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Senate Bill 321 (as enacted)
Sponsor: Senator Rick Jones
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACT 542 of 2012

Date Completed: 8-14-13

RATIONALE

Under Michigan's no-fault automobile insurance system, personal protection insurance benefits (commonly referred to as personal injury protection, or PIP, benefits) are payable for allowable expenses consisting of all reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation. This typically includes the cost of medication. There was a question as to whether PIP coverage included medical marihuana. In 2008, Michigan voters approved a ballot initiative to enact the Michigan Medical Marihuana Act (MMMA), which legalizes the possession and use of limited amounts of marihuana for those suffering from certain conditions. Automobile insurers evidently began receiving claims for the cost of medical marihuana and were unsure whether Michigan law required coverage for those expenses. Since the MMMA provides that it does not require a governmental medical assistance program or commercial or nonprofit health insurer to reimburse a person for costs associated with the medical use of marihuana, it was suggested that the Insurance Code be amended to exclude charges for the medical use of marihuana from allowable expenses under PIP benefits.

CONTENT

The bill amended the Insurance Code to specify that, with respect to PIP benefits, an insurer may not be required to provide coverage for the medical use of marihuana or for expenses related to the medical use of marihuana.

MCL 500.3107

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The MMMA allows people who have certain debilitating medical conditions, with documentation from a physician, to apply for and receive registry identification cards for the medical use of marihuana. The Act includes severe and chronic pain among the medical conditions for which a person may receive medical marihuana certification. This and other qualifying conditions may develop after a person is injured in a traffic accident. Reportedly, after the enactment of the MMMA, automobile insurers began to receive claims under a policy's PIP benefits for coverage of the cost of medical marihuana. Some insurance companies apparently believed that they were required under Chapter 31 (Motor Vehicle Personal and Property Protection) of the Insurance Code to cover those expenses. The MMMA explicitly states that it may not be construed to require commercial or nonprofit *health* insurers to reimburse a person for costs associated with the medical use of marihuana. By specifying that an insurer may not be required to provide coverage under PIP benefits for the use of medical marihuana or related expenses, the bill also exempts *automobile* insurers from having to cover medical marihuana expenses, which makes Chapter 31 consistent with the MMMA.

Supporting Argument

If medical marihuana expenses were not expressly excluded from PIP coverage, automobile insurers arguably would be required to pay those costs under the mandate that PIP allowable expenses include charges incurred for products, services, and accommodations for an injured person's care, recovery, or rehabilitation. If automobile insurance companies were to provide coverage for medical marihuana, however, they could conceivably be subject to criminal charges related to delivery of a controlled substance and, given State and Federal forfeiture laws, insurers could even be subject to seizure and forfeiture of their assets. The bill ensures that automobile insurers will not be placed in that situation.

Opposing Argument

It is neither fair nor cost-effective to excuse no-fault auto insurers from having to reimburse injured parties for the cost of medical marihuana under a policy's PIP coverage. Marihuana is a legal medication under Michigan law for patients with qualifying conditions and should be treated under Chapter 31 the same as other medications. It is inappropriate for the Insurance Code to single out one particular type of medication for exclusion from PIP coverage. Also, the cost of medical marihuana reportedly can be much lower than the cost of pharmaceuticals that are routinely prescribed for similar medical conditions, so precluding coverage for medical marihuana conflicts with cost-containment goals.

In addition, the bill interferes with the doctor-patient relationship and denies equal access to a legal medical treatment for people injured in automobile-related accidents who choose to seek medical marihuana certification.

Response: According to testimony before the Senate Judiciary Committee by a medical marihuana advocate who was involved with the drafting and passage of the MMMA, it was not the aim of the Act's authors and advocates to require insurers to pay for medical marihuana.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.