

SARASOTA LITIGATOR Journal

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Gov. Rick Scott's \$1 Billion Gift to Auto Insurance Companies

Since 1971, Florida's "no fault" auto insurance laws have required that each owner of a motor vehicle obtain a minimum of \$10,000 in medical benefit coverage for its owner and occupants. In 2013, that decades-old law will significantly change and Florida consumers should beware.

Using stealth techniques that would make U.S. Air Force engineers jealous, Gov. Rick Scott and his Tea Party accomplices in the Florida Legislature evaded public scrutiny and open debate to hand auto insurers a big, fat bailout that will be borne by Florida drivers.

Florida drivers should prepare to pay more for auto accident coverage and receive a whole lot less in benefits – collectively estimated at \$1 billion – should they become involved in an accident in the Sunshine State.

In summary, starting Jan. 1, 2013, mandatory PIP insurance of \$10,000 may pay \$7,500 less than it is required now for most medical claims. "The new legislation," says Sarasota attorney Steve Wittmer, "will drastically reduce medical claims coverage to injured accident victims. There will be a lot more hoops to jump through and obstacles to overcome just to qualify for medical benefits."

The new legislation is dotted with exemptions to allow insurers to skate away from any promised premium rate reductions linked to the elimination of fraud. "In fact, insurance premiums for people buying full coverage may not fall at all, as any reduction insurers make in PIP premiums can be added back as increased premiums for bodily injury liability coverage and uninsured motorists coverage," Wittmer says.

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Gift to Auto Insurance Companies

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Medical Benefits Restricted

Under the new PIP law, accident victims will be required to obtain medical treatment within 14 days of an accident. If not, there will be no PIP coverage for medical treatment. None. In addition, “initial services and care” can only be provided by a hospital or emergency transport, a medical doctor, an osteopathic doctor, a chiropractor, or a dentist, according to the revised law.

However, the revised PIP coverage only will pay up to \$2,500 in medical benefits, unless an “emergency medical condition” exists. What’s an emergency medical condition: A medical condition that manifests itself “by acute symptoms of sufficient severity, which may include severe pain, such that the absence of immediate medical attention could reasonably be expected to result in any of the following:

- (a) serious jeopardy to patient health,
- (b) serious impairment to bodily functions and
- (c) serious dysfunction of any bodily organ or part.”

Chiropractors will not be allowed to determine if a patient has an “emergency medical condition” under the revised PIP law.

Medical Benefits Limited

The revised PIP coverage limits follow-up care for the \$2,500 in coverage to medical treatment “consistent with the initial diagnosis.” If the initial diagnosis is a concussion, then follow-up care would be limited to treatment consistent with a concussion and low-back pain treatment would not be payable. Massage and acupuncture are no longer covered under the revised PIP law.

“Most of the revisions to the PIP law take effect at the start of 2013, and now is the time to review your insurance policies to make any pre-emptive changes.”

– Steven T. Wittmer

Advantages to Insurers

Under the revised law, insurers must provide a record of payments made to health care providers, but it allows insurers 30 days to provide the records and limits the requirement of providing this notice to instances when litigation for benefits is commenced. How will insureds and health providers know if a policy deductible was correctly applied, not applied twice, and whether benefits have been exhausted?

The revised PIP law also says in a dispute between an insurer and an insured person, the insurer is not required to tell the insured or medical provider that the policy limits have been reached until 15 days after the limits have been reached. Insurance companies may attempt to use the new rule to keep the insured and medical provider in the dark about the amount of future benefits.

In addition, insurers will be able to force accident victims to submit to a medical “examination under oath” at the time and place of the insurer’s choosing. Failure to submit to the examination under oath will negate any claims, according to language in the revised PIP law.

“Most of the revisions to the PIP law take effect at the start of 2013,” Wittmer says. “Now is the time to review your insurance policies to make any pre-emptive changes. Don’t hesitate to contact us if you have any questions regarding the changes to the law or the sufficiency of your coverage.”

CASE REVIEW

Everyday lunch run results in tragedy, lifelong injuries for motorcyclist.

In this case, a motorcycle accident that took only a few seconds to occur resulted in lifelong injuries and the pain, suffering and economic consequences that came along with them.

Riding his motorcycle, John Doe (name withheld to protect client privacy) was on his way to pick up a sandwich for lunch when a driver crossed a double yellow line and a pedestrian safe zone to turn left in front of him. Unable to avoid the turning car, John smashed into the rear of the vehicle, flipped over it and landed on the pavement with severe injuries.

John was transported by helicopter to Bayfront Medical Center, where he remained for weeks. After several surgeries he was discharged, this time taken home by ambulance. Despite the facts of the crash, the driver would not accept responsibility for her actions. A lawsuit ensued with multiple depositions being taken. After lengthy litigation, the driver and her insurance company confidentially settled the case shortly before trial. Even though the case is over, John’s injuries and damages will remain for the rest of his life.

If you, your family members or friends are hurt as a result of a motor vehicle accident, please consider making a call to Wittmer | Linehan for assistance.

