

APLA in the news

No agenda in claims probe - motor authority

Kathryn Blice

The political heat of the NSW election should not be used to usher in a no-fault compensation scheme for motor accident victims, the Australian Plaintiff Lawyers Association said yesterday.

The NSW president of APLA, Ms Catherine Henry, said plaintiff lawyers were concerned a new inquiry into the State's existing compulsory third party insurance scheme could add to the pressures on politicians to reduce CTP premiums in the lead-up to the March 27 poll.

But the chairman of the Motor Accidents Authority of NSW, Mr Richard Grellman, said yesterday

the authority had "no agenda" in mind when it asked a Canadian attorney, Ms Shelley Miller QC, to inquire into whether there was "an appetite for change" among stakeholders in the scheme.

Ms Miller, who has helped design compulsory third party systems in other jurisdictions, including Ontario and Alberta, would spend "two or three weeks in careful dialogue" with underwriters, plaintiff and defence lawyers, medical and rehabilitation services providers and politicians, he said.

Mr Grellman said several inquiries had been conducted recently into NSW's CTP scheme, including a private report to the MAA board by Ernst & Young. However, the

authority felt it was timely to bring in someone from overseas to objectively "review the landscape" and assess the true level of concern over the cost of premiums.

APLA's Ms Henry warned that a no-fault compensation scheme would lead to higher premiums, increased claims, reduced benefits for victims and no financial savings.

Under such a scheme, both the innocent victim and the person who caused the accident were paid - double the number of people who were covered under a common law tort system, she said.

In the US, premium rates in states with no-fault systems rose by 45.6 per cent between 1989 and 1995, compared with 36.6 per cent

in States with traditional law systems.

Significantly, Georgia eliminated its no-fault system in 1991 and stringently regulated rates.

"The average premium in Georgia has fallen 2.9 per cent and the State, once the 16th most expensive in the country, now ranks 37th," she said.

Ms Henry said claims for medical treatment also increased more rapidly under no-fault schemes.

In the US, claims in no-fault States rose by 13 per cent between 1991 and 1995, compared with 1 per cent in traditional-law States.

It was not true that no-fault schemes reduced the amount or cost of litigation.

"They merely shift the battleground," she said.

Motorists took action "against their own insurance company for failure to pay no-fault benefits" and "to get a fair assessment of their case", Ms Henry said.

She claimed that insurers favoured no-fault because it increased the cost of their payouts, requiring them to raise premiums - and thus increasing revenue available to them for investment.

Fundamentally, no-fault encouraged reckless driving by excusing bad drivers from paying for the harm they cause, she said.

"Careful drivers end up subsidising negligent drivers," Ms Henry said.

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