

LETTER

Bait and switch

Ellen Shemitz, Concord

For the Monitor
March 28, 2012

Re "Bad bill deals all the cards to insurers" (Sunday Monitor editorial, March 25):

Thank you to the Monitor for shining a light on the many problems and inequities of the so-called "early offer" bill. This bill is striking for its wholly one-sided approach to settlement which promises to save insurance companies lots of money, prey on injured patients who lack representation, and shift the costs of caring for the injured from the wrongdoers to state and local government.

The Virginia professor behind this bill has taken a federally piloted program (a non-punitive effort to encourage early settlement) and manipulated it into a money-saving boon for the very same industry which has paid him generously in the past for his advocacy of no-fault insurance. This bill sets up a classic bait and switch: allowing insurers to dangle the prospect of early recovery before an injured patient and, once the injured waives his or her rights and submits to a medical exam by the defense, make no offer at all. Alternatively, the insurer could make an offer, a truly lowball offer, and the patient's only recourse would be to (a) turn it down and go to court with the almost impossible to meet increased burden of proving gross negligence by clear and convincing evidence (a challenge the bill's author conceded would be all but impossible to meet) or (b) challenge the offer before a hearing officer paid by the insurer with no right of appeal.

The Monitor rightly called out the governor to veto this bill which so clearly elevates insurer profits over even the semblance of fairness or equity.

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