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EXCLUSIVE REPORTS

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Health care feels pinch of tort reform

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In September, when Dean Danielson's 20-year-old daughter was seriously injured in an auto accident, "nobody really knew what to do," he said. "The hospital, the doctors didn't know who to bill. They didn't know whether to invoice the health care or the auto coverage."

Even now, five months later, "there are still people calling that want to know who to bill," Danielson said. "It's a big job. ... I spend several hours a week yet on the telephone."

As people begin receiving medical treatment under Colorado's new auto law, the switch is creating confusion and consternation among patients and their health care providers.

Auto accident vic-tims are learning new words such as "lien" and "exclusions" and realizing they didn't have the coverage they thought they did. Doctors and physical therapists are beginning to crunch numbers to figure out how many patients they can treat for how long when there is no guarantee of getting paid.

"It's kinda starting to become a problem," said Shawn Padalecki, director of accounts receivable for Denver Physical Therapy. "You may get paid in six months, you may not get paid for five years. ... As a small business, you need to keep the cash flows up."

Some doctors and PTs are seeing revenues drop significantly. Most did not have hard figures, but some providers are hearing reports of colleagues seeing up to 50 percent of their business disappear. Others are deciding to head off any potential problems by not accepting new patients injured in auto accidents -- unless they have large amounts of medical payments coverage -- or accepting them only on a case-by-case basis.

Under the new tort law, which went into effect July 1, a person's own health insurer -- or their medical payments coverage -- pays medical bills upfront, regardless of who causes the accident. If another driver caused the accident, the health insurer can go back and try to recoup its expenses from the at-fault driver after the claim is settled and care has been provided.

But that assumes that people injured in an auto accident have health insurance. About 700,000 Coloradans, nearly 16 percent of the population, do not have health insurance of any kind, according to the Colorado Coalition for the Medically Underserved.

The impact on providers depends on how much of their business involved auto-related cases and whether health insurance, which is now responsible for paying more medical bills, provides coverage similar to what was available under Colorado's old auto system. Some things may not be covered, like massage and occupational therapy, and for other services, such as physical therapy, health insurers may limit treatment to a fewer number of visits.

Health insurance also pays less than auto insurance did, said Dr. David Reinhard of Colorado Rehabilitation &

Occupational Medicine LLC, where auto-related cases comprised 30 percent of their business.

"That has gone away essentially," he said. "A lot of the people we were seeing didn't have health insurance. Now those folks either don't get medical care or they may seek attorneys who try to get physicians to treat them on a lien, and most ... don't or can't do that."

Liens are agreements between patients and providers that the latter will be paid once a claim is settled, and will be paid before the patient.

Complaints about providers not getting paid, "are most surely being made by people who have no health insurance," said Joy Pickar, government relations director for State Farm Insurance. "The percentage of people who have no health insurance and medical payments coverage is pretty small."

Drivers who cause an accident rely on their own health insurance to pay for their injuries unless they have bought optional medical payments coverage.

In cases where fault is disputed, the parties could resolve the matter in court, a process that is time-consuming and expensive.

But providers are saying even when fault isn't disputed, the insurer or lawyer of the responsible party is waiting until the case is settled.

"They don't pay as they go along," said Denver personal injury lawyer Steve Shapiro. "Basically what you have to do is get a doctor to be willing to take a lien and wait until you settle the case."

Under Colorado's no-fault system, a person's own insurer paid medical bills regardless of who caused the accident. Every driver carried personal injury protection (PIP) coverage of at least \$100,000 to pay for their own medical and rehabilitation bills.

However, drivers could drop that coverage beginning July 1 by calling their insurer.

"We are looking at auto on a one-by-one basis," said Denver physical therapist Patty Pennell. If a patient has \$25,000 in medical payments coverage "that is not a problem. When they don't have that, we are in a lien situation. ... I can't do a ton of lien work. I'll go broke."

Some providers are also complaining that health insurers are denying payment for cases related to auto accidents. The Colorado Division of Insurance has been notified that many, if not all, self-funded health plans offered to union members will not cover medical expenses due to auto injuries. That means the union members won't have coverage for injuries due to auto accidents unless they buy more coverage.

But "it's not just union members," said Ruth Lanegan, owner of a practice management company that bills insurers on behalf of several physical therapy practices in Colorado Springs. "That's ... frustrating not only for us but for the patients as well. ... I don't think that's something people would ask [about], especially if they had their policies for years before this came about."

Insurance Commissioner Doug Dean said he is not aware of any health plans regulated by the state that exclude treatment for injuries from auto accidents. The state does not regulate self-funded plans, which pay benefits from a fund established by an employer or organization.

"If anyone has any specific name of any insurance company that is doing that," Dean said, "then we want to know."