



Changes to Florida's Personal Injury Protection (PIP) Coverage Requirements Become Effective on July 1, 2012

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Florida's Motor Vehicle No-Fault Law requires motorists to carry at least \$10,000 of no-fault insurance. This insurance requirement, known as personal injury protection (PIP) coverage, has existed in Florida since 1972. To make sure that those injured in an auto accident quickly get money to treat their injuries, the law requires a driver's insurance company pay up to \$10,000 for medical bills and lost wages, no matter who is at fault.

Despite its intent, many believe the PIP law was doing more harm than good. A 2011 report prepared by Florida's Office of Insurance Regulation noted that over the past several years the frequency and severity of PIP claims has increased significantly, even though the number of Florida drivers has remained stable and the number of accidents has decreased.

According to the report:

- The number of PIP claims opened or recorded in 2010 increased by 28 percent since 2006.
- From 2006-2010, the number of PIP lawsuits against insurers pending at year end increased by 387 percent.
- From 2008 to 2010, PIP benefits paid by insurers increased by 70 percent (\$1.43 billion to \$2.37 billion).
- Based on current trends, a 19 percent increase in PIP claims paid, a nine percent increase in claim severity, and a 29 percent increase in pure premium can be expected this year.

Touted as a measure to reduce insurance premiums and combat fraud (Florida ranks first nationally in staged accidents), House Bill 119 was passed by the Florida legislature on March 9, 2012. The bill's new measures take effect on July 1, 2012.

House Bill 119 includes many significant changes to the current law, including:

- Requiring those injured in motor vehicle accidents who are seeking no-fault medical benefits to receive initial treatment and care within 14 days from specified providers;
- Making up to \$10,000 in medical benefits available for emergency medical conditions and up to \$2,500 for non-emergency medical conditions;
- Requiring insurers to make rate filings by October 1, 2012, and January 1, 2014, decreasing premium rates by at least 10 percent and 25 percent, respectively;
- Providing that the PIP funeral benefit of \$5,000 is in addition to medical and disability benefits;
- Excluding massage and acupuncture from covered medical benefits;
- Requiring health care clinics that seek PIP reimbursement to be licensed, with specified exceptions;
- Authorizing a direct-support organization to combat motor vehicle insurance fraud;

- Amending the PIP schedule of maximum charges, requiring insurers to include the schedule in their forms, and permitting the use of Medicare coding policies;
- Providing that an insurer's failure to timely pay PIP claims as a general business practice is an unfair and deceptive trade practice;
- Tolling the PIP payment period when fraud is reasonably suspected;
- Requiring insureds to comply with all policy terms, including requests for examination under oath;
- Creating a rebuttable presumption that the failure to appear for two mental or physical examinations constitutes an "unreasonable refusal" to submit to examination;
- Prohibiting the use of contingency risk multipliers; providing guidelines for judges to consider in determining whether the amount of an attorney fee award is appropriate;
- Revoking the license of health care practitioners found guilty of insurance fraud for five years;
- Amending crash report forms;
- Specifying certain actions that constitute fraud; and
- Appropriating \$200,000 from the Insurance Regulatory Trust Fund to retain an independent consultant to determine the expected savings from this legislation.

Proponents of the bill state that it adequately targets those items driving PIP costs, and, consequently, that consumers should realize savings on their no-fault premiums. However, it is uncertain whether House Bill 119 will achieve such a result.

Though insurers are required to submit rate filings reflecting decreased premiums over the next few years, the bill requires those failing to sufficiently reduce their premiums to submit a detailed explanation of the insurer's failure to achieve the required rate reduction. The extent to which these explanations will be scrutinized by regulators remains to be seen.

As is often the case with new laws, time is needed to determine whether actual reform will follow the legal reform.

If you would like more information about PIP reform, or if you would like to discuss any other insurance or risk management matters, please [contact us](#).

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