of the General Assembly, or on the date of the official declaration of the vote of the people as proclaimed by the Governor, if a referendum petition is filed pursuant to Article V, Section 1 (3) of the State Constitution.

Departments Contacted

Regulatory Agencies

BILL C

By Representative Swenson

A BILL FOR AN ACT

CONCERNING REQUIREMENTS FOR PERSONAL INJURY PROTECTION COVERAGE POLICIES.

Bill Summary

"PIP Deductibles & Coinsurance"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Mandatory Motor Vehicle Insurance. Requires insurers offering PIP coverage to make available deductibles and coinsurance in their coverage options. Requires insurers to disclose such options. Eliminates language that merely permits insurers to offer such options.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-706 (2) (a), (2) (b), and (2)(f), Colorado Revised Statutes, are amended to read:

10-4-706. Required coverages - complying policies - PIP examination program. (2) (a) An insurer may offer, and provide at the option of the named insured, the benefits described in subsection (1) (b) and (1) (c) of this section through managed care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. INSURERS SHALL MAKE AVAILABLE IN such policy ~~option may include~~ OPTIONS, conditions, and limitations to coverage including, but not limited to, deductibles and coinsurance requirements

as approved by the commissioner. The commissioner shall approve such conditions and limitations unless a finding is made by the commissioner that such conditions and limitations are unreasonable when compared with benefits provided.

(b) An insurer ~~may offer~~ SHALL MAKE AVAILABLE, and provide at the option of the named insured, deductible and coinsurance arrangements whereby the recipient of care, treatment, services, products, expenses, or accommodations shares in the payment obligation for such care, treatment, services, products, expenses, or accommodations.

(f) (1) An insurer offering the coverages authorized in paragraphs (a) and (b) of this subsection (2) shall demonstrate in rate filings submitted to the commissioner the savings to the insured to be realized under the plan and shall further submit to the commissioner, for preapproval, any disclosure form to be used to record an insured's election for any coverage authorized in paragraphs (a) and (b) of this subsection (2).

(II) EACH INSURER MAKING AVAILABLE A MANAGED CARE ARRANGEMENT AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (2) OR AN INSURANCE ARRANGEMENT AUTHORIZED IN PARAGRAPH (b) OF THIS SUBSECTION (2) SHALL DISCLOSE TO CONSUMERS THE FOLLOWING INFORMATION IN BOLD-FACED TYPE OF AT LEAST TWELVE-POINT SIZE: "POLICY OPTIONS ARE AVAILABLE THAT CONTAIN DEDUCTIBLES OR COINSURANCE. SUCH OPTIONS MAY BE ACCEPTED OR REJECTED BY THE INSURED PARTY NO LESS OFTEN THAN ON EACH POLICY ANNIVERSARY PERIOD OR RENEWAL DATE."

SECTION 2. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to policy options offered and policies issued and renewed on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 98-148
Prime Sponsor(s): Rep. Swenson
Sen. Johnson

Date: November 18, 1997
Bill Status: Mandatory Motor Vehicle
Insurance
Fiscal Analyst: Will Meyer (866-4976)

TITLE: CONCERNING REQUIREMENTS FOR PERSONAL INJURY PROTECTION
COVERAGE POLICIES.

Summary of Assessment

The provisions of this bill would make changes to the Motor Vehicle ("No Fault") Insurance statutes. It would require insurers to make available deductibles and coinsurance as coverage options, and require insurers to disclose such options rather than just permitting them to offer such options. This clarifies provisions of current statute.

These changes would require the Division of Insurance to make an amendment to a current regulation. This would have a minimal impact on the workload of the division. This increase in workload could be absorbed by current staff, but may require re-prioritizing existing workload. This bill would not impact any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact. The bill would become effective July 1, 1998 and would apply to policies issued or renewed on or after said date.

Departments Contacted

Regulatory Agencies

BILL D

By Senator Powers

A BILL FOR AN ACT

CONCERNING DISCLOSURE REQUIREMENTS FOR OPTIONAL MANAGED CARE ARRANGEMENTS IN MOTOR VEHICLE INSURANCE POLICIES.

Bill Summary

"Disclosures PIP Managed Care Options"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Mandatory Motor Vehicle Insurance. When a person makes an initial application for motor vehicle insurance coverage, requires that the insurer disclose:

- That motor vehicle insurance policies may include managed care arrangements;
- What managed care is; and
- Whether the insurer offers a managed care option and, if so, that cost savings may be obtained by choosing such an option.

Requires that the disclosure form that is currently required for motor vehicle policies containing managed care options disclose that:

- The insured may accept or reject managed care options;
- That obtaining an insurance policy is not dependent on accepting a managed care option; and
- What the approximate cost savings would be if the insured accepted a managed care option.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-706 (2) (a) and (2) (f), Colorado Revised Statutes, are amended to read:

10-4-706. Required coverages - complying policies - PIP examination

program. (2) (a) (I) An insurer may offer, and provide at the option of the named insured, the benefits described in subsection (1) (b) and (1) (c) of this section through managed care arrangements such as a health maintenance organization (HMO) or a preferred provider organization. Such policy option may include conditions and limitations to coverage, including, but not limited to, deductibles and coinsurance requirements, as approved by the commissioner. The commissioner shall approve such conditions and limitations unless a finding is made by the commissioner that such conditions and limitations are unreasonable when compared with benefits provided.

(II) WHEN A PERSON MAKES AN INITIAL APPLICATION FOR INSURANCE COVERAGE UNDER THIS PART 7, IN ADDITION TO ANY OTHER REQUIREMENTS ESTABLISHED BY LAW, THE INSURER SHALL DISCLOSE IN THE SAME MEDIUM AS THAT IN WHICH THE APPLICATION WAS TAKEN THE FOLLOWING INFORMATION REGARDING MANAGED CARE OPTIONS:

(A) THAT MOTOR VEHICLE INSURANCE POLICIES IN COLORADO MAY INCLUDE OPTIONAL MANAGED CARE ARRANGEMENTS, INCLUDING, BUT NOT LIMITED TO, HEALTH MAINTENANCE ORGANIZATIONS AND PREFERRED PROVIDER ORGANIZATIONS;

(B) WHAT MANAGED CARE IS AND HOW IT AFFECTS THE CONSUMER; AND

(C) WHETHER THE INSURER OFFERS SUCH A MANAGED CARE OPTION AND, IF SO, THE DISCLOSURE SHALL INDICATE THAT POTENTIAL COST SAVINGS MAY BE OBTAINED IF AN INSURED CHOOSES TO ACCEPT A MANAGED CARE OPTION.

(f) An insurer offering the coverages authorized in paragraphs (a) and (b) of this subsection (2) shall demonstrate in rate filings submitted to the

commissioner the savings to the insured to be realized under the plan and shall further submit to the commissioner, for preapproval, any disclosure form to be used to record an insured's election for any coverage authorized in paragraphs (a) and (b) of this subsection (2). A DISCLOSURE FORM FOR A MANAGED CARE ARRANGEMENT AUTHORIZED IN PARAGRAPH (a) OF THIS SUBSECTION (2) SHALL INCLUDE THE FOLLOWING INFORMATION IN BOLD-FACED TYPE OF AT LEAST TWELVE-POINT SIZE:

(I) THAT A POLICY CONTAINING A MANAGED CARE OPTION MAY BE ACCEPTED OR REJECTED BY THE INSURED PARTY NO LESS OFTEN THAN ON EACH POLICY ANNIVERSARY PERIOD OR RENEWAL DATE;

(II) THAT OBTAINING OR RENEWING THE INSURANCE POLICY IS NOT DEPENDENT UPON ACCEPTING A MANAGED CARE OPTION; AND

(III) WHAT THE APPROXIMATE COST SAVINGS WOULD BE IF THE MANAGED CARE OPTION WAS ACCEPTED.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to insurance applications made on or after the applicable effective date of this act.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 98-268	Date: November 18, 1997
Prime Sponsor(s): Sen. Powers Rep. T. Williams	Bill Status: Mandatory Motor Vehicle Insurance
	Fiscal Analyst: Will Meyer (866-4976)

TITLE: CONCERNING DISCLOSURE REQUIREMENTS FOR OPTIONAL MANAGED CARE ARRANGEMENTS IN MOTOR VEHICLE INSURANCE POLICIES.

Summary of Assessment

The provisions of this bill would make changes to the Motor Vehicle (“No Fault”) Insurance statutes. It would require insurers to disclose information concerning managed care arrangements to persons making initial applications for motor vehicle insurance coverage. The bill mandates that insurers disclose that motor vehicle insurance policies in Colorado may include optional managed care arrangements including Health Maintenance Organizations and Preferred Provider Organizations and whether the insurer offers a managed care option. Insurers are directed to explain what managed care is, and how it affects the consumer. If an insurer offers a managed care option, the insurer must disclose that potential cost savings may be obtained from choosing managed care.

The bill requires that disclosure forms for managed care arrangements state that insurance policies with a managed care option may be accepted or rejected by the insured, at a minimum, on each policy anniversary period or renewal date. The forms must also state that obtaining or renewing the policy is not dependent upon accepting a managed care option, and must disclose the approximate cost savings from using the managed care option.

These changes would require the Division of Insurance to make an amendment to a current regulation. This would have a minimal impact on the workload of the division. This increase in workload could be absorbed by current staff, but may require re-prioritizing existing workload. This bill would not impact any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact.

The bill will become effective at 12:01 a.m. on the day following the ninety-day period after adjournment sine die of the General Assembly, or on the date of the official declaration of the vote of the people as proclaimed by the Governor, if a referendum petition is filed pursuant to Article V, Section 1 (3) of the State Constitution.

Departments Contacted

Regulatory Agencies

BILL E

By Senator Tebedo

A BILL FOR AN ACT

CONCERNING A PROHIBITION AGAINST ANY INSURER TAKING ADVERSE ACTIONS AGAINST A PERSON BECAUSE THE PERSON HAS NOT MAINTAINED MOTOR VEHICLE INSURANCE COVERAGE IN THE PAST.

Bill Summary

"Auto Ins Failure To Maintain Coverage"

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Committee on Mandatory Motor Vehicle Insurance. Prohibits any insurer from denying or refusing to issue a motor vehicle policy to a person, restricting insurance coverage of a person, or adding any surcharge or rating factor to the premium of any complying policy for a person solely because the person did not obtain or maintain a motor vehicle insurance policy or certificate of self-insurance for any time period in the past. Excludes any person convicted of a driving offense that was committed in the last twelve months.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 10-4-719.7 (1.5) (a), Colorado Revised Statutes, is amended to read:

10-4-719.7. Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited. (1.5) (a) (I) No insurer shall cancel, fail to renew, reclassify an insured under, reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner, or increase the premium for, unless the increase is part of a general increase in premiums filed with the

commissioner, any complying policy solely because the insured person has been convicted of an offense related to the failure to have in effect compulsory motor vehicle insurance or such person has been denied issuance of a motor vehicle registration for failure to have such insurance.

(II) NO INSURER SHALL DENY OR REFUSE TO ISSUE A COMPLYING POLICY TO A PERSON, RESTRICT INSURANCE COVERAGE FOR A PERSON, OR ADD ANY SURCHARGE OR RATING FACTOR TO THE PREMIUM OF ANY COMPLYING POLICY FOR A PERSON SOLELY BECAUSE THE PERSON DID NOT OBTAIN OR MAINTAIN A MOTOR VEHICLE INSURANCE POLICY OR CERTIFICATE OF SELF-INSURANCE UNDER THIS PART 7 FOR ANY TIME PERIOD IN THE PAST; EXCEPT THAT, THIS SUBPARAGRAPH (II) DOES NOT APPLY TO A PERSON CONVICTED OF A DRIVING OFFENSE THAT WAS COMMITTED WITHIN THE TWELVE-MONTH PERIOD IMMEDIATELY PRIOR TO THE ACTION BY THE INSURER.

SECTION 2. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to violations committed on or after the applicable effective date of this act.

Colorado Legislative Council Staff
NO FISCAL IMPACT

Drafting Number: LLS 98-150
Prime Sponsor(s): Sen. Tebedo

Date: November 18, 1997
Bill Status: Mandatory Motor Vehicle
Fiscal Analyst: Insurance
Will Meyer (866-4976)

TITLE: CONCERNING A PROHIBITION AGAINST ANY INSURER TAKING ADVERSE ACTIONS AGAINST A PERSON BECAUSE THE PERSON HAS NOT MAINTAINED MOTOR VEHICLE INSURANCE COVERAGE IN THE PAST.

Summary of Assessment

The provisions of this bill would make changes to the Motor Vehicle ("No Fault") Insurance statutes. Currently, insurers can deny coverage, add a surcharge or rating factor to a premium for persons who have not obtained or maintained a motor vehicle insurance policy or certificate of self-insurance for any time period in the past.

This bill would prohibit insurers from denying or refusing to issue a motor vehicle insurance policy to a person, restricting insurance coverage of a person, or adding any surcharge or rating factor to the premium of any required motor vehicle coverage solely because the person did not obtain or maintain a motor vehicle policy or certificate of self-insurance for any time period in the past. The bill would exclude from this prohibition any person convicted of a driving offense that was committed in the last twelve months.

These changes would require the Division of Insurance to make an amendment to a current regulation. This would have a minimal impact on the workload of the division. This increase in workload could be absorbed by current staff, but may require re-prioritizing existing workload. This bill would not impact any other agency of the state, or unit of local government. Therefore, this bill is assessed as having no fiscal impact.

The bill will become effective at 12:01 a.m. on the day following the ninety-day period after adjournment sine die of the General Assembly, or on the date of the official declaration of the vote of the people as proclaimed by the Governor, if a referendum petition is filed pursuant to Article V, Section 1 (3) of the State Constitution.

Departments Contacted

Regulatory Agencies

**NO-FAULT
SUMMARY OF BENEFITS AND THRESHOLDS
(May 1997)**

Tort Exemption		First Party Benefits						
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors'/Funeral Benefits	Optional Coverage/Deductibles
Colorado 10-4-701, et seq.	All, excluding government vehicles, farm equipment, motorcycles, motor scooters, minibikes, snowmobiles or any vehicle designed primarily for off-road use.	Monetary threshold; Cannot recover for noneconomic unless medical and rehabilitation services have reasonable value of more than \$2,500 or if injury results in death, dismemberment, permanent disfigurement, permanent disability, loss of uncompensated earning capacity for more than 52 consecutive weeks.	See general damages.	\$50,000 if incurred within five years for medical expenses; \$50,000 for rehabilitation within 10 years. (An insurer may offer option of receiving medical and rehabilitation care through managed care organizations.)	1st \$125 - 100%, 2nd \$125 - 70%, remainder - 60% (\$400, 52-week maximum)	\$25 per day, 52 week maximum.	\$1,000 paid to victim's estate/Funeral: None.	Unlimited medical and/or 85% of work loss (unlimited), or a complying policy may provide medical/work loss benefits subject to an aggregate limit of \$200,000; No-fault collision/comprehensive - \$100, \$250.
Florida 627.730, et seq.	All, excluding motorcycles, mopeds, mobile homes, public mass transit vehicles and school buses.	Verbal; recoverable only if injury results in significant and permanent loss of an important bodily function, permanent injury within a reasonable degree of medical probability (other than scarring or disfigurement), significant and permanent scarring or disfigurement, or death.	Victim may plead and prove all his special damages, including those for which PIP payments have been or will be made but he may not recover them in the suit.	80% of all reasonable expenses; \$10,000 overall maximum on first party benefits. The insurer may provide an option to an insured to use a preferred provider at the time of purchase of the policy for PIP benefits. The insurer must also offer a non-PPO policy.	60% of gross income loss, no weekly maximum; \$10,000 overall maximum on first party benefits.	Limited only by total benefits limit; \$10,000 overall maximum on first party benefits.	\$5,000/none; \$10,000 overall maximum on first party benefits.	Deductibles of \$250, \$500, \$1,000, \$2,000 are available; Collision - insurer may make available a deductible amount not to exceed \$500; deductible for comprehensive coverage or combined additional coverage not applicable to windshield damage.

Tort Exemption				First Party Benefits				
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors'/ Funeral Benefits	Optional Coverage/ Deductibles
Hawaii 431:10c-301, et seq. 16-23-5	All, excluding motorcycles, motor scooters, and government vehicles.	Monetary, with sliding scale; damages recoverable only if injury results in death, significant permanent loss of a part or function of the body, permanent and serious disfigurement subjecting insured to mental or emotional suffering, or if the medical and rehabilitative expenses exceed the threshold set annually by the insurance commissioner.	See noneconomic.	Limited only by total benefits limit of \$20,000 (a minimum of \$10,000 applicable to medical and rehabilitative expenses and a minimum of \$10,000 applicable to wage loss, funeral expenses and services).	100% up to \$1,200 per month; \$20,000 overall maximum on first party benefits.	\$800 per month, \$20,000 overall maximum on first party benefits.	Maximum wage loss and replacement services amounts/ Funeral: \$1,500; \$20,000 overall maximum on first party coverage.	First party - \$100, \$300, \$500, \$1,000. (Every insurer must fully disclose the availability of all deductibles.) Collision/comprehensive - \$50, \$100, \$250, \$500, \$1,000, \$1,500, \$2,000
Kansas 40-3101, et al.	All, excluding government vehicles, farm tractors, vehicles operated on the highway incidentally or merely for crossing and motorized bicycles.	Monetary; recoverable only if injury results in permanent disfigurement, fracture to a weight-bearing bone, a compound, comminuted, displaced, or compressed fracture, loss of a body member, permanent injury, permanent loss of a bodily function, death, or medical expenses in excess of \$2,000.		\$4,500 for medical expenses and \$4,500 for rehabilitation expenses.	100% (unless not includable in gross income for federal income tax purposes then 85%) up to a maximum for both percentages of \$900 per month, for one year.	\$25 per day for one year.	Up to a maximum of not less than \$900 per month for lost income and \$25 per day for replacement services, less disability payments received, for up to one year/ Funeral: \$2,000.	

Tort Exemption				First Party Benefits				
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors'/Funeral Benefits	Optional Coverage/Deductibles
Kentucky 304 39-010, et seq.	All, excluding farm tractors, motorcycles, construction equipment, mopeds.	Choice; recoverable only if injury results in permanent disfigurement, a fracture to a bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of bodily function, death, or medical expenses exceeding \$1,000. Limitation not applicable to motorcycle passengers.	Exempt from liability to extent of first party benefits payable without regard to deductible. However, this exemption applies "except to the extent noneconomic detriment qualifies" pursuant to the general damages tort exemption provision; no limitation on the right to recover if no first party benefits payable.	Aggregate limit of \$10,000.	Income loss up to \$200 weekly, with as much as 15% deducted for income tax savings. \$10,000 overall maximum on first party benefits.	Up to \$200 per week for replacement services loss; \$10,000 overall maximum on first party benefits	Up to \$200 per week for lost income and replacement services/ Funeral: \$1,000; \$10,000 overall maximum on first party benefits.	Excess first party benefits in increments of \$10,000 subject to the lesser of \$40,000 or excess of liability coverage over minimum limits/first party - \$250, \$500, \$1,000.
Massachusetts 175:113A, et seq. 90:34A 90:34M	All, excluding motorized bicycles.	Monetary; Cannot recover for noneconomic loss unless medical costs exceed \$2,000 or in case of death, loss of all or part of body member. permanent and serious disfigurement, loss of sight or hearing or fracture.	For in-state accidents, to extent of first party benefits.	\$8,000 overall maximum on first party benefits subject to a two year limit.	75% of loss, no weekly maximum; all PIP benefits subject to a two year limit; \$8,000 overall maximum on first party benefits.	Limited only by total benefits limit, payments made to non-family members; all PIP benefits subject to a two year limit; \$8,000 overall maximum on first party benefits.	Funeral: Limited only by total benefits limit, all PIP benefits subject to a two year limit; \$8,000 overall maximum on first party benefits.	Each insurer providing PIP shall offer deductibles in an amount of \$100, \$250, \$500, \$1,000, \$2,000, \$4,000 or \$8,000.

Tort Exemption				First Party Benefits				
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors / Funeral Benefits	Optional Coverage/ Deductibles
Michigan 500 3101, et seq. Bulletin 94-2 Bulletin 94-8	All, excluding farm tractors, off-road vehicles, motorcycles, and mopeds (but first party medical benefits must be offered to motorcycle owners).	Verbal; recoverable only if injury results in death, serious impairment of body function, or permanent serious disfigurement. Damages shall not be assessed in favor of a party who is more than 50% at fault.	No recovery to extent of first party benefits.	Medical expense and hospital expense benefits with no dollar limit. (All reasonable charges incurred for reasonably necessary products, services and accommodations and care, recovery or rehabilitation.)	85% up to maximum amount adjusted annually by insurance commissioner for up to three years.	\$20 per day for three years.	Survivor/Maximum amount payable adjusted annually by the insurance commissioner/ Funeral benefits of not less than \$1,750 or more than \$5,000.	May offer deductibles and exclusions, subject to prior approval by the commissioner.
Minnesota 65B.41, et seq.	All, excluding motorcycles and other vehicles with fewer than 4 wheels and includes a trailer when connected or being towed by a motor vehicle.	Monetary; recoverable only if injury results in permanent disfigurement, permanent injury, death, disability (for 60 days or more) or medical expenses exceeding \$4,000.	Economic loss to the extent of basic or optional first party benefits paid or payable without regard for deductibles must be deducted from tort recovery prior to reducing claimant's damages under contributory fault.	\$20,000 for medical expenses.	85% up to \$250 per week; \$20,000 maximum for first party benefits other than medical.	All expenses reasonably incurred to maximum of \$200 per week; replacement services loss commences after eight day waiting period; \$20,000 maximum for first party benefits other than medical.	Wage loss and replacement services, each up to \$200 per week/ Funeral: \$2,000; \$20,000 maximum for first party benefits other than medical.	

Tort Exemption			First Party Benefits					
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors / Funeral Benefits	Optional Coverage/ Deductibles
New Jersey 39:6A-1, et seq. 17:28-1, et seq.	All, excluding commercial vehicles, large trucks, motorcycles and mopeds.	Choice; named insured required to maintain PIP coverage. Must elect one of two tort options: 1. exempt from tort liability for noneconomic loss (verbal threshold) unless one suffers death, fracture, loss of a fetus, dismemberment, permanent loss or use of body organ, member, function or system, permanent consequential limitation of use of a body organ or member, significant limitation of use of body function or system. non-permanent impairment that disables victim for at least 90 of 180 days immediately following injury or 2. liable for noneconomic loss (no threshold).	Uncompensated economic loss recoverable by injured party from tortfeasor.	Up to \$250,000 for medical and hospital costs subject to a \$250 deductible and 20% coinsurance between \$250 and \$5,000.	Up to \$100 per week for one year, with lifetime maximum of \$5,200 (not to exceed net income normally earned during period which benefits are payable).	\$12 per day to maximum of \$4,380.	Maximum benefits if income producer; maximum benefits to person incurring replacement services/ Funeral: \$1,000.	Medical expense benefits deductibles of \$500, \$1,000 & \$2,500; option to exclude income continuations, essential services, death and funeral expense benefits; option that health insurance coverage is primary coverage. Minimum deductible of \$500 must be offered for collision & comprehensive coverages unless insured chooses lower deductible. \$250 deductible for medical expense payments and co-payment of 20% of any benefits payable between \$250 and \$5,000.
New York §5102, et seq.	All, except motorcycles and government vehicles.	Verbal; recoverable if injury results in death, significant disfigurement, loss of a fetus, dismemberment, a fracture, loss of use of a body organ, member, function or system, limitation of use of a body organ or member; significant limitation of use of a body function or system, or a medically determined injury or impairment of a non-permanent nature which prevents injured person from performing substantially all normal activity for at least 90 of the 180 days immediately after accident.	No recovery to extent first party benefits are payable (or would be but for exclusions or deductibles); tort remedy retained in death cases.	Limited only by total benefits limit; \$50,000 overall maximum on first party benefits. No time limit for benefits if, one year after accident, it is ascertainable that further expenses may be incurred as a result of injury.	80% of actual loss with benefit limited to \$2,000 per month for three years; \$50,000 overall maximum on first party benefits.	\$25 per day for one year; \$50,000 overall maximum on first party benefits.	\$2,000 in addition to any first party benefits for economic loss.	"Family" deductible of up to \$200. The superintendent may approve higher deductibles for insurance policies with additional benefits or pursuant to a plan designed to coordinate first party benefits.

Tort Exemption				First Party Benefits				
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors / Funeral Benefits	Optional Coverage/ Deductibles
North Dakota 26.1-41-01, et seq.	All vehicles designed primarily for operation on public streets, roads and highways, excluding motorcycles and mopeds.	Monetary; recoverable only if injury results in death, dismemberment, serious and permanent disfigurement, disability beyond 60 days or if medical exceeds \$2,500.	No recovery to extent of first party benefits.	Overall limit of \$30,000.	85% up to \$150 per week; \$30,000 overall maximum on first party benefits.	\$15 per day; \$30,000 overall maximum on first party benefits.	Survivor's income loss up to \$150 per week; survivor's replacement services loss up to \$15 per day/ Funeral: \$3,500; \$30,000 overall maximum on first party benefits.	Excess no-fault benefits up to \$80,000.
Pennsylvania 75-1701, et seq.	All insured by a natural person, excluding motorcycles, mopeds, recreational vehicles not intended for highway use or vehicles owned by the United States.	Choice; customers may choose limited tort option [no legal ability to seek damages for pain and suffering or other noneconomic damages unless serious (a personal injury resulting in death, serious impairment of body function or permanent serious disfigurement) injury but may seek recovery of all medical and other out of pocket expenses] or full tort option.	Consumers may choose limited tort option or full tort option	\$5,000 minimum.	80% of actual loss of gross income; five working day waiting period.	Reasonable expenses actually incurred.	Death benefit if injury causes death within 24 months of date of accident/ Funeral: expenses directly related within 24 months.	Medical: up to at least \$100,000; extraordinary medical from \$100,000 to \$1,100,000 in \$100,000 increments; income loss up to at least \$2,500 per month to maximum of at least \$50,000; accidental death benefit up to at least \$25,000; funeral benefits \$2,500. First party benefits may be purchased in combination package subject to total limit of \$177,500 or benefits payable up to 3 years from accident, whichever occurs first

Tort Exemption				First Party Benefits				
State	Vehicles Included	General Damages (Noneconomic)	Special Damages (Economic)	Medical	Wage Loss	Replacement Services	Survivors / Funeral Benefits	Optional Coverage/ Deductibles
Puerto Rico T.9§2051, et seq.	All vehicles designed to operate on public highways, which type of vehicle is authorized to travel on the public highways by the Department of Transportation and Public Works excluding farm tractors, highway construction equipment and vehicles operated solely on private property.	Monetary; recoverable if damages in excess of \$1,000.	Tort-feasor relieved from liability to extent of no-fault benefits except where damages exceed \$2,000.	Unlimited if incurred within two years. Benefits may be extended in certain cases as provided by the board.	50% up to \$100 per week for first 52 weeks; 50% up to \$50 per week for next 52 weeks; no benefits for first 15 days.	\$25 per week for 16 weeks.	\$10,000 to primary dependent; \$1,000 to each secondary dependent, to maximum of \$5,000; additional benefits to children under 19 (up to 21 if student) pursuant to schedule to a maximum of \$10,000 for all/Funeral: \$1,000.	
Utah 31A-22-307	All vehicles designed for use on highway, except farm vehicles, construction vehicles.	Monetary; recoverable only if injury results in death, dismemberment, permanent disability, permanent disfigurement, or if medical exceeds \$3,000.		\$3,000 for medical expenses.	The lesser of \$250 per week or 85% of any loss of gross income and earning capacity for 52 weeks. Benefit need not be paid for first 3 days of disability unless continues for longer than 2 consecutive weeks.	\$20 per day for 365 days; benefits are not payable unless such expenses are actually incurred.	\$3,000 to heirs/Funeral: \$1,500.	

Source: National Association of Independent Insurers, *No-Fault Summary of Benefits and Thresholds*, May 1997