FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: SB 421 - A**

80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:
Prohibits insurer from receiving reimbursement or subrogation for personal injury protection benefits or health benefits insurer provided to person injured in motor vehicle accident from any recovery injured person obtains in action for damages except to extent that injured person first receives full compensation for injured person's injuries and reimbursement or subrogation is paid only from amount of recovery in excess of amount that fully compensates for injured person's injuries.

Government Unit(s) Affected:
Department of Consumer and Business Services (DCBS), Department of Justice (DOJ), Department of Human Services (DHS), Oregon Health Authority (OHA)

Summary of Fiscal Impact:
Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:
This bill prohibits auto or health insurers from receiving reimbursement for personal injury protection they provided to someone injured in a motor vehicle accident, if the injured person receives a damage award, unless the injured person is awarded compensation in excess of the amount necessary to compensate for their injuries.

The bill establishes criteria for determining if a person is fully compensated for their injuries and defines the term “total amount of recovery”. The bill prohibits payments of claims from being directed to the insurer. The bill becomes effective on January 1, 2020.

Department of Human Services(DHS)
DHS Office of Payment Accuracy and Recovery (OPAR) is a shared service for DHS and OHA. This bill may impact the Personal Injury Lien (PIL) program of OPAR. While neither OHA or CCOs are considered “insurers” for the purposes of administering Medicaid, some attorneys currently argue otherwise. OHA expects increased litigation as a result of this bill. Increased litigation for the PIL program will result in the need for additional staff to resolve disputes, prepare cases for referral to DOJ and increased legal fees, litigation costs and appellate costs. There is also the potential for a loss in revenue if PIL is not able to recover the appropriate amounts payable on liens. A fiscal impact has not been identified at this time, however OPAR’s PIL program will monitor incoming litigation and track any impact of this bill. If a trend is identified and results in increased workloads or legal costs, an ask may be presented at a future rebalance. The fiscal impact to DHS is indeterminate.

Oregon Health Authority (OHA)
Health Systems Division (HSD): Increased costs or reduced revenue for the Personal Injury Lien program of OPAR could result in increased costs to HSD through cost allocation.

Public Employee Benefit Board (PEBB): According to PEBB's actuarial consultant, the loss of subrogation savings received from members’ personal injury insurance policies for PEBB medical plans administered by Kaiser may increase in premium rates by an estimated 0.15%. (PEBB Providence and Moda plans were not included because the bill's requirements do not apply self-insured plans.) The potential Kaiser premium increase would have an impact on state agencies because about 40% to 45% of PEBB premium resources come from state agencies' flexible benefits payroll General Fund budget.

Oregon Educators Benefit Board (OEBB): According to OEBB's actuarial consultant, the loss of subrogation savings received from members personal injury insurance policies for OEBB medical plans could result in a 0.1% increase in premium rates. Any premium increase would impact any educational entity that has mandated or elective coverage under OEBB. This includes school districts, community colleges, education service districts and some charter schools.

The fiscal impact to the Oregon Health Authority, including PEBB and OEBB, is indeterminate.

Department of Consumer and Business Services and Oregon Judicial Department
The fiscal impact to the Department of Consumer and Business Services and the Department of Justice is anticipated to be minimal.