

Fla. Judge Blocks Portions of PIP Reform Bill; Appeal Stays Ban

By: Michael Buck, BestWeek

A temporary injunction banning portions of the Florida personal injury protection no-fault automobile insurance reform legislation passed last year has been stayed by an appeal made by the Florida Office of Insurance Regulation, according to court records.

Leon County Circuit Court Judge Terry P. Lewis last week ordered the injunction on the portions of the law that require an emergency medical condition as a prerequisite for PIP payments. Lewis also placed a temporary ban on the law's restriction of PIP payments to acupuncturists, chiropractors and massage therapists, according to court records.

Less than a week after Lewis' ruling, the OIR appealed the temporary ban to the Florida 1st District Court of Appeals, which triggered an automatic stay of Lewis' order, records say. Tim Gray, a lawyer for the OIR, said the plaintiffs, which include a chiropractor, an acupuncturist and two massage therapists, recently filed a motion to vacate the stay.

The actions are the latest in the drawn-out legal proceedings that have been going on since Florida Gov. Rick Scott signed H.B. 119 into law last May (Best's News Service, May 4, 2012). The bill was aimed at reducing what officials in Florida have called "rampant fraud" in the state's PIP system.

Among other provisions, the law requires claimants to seek treatment within 14 days, requires initial treatment be at a hospital or by a claimant's physician, bans massage and acupuncture treatments and tightens requirements for medical clinic licensees. The law caps chiropractic and physical-therapy treatments at \$2,500 and neither type of practitioner can bill for the full \$10,000 limit in PIP benefits, according to the **Coalition Against Insurance Fraud**. Massage therapists and acupuncture specialists can't bill for PIP-related treatment at all, the coalition said.

The coalition and the Property Casualty Insurers Association of America both expressed disappointment in Lewis' decision.

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PCI also noted in a statement that a federal court already rejected a similar request for an

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injunction. The federal court ruled against the injunction in December and threw out one count of the 10-count suit. The remainder of the suit was then refiled before Lewis.

"The court summarily dismissed the request without a hearing, ruling that the plaintiffs utterly failed to demonstrate a substantial likelihood of success on the merits of their case," said Donovan Brown, PCI's Florida counsel and regional manager. "Plaintiffs' case has not improved any since that time, and we hope the appellate court agrees with the federal court's ruling in the case."

Scott said in a statement that PIP was "designed to stop the high costs passed on to Florida families by car insurance companies because of excessive lawsuits, waste and fraud. Since our legislation, more than 70% of the insurance rates approved by the Office of Insurance Regulation have either decreased or held steady, compared to a majority of rate increases before our reforms. Our reforms are working to lower insurance costs for Florida families and we will continue to fight special interest groups to keep them in place."

Private passenger auto insurers in Florida have a 2012 average adjusted loss ratio currently trending at its lowest level in the past five years, according to annual statement data available in BestLink, A.M. Best Co.'s online financial system. The 2012 ratio is 62.28, which is about two points lower than in 2011.