

Legally Speaking

Be aware of evolving accident rights for Florida drivers

by **SCOTT McCULLOUGH, ESQ.**

Florida drivers should take note that the timeline and claim for benefits due to victims of automobile accidents has recently changed. In 2012, Governor Rick Scott signed a new law that was aimed, at least in part, to eliminate fraud in Personal Injury Protection (PIP) claims. Many provisions of the new law became effective in January of this year.

Florida is a “no-fault” State, which means that individuals who are injured in automobile accidents must first submit claims for accident-related injuries to their own insurance carriers. These bills are processed and paid pursuant to the injured individual’s “no-fault” or PIP coverage. These policies remain the primary payer of associated medical bills regardless of how each

accident scenario plays out. That means in our current system, even if your car gets rear ended it will be your own insurance company paying for your medical treatment. In many situations, PIP coverage is the only insurance available to offset the significant medical expenses associated with an auto accident claim.

With the passage of this new law, the Florida Legislature has significantly affected how PIP claims are processed and paid. Unfortunately, these changes come at the expense of injured accident victims. In just one example of changes enacted by the new law, if you are hurt in an accident you must now seek medical treatment within just 14 days. If you do not, any treatment needed after that time will not be paid by PIP coverage. In the prior law there was no time limit. As long as the treatment was related to the accident, it was payable. Individuals

who now have a late onset of symptoms or take a “wait and see” approach to the nature and extent of their injuries will be forced to pay for medical expenses that would otherwise be covered by automobile insurance.

Additionally, under the new law, the types of treatment that will be reimbursed by PIP have also been limited. Treatment by massage therapists and acupuncturists is no longer acceptable. These forms of treatment, which used to be customary and still remain preferred non-invasive methods of medical care by many, are now excluded. Visits to other acceptable providers, like

chiropractors, are now limited to \$2,500 (one quarter of the limit established prior to the law) and can only be extended if the injured party is deemed to have suffered an “emergency medical condition.” The determination of whether someone sustained an emergency medical condition must be made and approved by a specific type of health care provider. Accident victims who were previously eligible for \$10,000 of medical treatment benefits may now find that their ability to seek reimbursement for health care bills has been significantly decreased.

In exchange for these limitations, insurance companies were supposed to have lowered PIP coverage premium rates for all Florida drivers. That has not yet happened, and because recent court rulings have deemed the new law unconstitutional, the issue is in flux. For now, the limitations of the new law will remain in place until the issue works its way through the long appellate court process.

A new bill (SPB 7152) proposed in the Florida Senate seeks to repeal the current no-fault law and remove the requirement that auto insurance policies include PIP coverage. If passed, these changes would become effective in 2014. While our elected officials deliberate on and make decisions regarding the viability of Florida’s no-fault law, it is important for Florida drivers to be aware that they are still limited in their options on how and when to seek medical attention stemming from an auto accident.

Citizens having any questions about how to proceed when injured in an automobile accident are encouraged to speak with a personal injury attorney to ensure that necessary insurance benefits are received and legal rights are protected.

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