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AUTO INSURANCE: CHOICE OF REPAIR SHOPS

House Bill 4127 (Substitute H-3)
First Analysis (12-2-03)

Sponsor: Rep. Ken Daniels
Committee: Insurance

THE APPARENT PROBLEM:

Some automobile insurance companies enter into agreements with preferred repair facilities (such as body shops and glass repair shops) in order, they say, to lower their repair costs and improve consumer satisfaction. Company representatives say they pre-screen facilities based on cost and quality and then can provide their policyholders faster and more reliable service when processing repair claims. Typically, insurers will guarantee or stand behind the work done at these shops with which they have agreements or are affiliated. The companies say that the cost savings that result from their arrangements with repair shops translate into lower insurance premiums. Critics of this practice (sometimes referred to as the "HMO-izing" of auto repairs) say that the insurance companies are engaged in a form of "steering", whereby their policyholders are sent to preferred repair shops who are willing to meet the insurer's criteria, which emphasize cost over quality. They say that claims are handled more slowly and more grudgingly when policyholders use shops not on the preferred list. Critics also point to cases in the glass repair market where insurance companies handle claims through third party administrators (TPAs) that are themselves owned by or otherwise affiliated with glass repair firms. This can result in one glass repair shop having to go through a competitor (and supplying proprietary information) in order to carry out vehicle repairs.

Policyholders making a repair claim under a no-fault policy have the ability to have their vehicles repaired where they want. They may not know this, however. They make simply take the "suggestion" or "recommendation" of the claims representatives of their insurance companies that they use one of their preferred repair shops. The use of so-called direct repair providers by insurers poses at least two problems: 1) it has the potential to deny vehicle owners the freedom to use the repair facilities of their choice based on safety and quality, price, and customer service; and 1) it has the potential to deny "independent" repair facilities an equal opportunity to compete for business. One way to address this issue is through legislation that prevents insurance companies from preventing consumers from getting a vehicle repaired where they want and that notifies consumers of any arrangements between insurance companies and repair shops.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to prohibit an automobile insurance policy from unreasonably restricting an insured from using a particular person, place, shop, or entity for the providing of any automobile repair or automobile glass repair or replacement service or product covered under the policy. This prohibition applies to a policy and an insurer at its employees, agents, and adjusters.

The bill would permit an automobile insurer to enter into agreements with automobile repair or automobile glass repair or replacement facilities for the purpose of containing repair costs. However, the insurer would have to disclose the existence of these agreements and inform an insured that he or she is under no obligation to use that particular repair or replacement facility. The disclosure could take place prior to or at the time a claim was filed with the insurer.

The Office of Financial and Insurance Services (OFIS) would have to develop a plan whereby the office informs consumers 1) of their rights regarding insurance coverage of automobile repairs; 2) that the insurer is not required to pay more than a reasonable amount for repairs and parts; and 3) of the insured's ability to report violations of their rights to OFIS through the office's toll-free telephone number or its web site. The plan would have to be developed and submitted to the standing committees addressing insurance issues in the Senate and House of Representatives no later than six months after the bill's effective date.

MCL 500.2110b

BACKGROUND INFORMATION:

It should be noted that the bill as introduced dealt with two issues: 1) the insured's choice of repair facilities; and 2) the insured's choice of repair parts or repair glass (including the issue of original parts and aftermarket parts). The bill no longer addresses the second issue.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the fiscal impact on state government would be difficult to determine tending toward negligible. The Department of Consumer and Industry Services has indicated that the consumer information component could be a small cost, says HFA. There would be no fiscal impact on local units of government. (HFA analyses dated 11-26-03)

ARGUMENTS:

For:

Critics says that Michigan currently lacks adequate legislation to prohibit auto insurance companies from "steering" policyholders with body repair and glass repair claims to the repair facilities preferred by or affiliated with the insurers. The bill provides a step in that direction. It strengthens the ability of consumers to select the repair facility of their own choice. It does this through two provisions: 1) it prohibits insurers from "unreasonably restricting" a customer from using a person, place, shop, or entity to get a vehicle repaired under a claim against the policy; and 2) it requires an insurance company to disclose any agreements the company has with preferred repair facilities and to inform the policyholder that he or she is under no obligation to use that preferred facility. Not only do these provisions help to protect consumer choice, but concomitantly, they strengthen the ability of independent repair shops (i.e., those who have not entered into direct provider or preferred provider agreements with insurers) to compete for business. Also, state regulators would be required to develop a plan to help explain and safeguard consumer rights.

At the same time, the bill specifically allows automobile insurance companies to enter into agreements with auto repair facilities or glass repair facilities for cost containment purposes. Companies say that these arrangements lead to lower repair costs (and insurance premiums), as well as improved customer satisfaction.

Response:

The provision allowing companies to enter into cost-saving arrangements with repair shops is unnecessary. This is already a common practice and does not need to be authorized in the Insurance Code.

Against:

At the very least, the bill should be amended so that the notification to consumers about any arrangements between the insurance company and specific body shops or glass repair shops is made at the time the claim is being processed. Likewise with the notification that the customer is free to choose any repair facility. As currently written, the insurance company can make these disclosures "prior to or at the time of a claim is filed". This means the company could make the disclosures when the policy was issued, for example, and could be long forgotten by the customer by the time a claim was filed (or at least temporarily forgotten in the emotional aftermath of a collision). It should be noted that the bill in its current form is already significantly weaker than an earlier version, which specifically prohibited insurance companies from "intimidating, inducing, or requiring" an insured to use a particular person, place, shop, or entity. Many would prefer a tougher approach to "anti-steering" legislation.

POSITIONS:

There are no positions at present.

Analyst: C. Couch

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.