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An Act To Amend the Laws Governing Subrogation Rights for Medical Payments Coverage

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §2910-A, sub-§1, as amended by PL 2011, c. 509, §1, is further amended to read:

1. Policy requirements. A casualty insurance policy subject to this chapter may not provide for subrogation or priority over the insured of payment for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in the policy in the event the insured is entitled to receive payment or reimbursement from any other person as a result of legal action or claim, except as provided in this section.

The coverage may contain a provision that allows the payments if:

B. The provision requires the written approval of the insured;

C. The provision provides that the insurer's subrogation right is subject to subtraction to account for the pro rata share of the insured's attorney's fees incurred in obtaining the recovery from another source; and

D. The provision is approved by the superintendent.;

E. The provision requires that, prior to submitting a claim, a provider claiming payment for any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in a policy must notify the insured and any other person reasonably likely to be able to submit a claim; and

F. The provision prohibits an insurer from paying a claim for payment of any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in a policy if an insured is entitled to coverage under any other health insurance policy or contract and without providing at least 14 days' notice to the insured before paying a claim.

Sec. 2. 24-A MRSA §2910-A, sub-§4 is enacted to read:

4. Violation. An insured injured by an insurer's failure to comply with subsection 1, paragraphs E and F may bring an action pursuant to section 2436-A.

SUMMARY

This bill amends the subrogation law related to medical payments coverage to require a health care provider to notify the insured and any other person reasonably likely to be able to submit a claim prior to

submitting any claim for payment of any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in a policy. The bill also prohibits an insurer from paying a claim for payment of any hospital, nursing, medical or surgical services or of any expenses paid or reimbursed under the medical payments coverage in a policy if an insured is entitled to coverage under any other health insurance policy or contract and requires an insurer to provide at least 14 days' notice to an insured before paying such a claim.

The bill also makes it clear that an insurer that violates any of the policy requirement provisions is subject to enforcement and penalties under the unfair claims settlement practices laws.