

OREGON LAW UPDATE

PIP Reimbursement Reductions: Rules are Meant to be Followed, Or Else

case in point ...

From the desk of Jeff Eberhard: Most liability insurers that reimburse a plaintiff's PIP insurer for PIP benefits seek to have any award to the plaintiff reduced by this prejudgment payment. The rules laid out in ORS 31.555 provide that this reduction must be requested within fourteen days of the judgment. What happens, then, when a liability insurer waits longer than the fourteen days to request this reduction? The Oregon Court of Appeals recently had a chance to discuss this rule, and their opinion reminds us all that the rules need to be followed, or else.

Claims Pointer: When a liability insurer reimburses a plaintiff's PIP insurer for PIP benefits paid to the plaintiff prior to a judgment, the liability insurer must request a reduction of the award based on that PIP reimbursement within fourteen days of the entry of the judgment, or the reduction will not be allowed.

Medean v. Moeller, in the Court of Appeals of the State of Oregon (Case No. A143446, December 7, 2011).

Plaintiff suffered injuries as the result of an auto accident. His insurer, Travelers Indemnity Company of America (Travelers) paid \$8,413.15 in Personal Injury Protection (PIP) benefits to plaintiff. Plaintiff then brought a negligence action against the other driver, Jeremy Moeller ("Defendant"), seeking both economic and non-economic damages. Prior to judgment, Allstate Indemnity Company (Allstate), Defendant's liability insurer, reimbursed Travelers for the PIP benefits that Travelers paid to Plaintiff. The trial court entered judgment against Defendant on April 21, 2008 for a total money award of \$19,839.

Allstate sent Plaintiff a check on May 15, 2008, in the amount of \$11,425.85. That amount represented the total money award, less the PIP benefits Allstate already paid to Travelers. Because Allstate did not ask the court to reduce the judgment by the prejudgment PIP reimbursement, Plaintiff demanded the remaining \$8,413.15.

On May 11, 2009, Defendant filed a motion for an order declaring the judgment satisfied, arguing that ORS 31.555 required the court to reduce the money award by the prejudgment PIP reimbursement amount. Plaintiff argued

that the money award could not be reduced, because Allstate failed to file a request to apply the PIP reimbursement payment within fourteen days of the entry of judgment as required by the statute. The court granted Defendant's motion, despite Plaintiff's objections. Plaintiff appealed to the court of appeals.

The Court of Appeals reviewed ORS 31.555, finding that if an insurer wants to have a judgment reduced by the amount it already paid in PIP offsets, the insurer must follow the procedure outlined by the statute. That procedure contains a fourteen day limit. Because the judgment was entered on April 21, 2008, and Defendant did not file a request to reduce the judgment until May 1, 2009, the fourteen days had passed, and Defendant was no longer able to request a reduction in the money award.

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