

LH 88-50



STATE OF CONNECTICUT
INSURANCE DEPARTMENT

BULLETIN HC 40(a)

MAY 26, 1988

TO: COMPANIES LICENSED IN THE STATE OF CONNECTICUT TO
WRITE ACCIDENT AND HEALTH INSURANCE AND ALL HMO'S

SUBJECT: CLARIFICATION OF BULLETIN HC-40

Subsequent to the issuance of Bulletin HC-40 there have been numerous inquiries regarding its scope and effect.

Bulletin HC-40 was intended to address, and is applicable to situations where a health insurer, as a condition precedent to the payment of health benefits, requires its insureds to sign a reimbursement agreement which would require such insured to repay the health insurer from any sums collected from a responsible third party regardless of whether they include health and medical expenses.

Section 52-225c of the Connecticut General Statutes, as amended by Public Act 87-227, while somewhat ambiguous, at a minimum prevents subrogation or reimbursement where there has been a judicial award of damages wherein collateral source health benefits have been deducted by the court.

In situations involving a judicial award of damages a reimbursement agreement, as described above would require the insured to repay the health insurer from proceeds where health benefits have been specifically subtracted, a situation which the legislature sought to prevent. A determination of whether Section 52-225c applies to situations other than a judicial award of damages must await judicial or legislative clarification.

Pending such clarification, it is the Department's opinion that it is improper for an insurer to use a broadly drafted reimbursement provision or agreement which requires reimbursement from any sums collected from a legally responsible third party, without recognition of situations where such reimbursement may be inappropriate.

Peter W. Gillies
INSURANCE COMMISSIONER