



CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

ALEX SINK

July 17, 2007

The Honorable Charlie Crist, Governor
Office of the Governor
The Capitol
Tallahassee, FL 32399

The Honorable Ken Pruitt, Senate President
Florida Senate
409 The Capitol, 404 South Monroe Street
Tallahassee, FL 32399

The Honorable Marco Rubio, Speaker of the House
Florida House of Representatives
420 The Capitol, 402 South Monroe Street
Tallahassee, FL 32399

<<SENT VIA HAND DELIVERY & FACSIMILE>>

Dear Governor Crist, President Pruitt and Speaker Rubio:

As you know, Florida's Motor Vehicle No-Fault Law, which requires Personal Injury Protection (PIP), will sunset on October 1 of this year unless the Legislature extends or reforms the law. I know that you are working to determine the best course of action for Floridians on this issue. As the state's Chief Financial Officer with oversight of the Office of the Insurance Consumer Advocate and the Division of Insurance Fraud, I am also very interested in this important policy matter.

Over the last few weeks, my staff and I have taken a comprehensive, objective look at what might happen when No-Fault sunsets. We have met with stakeholders representing all facets of the issue, including auto insurers, health insurers, medical providers, lawyers, my own Division of Insurance Fraud investigators and heard from citizens from all over Florida. Our work led us to create a hypothetical scenario of a post-No-Fault auto accident involving two cars and two drivers. This scenario, which you will find attached, highlights significant policy issues that I believe we must consider as October 1 approaches.

Additionally, we have made several observations about the sunset of No-Fault which are included in an attached discussion paper and summarized below:

- **Personal Injury Protection-** Persons injured in auto accidents will not have automatic coverage for medical treatment from their auto insurers unless the insurers offer medical payments insurance as a replacement to PIP. Auto insurers may offer an optional medical payments insurance product for Florida consumers, but specific benefits will not be legally mandated and will vary by insurer. The insurer will be able to determine the type of benefit to be offered, the kinds of exclusions and limitations on the benefit and the cost of the coverage, subject to form and rate approval by the Office of Insurance Regulation. The availability, cost and quality of medical payments insurance will be important for those who lack health insurance. Therefore, the issue of medical payments insurance is an important one for consumers and policymakers.
- **Health Insurance-** Without PIP, which requires auto insurers to cover the first \$10,000 in costs for insured drivers and certain other covered persons, the cost of medical treatments may be shifted to health insurers. This shift may have a number of consequences. One is that as the treatment of motor vehicle injuries is paid by health insurers as opposed to auto insurers, health insurance premiums may increase. Essentially, this would represent a transfer of cost from drivers to employers, who provide for the bulk of health insurance premiums in Florida. Some of this added health insurance cost, in turn, may be pushed down to employees. Another consequence may be that any health insurance co-payments, deductibles, limitations and exclusions may apply to health insurance claims filed by persons injured in auto accidents.
- **Uninsured Floridians-** Approximately 19 percent of Floridians don't have health insurance, according to the Agency for Health Care Administration. Floridians who don't choose a replacement for PIP medical benefits and lack health insurance will be entitled by law to receive emergency treatment. However, these uninsured Floridians may not be able to receive follow-up, non-emergency treatment, as physicians won't agree to provide such services, particularly for those drivers who are at-fault and cannot compensate the physician. In addition, if the sunset of No-Fault leads to an increase in the medically uninsured, additional cost pressure will be placed on our hospitals and physicians.
- **Increased Red Tape-** In an environment where the recovery of medical costs for the treatment of motor vehicle accidents relies on a determination of fault, including issues of comparative negligence and subrogation, there is the potential for increased red tape for consumers, medical providers and insurers. In addition, the sunset of No-Fault may give rise to tort lawsuits below the \$10,000 threshold and to claims for non-economic damages, such as pain and suffering.
- **Insurance Fraud-** The current PIP system suffers from considerable insurance fraud. The Division of Insurance Fraud under the Chief Financial Officer received over 3,000 PIP fraud complaints, opened 329 cases, and obtained 225 convictions for PIP fraud in 2005-06. Our state will still be prosecuting PIP fraud years after No-Fault sunset. It is important to note that the sunset of No-Fault will not eliminate insurance fraud, as criminals will exploit weaknesses in the post-PIP insurance market. We must be vigilant

in preventing, investigating and prosecuting new forms of insurance fraud that may arise in the post-PIP environment.

As you can see, any decision on the future of the No-Fault Law carries enormous consequences for citizens, employers, insurers, the legal system and healthcare providers. I encourage you to carefully deliberate over this important issue, and I will be happy to assist you as you move forward. My most important role as Chief Financial Officer is to safeguard the people and assets of Florida and to help consumers and businesses make sound financial decisions. I look forward to continuing a dialogue with you in that regard.

Sincerely,

Alex Sink
Chief Financial Officer
State of Florida

cc: Senator Bill Posey
Senate Democratic Leader Steve Geller
Representative Ellyn Bogdanoff
House Democratic Leader Dan Gelber