February 16, 2015

In this year’s legislative session, the Kentucky House of Representatives will take up two bills which have the potential to significantly impact the direction of Personal Injury Protection claims and litigation, as well as insurance fraud in other areas, in the Commonwealth.

First, House Bill 153 addresses proposed anti-solicitation measures, preventing attorneys and others from actively seeking out potential PIP claimants for representation or direction to a medical provider. H.B. 153 has enormous potential to assist Kentucky insurers in combatting fraudulent and contrived PIP claims. The specific terms of H.B. 153 allow for insurance carriers to reject bills for medical treatment if those medical expenses were incurred as a result of solicitation within thirty (30) days of a motor vehicle accident. Additionally, if solicitation is demonstrated, H.B. 153 allows insurers to obtain reimbursement of medical payments made prior to the discovery of the solicitation. This is a necessary piece of litigation to remedy the purported “defect” in the prior Bill, which was declared unconstitutional by Kentucky courts. To voice support for this crucial piece of legislation, you may go to: http://www.lrc.ky.gov/committee/Standing/L&I%28H%29/home.htm

Second, House Bill 223, also to be considered this session, addresses the issue of chiropractic utilization and peer-reviewing of reports. H.B. 223 would impose a requirement that any peer review of chiropractic treatment or a report stemming from such treatment be conducted only by another chiropractor. This proposed legislation is in direct response to Commonwealth v. Barlow, 214 Ky. App. LEXIS 117, which held that medical doctors are allowed to peer-review the work of chiropractors. We believe that medical doctors should be allowed to review the work-product of chiropractors. The key is not the medical reviewer’s specific degree, but rather the reviewer’s specific training and experience. Ultimately, the jury should be allowed to decide whether to give more weight to the opinion of the medical provider or to the reviewer. The key is to select the proper medical expert and not be unduly limited, as H.B. 223 proposes. Accordingly, we also ask that you contact members of the House Standing Committee on Banking and Insurance to notify them of your objection to this Legislation, at: http://www.lrc.ky.gov/committee/Standing/B&I%28H%29/home.htm

With offices in Louisville and Ft. Mitchell, SRS’s Kentucky team of insurance law professionals are glad to answer any questions you may have on either H.B. 153 or H.B. 223. Please feel free to call on us at any time.

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