DEPARTMENT OF CONSUMER & BUSINESS SERVICES

M E M O R A N D U M

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".

The extreme variation was caused by differences in interpretation of the effect of changing the threshold for PIP subrogation from “economic damages” to “damages”. The position of the insurers who forecast large rate increases was that PIP subrogation would be virtually eliminated by the passage of House Bill 2325. The Division requested that these insurers review their interpretation of the bill relating to the changes in subrogation, and review their resulting projections for PIP premium increases. Two of the insurers revised their projections for increases that would result from the subrogation changes, while two did not.

Based on the revised projections, the median percentages are clustered between 11.0% and 12.0%, with a resulting estimated increase in the PIP portion of the premium of approximately 11.5%.

EXPANSION OF COVERAGE TO TWO YEARS

Results of the data call on this part of HB 2325 resulted in similar wide-ranging projections as to possible increases. Estimates of increases resulting in the expansion of PIP coverage from one year to two years ranged from 0.0%-2.0% to 35.0%. Four of the insurers projected increases between 0.0% and 5.0%, three insurers came down in the middle between 9.6%-10.7% and four other insurers projected increases of 14.9%, 23.0%, 34.0% and 35.0% respectively.

Methodologies used to arrive at these estimates varied. Five insurers used states where PIP benefits run for two or three years as a point of comparison. These insurers projected increases ranging from 2.5% to 23.0%. Five other insurers based their estimates only on the percentage of Oregon claims that would remain open at the start of a second year. These insurers estimated increases ranged from 0.0% to 35.0%. One insurer based their estimate of a 34.0% increase on PIP rates on every PIP claim going into the second year.

Given the disparity in insurers’ projected increases, it is difficult to accurately predict what a possible increase due to the extension of PIP coverage would be. The closest approximation based on use of median percentages would likely be somewhere in the middle group of 9.6%-10.7%, with an estimated increase of approximately 10.0%.

CONCLUSION

While we are not in a position to evaluate the accuracy of the insurers’ projections, the information provided the Insurance Division suggests the most likely result of passage of HB 2325 would be an increase in the PIP portion of the premium of 11.0%-12.0% due to changes affecting PIP subrogation, and 9.6%-10.7% due to the extension of PIP coverage from one year to two years. Adding together the median percentages based on the results of our industry survey, the measure could result in an average increase of 21.5% in PIP rates for Oregonians.

It should be emphasized that the projected increase applies only to PIP premiums. Based on the data for 2008 from the National Association of Insurance Commissioners, Oregon PIP premiums 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.

Estimated Percentage changes in PIP Premium
If HB 2325 passes

Insurer	Subrogation Increase	Additional Year Increase
Company A	0.0%	5.0%
Company B	0.0%	9.6%
Company C	1.0%-2.0%	3.5%
Company D	2.7%	2.5%
Company E	11.0%	34.0%
Company F	11.9%	14.9%
Company G	12.0%	35.0%
Company H	23.1%-41.6%	10.7%
Company I	28.0%-32.0%	0.0%-2.0%
Company J	44.0%	23.0%
Company K	50.0%	10.0%
Company L	Did not respond due to "insufficient data"	Did not respond due to "insufficient data"