



OFFICE OF THE CORPORATION COUNSEL

THE CITY OF WATERBURY

CONNECTICUT

March 20, 2015

RE: Raised Bill No. 7002, "An Act Concerning Recovery of Payments from Collateral Sources by a Municipality with a Self- insured Health Plan"

Chairmen Sen. Coleman and Rep. Tong; Vice-Chairs Senator Doyle and Rep. Fox; Ranking Members Sen. Kissel and Rep. Rebimbas and Members of the Judiciary Committee:

On behalf of the City of Waterbury, I submit the following in support of Raised Bill No. 7002, "An Act Concerning Recovery of Payments from Collateral Sources by a Municipality with a Self- insured Health Plan".

Under current state law, recovery of collateral source benefits – expenses for medical /health/ dental treatment paid by another, are not recoverable against the person causing harm necessitating the medical treatment. However, federal law authorizes recovery of the health costs. Therefore, if the benefits are paid pursuant to a health plan that plan conforms to the Employee Retirement Income Security Act of 1974 (ERISA), recovery is allowed.

Therefore under current Connecticut statutes, only commercial health insurers with plans that comply with federal ERISA are allowed to recover, or "subrogate" medical costs from the person causing the harm.

Similarly, the Connecticut Workers Compensation Act grants specific statutory authority for recovery of health benefits paid under a Workers Compensation claim pursuant to Conn. Gen. Stat. §38a-470(b).

The proposed legislation would permit a self-insured municipality, such as Waterbury and other self-insured towns and municipalities, to subrogate and recover health benefits paid consistent with the authority under federal law afforded to commercial insurance carriers and allowed by Statute in a Worker's Compensation claim.

To: Judiciary Committee

Page 2

Re: Raised Bill No 7002

By way of example, if an employee of the City was involved in an accident or circumstance that caused injury to the employee and the City paid the employee's medical expenses, and the employee later recovers against the responsible party, the responsible party would not be obligated to reimburse the City what it paid in medical expenses simply because the City is self-insured. However, if the City instead maintained a health benefits plan that conformed to federal law, the City would be authorized to recover its paid medical expenses.

As a self-insured municipality, under current law, the taxpayers pay for the medical expenses of an injured employee or retiree when the wrongful conduct of another caused the injury simply because the City is self-insured. The proposed legislation would allow the City to recover paid medical expenses when another party is responsible for the injury.

The City's third party health benefits administrator has opined that recovery of approximately 1% of total medical benefits paid would be recoverable if the Legislation was approved based upon data from other states that are allow subrogation. The City of Waterbury would potentially recover \$930,000 per year of its paid medical benefits based upon the \$93 million per year it pays in health benefit claims.

The recovery of benefits would occur only when another party is liable for the medical costs. The City would continue to provide the medical benefits upfront, and recovery of funds, as is appropriate would be pursued against the responsible party.

Thank you for the opportunity to address you concerning proposed Bill No. 7002.

Linda T. Wihbey
Corporation Counsel