



The New PIP Law: 15 Changes You Need to Know

By Kelly Spillman Jablonski, Esq.

Governor Rick Scott signed legislation this past Friday, May 4, 2012 aimed to tackle fraud running rampant in Personal Injury Protection (PIP) insurance in the State of Florida. The new law is effective January 1, 2013.

According to the Florida Office of Insurance Regulation, the number of Florida drivers has remained stable and the frequency of auto accidents has declined from 2006 to 2010. However, the number of PIP claims opened or recorded increased 28 percent. In addition, the payment on PIP claims has increased 66 percent during the same period. These are some of the highlighted changes:

- The new law requires claimants receive initial medical treatment within 14 days.
- Initial services and care are only reimbursable if lawfully provided, supervised, ordered or prescribed by a licensed physician, licensed osteopathic physician, licensed chiropractic physician, licensed dentist, or rendered in a hospital, a facility that owns or is owned by a hospital, or a licensed emergency transportation and treatment provider.
- Follow up services and care require a referral from such above noted providers and must be consistent with the underlying medical diagnosis rendered when the individual received initial services and care.
- The law applies two different coverage limits for PIP medical benefits, depending on whether the claimant has an emergency medical condition. If the claimant is diagnosed with an emergency medical condition, the PIP medical benefit limit is \$10,000, if not, the limit is capped at \$2,500.
- A medical doctor, osteopathic physician, dentist or a supervised physician's assistant or advanced registered nurse practitioner determines whether the injured person has an emergency medical condition. Importantly, chiropractors cannot make that determination.
- An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.
- Massage and acupuncture are not reimbursable, regardless of the type of provider who renders the service.
- The law clarifies that the reimbursement levels of care provided by ambulatory surgical centers and clinical laboratories and for durable medical equipment is 200 percent of the appropriate Medicare Part B Schedule.
- Benefits can be denied if a claimant fails to appear at an examination under oath (EUO). However, an insurer that unreasonably requests EUOs as a general business practice, as determined by the Office of Insurance Regulation, is subject to Sec. 626.9541, F.S. of the Unfair Insurance Trade Practices Act.
- If a person unreasonably fails to appear for an independent medical examination (IME), the carrier is no longer responsible for benefits. Refusal or failure to appear for two IMEs raises a rebuttable presumption that the refusal or failure was unreasonable.
- The law prohibits the application of attorney fee multipliers. The offer of judgment statute, Sec. 768.79, F.S., is now applied to No-Fault cases.
- Any attorney fees awarded must comply with prevailing professional standard, not overstate or inflate the number of

hours reasonably necessary for a case of comparable skill or complexity.

- Clinics that care for PIP patients must pay license fees and execute fraud notices.
- Health care practitioners could lose their licenses for five years if found guilty of PIP fraud under Sec. 817.234, F.S., and may not receive reimbursement for PIP services for ten years.
- The law also directs investigating officers to complete the long crash report when there is an indication of pain or discomfort by any party to an accident and must identify the vehicle in which each party was a driver or passenger. This is a welcome change providing first line adjusters additional information to aid in initial contact and their own investigation of the matter.

It is hoped that this law will help in the prevention and defense of fraudulent injury cases which arose under the former PIP statute and which often led to additional bodily injury liability cases. The Governor believes that these statutory reforms will reduce payouts by insurers and eventually benefit the consumer with lower auto insurance premiums.

.....
Kelly Spillman Jablonski concentrates her litigation practice in the defense of premises liability, automobile, errors and omissions and other tort liabilities. She also handles cases with a variety of PIP coverage issues.

She can be reached at 239.344.1237 or via email at kellyjablonski@henlaw.com



SAVE THE DATE

Claims Defense Update Seminar

Thursday, Sept. 20, 2012
7:30 am – 4:00 pm

DoubleTree by Hilton
Tampa Airport-Westshore
4500 West Cypress Street, Tampa, FL 33607

\$25
per
person

7:30 am **Registration and Continental Breakfast**

8:00 am **Opening Remarks** *Michael J. Corso, Esq.*

8:15 am **Don't Be Damaged by a Construction Damages Case**

Mark Schultz, Esq. and Robert Anderson, Esq.

9:15 am Break

9:30 am **Defending the Difficult Injury Case**

Robert Shearman, Esq. and Traci McKee, Esq.

11:45 pm **Lunch**

Sponsored by Markham Norton
Mosteller Wright & Co., P.A.



12:45 pm **"Oh My Aching Back" – Evaluating Acute vs. Degenerative Disc Disease**

Michael Foley, MD, Neuroradiologist

2:00 pm **Mall Cop, Friend or Foe?**

John Lewis, Esq. and Kevin Noell, Esq.

3:00 p.m. **Case Law Update Jeopardy**

John Miller, Esq. and Stefani Norrbin, Esq.

**ONLINE REGISTRATION BEGINS
EARLY AUGUST 2012**

CE and CLE credits will be available

QUESTIONS? Contact Gail Lamarche at gail.lamarche@henlaw.com

Henderson, Franklin,
Starnes & Holt, P.A.

1715 Monroe Street
P.O. Box 280

Fort Myers, Florida 33902

Fort Myers • Bonita Springs • Sanibel

239.344.1100

henlaw.com



Henderson | Franklin
ATTORNEYS AT LAW

Adapting. Changing. Moving forward.

This update is for general information only and should not be construed as legal advice or legal opinion on any specific matter. The hiring of a lawyer is an important decision that should not be based solely on advertising. Before you decide, ask us to send you free written information about our qualifications and experience.