

## **Federal Giveaway Would Hurt Utahns**

If you think big health insurance companies ought to make even more profits at the expense of beleaguered patients, boy, do I have a piece of legislation for you. And trust me, I can tell you from experience: real Utahns will be hurt by this federal proposal.

A provision snuck into legislation being considered by Congress would strengthen the hand of your insurance company to sue you to make you pay them back for the cost of your health care – even when you’ve already paid them all the premiums they’ve charged.

Let me give you an example involving a current client of mine. Karl Sweat was rear-ended at a high speed by a negligent driver. The force of the impact was so great Karl’s seat broke and he was propelled, like a torpedo, into the back seat, head first. The force of the accident severed his spinal cord and caused quadriplegia. Karl is in a wheelchair now and he and his wife, Hope, do their best to make ends meet. They obtained a small settlement in their personal injury case but it was nothing close to what was necessary to cover their past medical expenses, let alone their future expenses. Nevertheless, the health insurer for the group insurance provided through Karl’s employer has demanded repayment by Karl of all medical expenses it has already paid. Under the proposed legislation, the insurer would have the right to get every penny of Karl’s settlement. And Karl and Hope would be left with nothing. The bottom line is that under this legislation, if you file a lawsuit against the party responsible for your injury or damage and you recover for your expenses, your insurance company can turn around and sue you to take away any, or all, of your settlement as reimbursement for what they have paid out for your health care – coverage you have paid for with your health insurance premiums.

Under the proposal, you would be forced to pay your health insurance company for the cost of past medical care, even if you did not receive enough to cover future expenses like additional medical care or treatment or lost wages.

Most states, including Utah, have protections in place that prevent an insurance company from doing just what this bill intends to allow. All those protections would be wiped away. In addition, the provision creates a one-way street. Insurers can get their money back from you but if an insurer violates the federal statute that governs employee benefits, you have no ability to sue them for any damages that violation of the statute causes you.

The only winners here are the giant insurance companies who don’t need or deserve help from Congress. Investors’ Business Daily has reported in recent years “U.S. health insurers have raked in earnings at a far greater pace than the rest of corporate America.” According to the most recent figures for 2005, life and health insurers’ profits climbed \$2.3 billion over the last year, to \$28 billion. HMO profits are up 21.2%, to \$6.98 billion for the first six months of last year.

Allowing insurance companies to demand “reimbursement” from a court settlement – before the victim sees any money – means they get paid twice, first from the premiums, deductibles and co-pays collected over the years and then again from the settlement. And the insured person gets

nothing from his or her prudent decision to purchase insurance and nothing to help with the costs to him of his injury.

Almost as disturbing as the substance of the proposal is the sneaky way it was done. The provision was slipped into the House version of a massive, must-pass pension reform bill, even though it has nothing to do with pensions. There has not been a hearing or a vote on this controversial giveaway.

This is an all-too-common way of doing business in Washington, where lobbyists slip special-interest earmarks into giant bills that help their corporate clients at the expense of the public.

Of course, insurance companies would have to be pretty bold to try such a move in the light of day. That's why they short-circuited the democratic process and slipped this provision in at the eleventh hour. It's now up to a conference committee made up of select Senators and Representatives to determine whether this insurance provision becomes law. Fortunately for Utahns, Senator Hatch is on the conference committee.

I hope you'll join me in contacting Senator Hatch and telling him to reject this special interest giveaway and put the health of patients and the rights of taxpayers before the profits of insurance companies.

*Brian S. King is an attorney practicing in Salt Lake City and is Vice President and member of the Board of Governors for the Utah Trial Lawyers Association.*